

**1999 DRAFTING REQUEST**

**Senate Amendment (SA-SB190)**

Received: 03/14/2000

Received By: **kuesejt**

Wanted: **Today**

Identical to LRB:

For: **Mary Panzer (608) 266-7513**

By/Representing: **Maureen McNally**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **Elections - campaign finance**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

SA to SB-190

**Instructions:**

Per attached, #8.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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FE Sent For:

<END>

**Kuesel, Jeffery**

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**From:** McNally, Maureen  
**Sent:** Tuesday, March 14, 2000 8:33 AM  
**To:** Kuesel, Jeffery

1. SB113 The Ellis Plan-as a substitute amendment to the bill

And the following simple amendments

2. An amendment requiring candidate to receive a set amount in donations of less than \$100 from within their district in order to qualify for the state grant (amounts as enumerated in the Ellis plan - SB 113)
3. An amendment that includes the penalties contained within the Ellis plan (nullifying the election, special election called, etc.) if the rules of the grant are violated.
4. An amendment to make funding of the plan sum sufficient.
5. An amendment to prohibit sitting legislators from soliciting a specific monetary campaign contribution *for any candidate* in exchange for specific legislative action. (See attached information)
6. An amendment requiring that candidates receive no more than \$1,000 on any given day from a state other than Wisconsin.
7. An amendment that imposes a \$100 fine per offense for not listing, within campaign finance reports, the occupation of contributors who give more than \$100 per cycle. With the fine going to the Common School Fund.
8. An amendment to ban PAC to PAC transfers; conduit to conduit transfers; and conduit to PAC transfers.

Thank you!

**Maureen McNally**  
Chief of Staff  
Senate Republican Leader Mary Panzer  
202 South, State Capitol  
608/266-7513  
[maureen.mcnally@legis.state.wi.us](mailto:maureen.mcnally@legis.state.wi.us)



State of Wisconsin  
1999 - 2000 LEGISLATURE

1/18/99  
LRBa1571/1  
JTK:cmh:hmh  
+JLg

Wanted today 3/14 9:45AM

**SENATE AMENDMENT,  
TO 1999 SENATE BILL 190**

D-note

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 24, line 8: after that line insert:

3 **"SECTION 37m.** 11.25 (2) (ap) of the statutes is created to read:

4 11.25 (2) (ap) No committee identified under s. 11.05 (3) (c) as a special interest

5 committee <sup>and no conduit</sup> that receives a contribution made or transferred to the committee <sup>or conduit</sup> in

6 violation of this chapter may make a disbursement from the property or funds that

7 constitute that contribution."

8 **2.** Page 26, line 18: after that line insert:

9 **"SECTION 46m.** 11.26 (8m) <sup>x</sup> of the statutes is created to read:

10 11.26 (8m) (a) No committee identified under s. 11.05 (3) (c) as a special interest

11 committee may make any contribution or contributions ~~in an amount or value~~

12 ~~exceeding \$100 cumulatively within a calendar year~~ to any other committee

13 identified under s. 11.05 (3) (c) as a special interest committee.

1  
2  
3  
4

(c) ~~(b)~~ No conduit may transfer any contribution or contributions ~~in an amount or~~  
~~value exceeding \$100 cumulatively within a calendar year~~ to any committee  
identified under s. 11.05 (3) (c) as a special interest committee.”.

(END)

text:  
treat

letter  
(b) No conduit may transfer any contribution or  
contributions to any other conduit.

NOTE:

LRBA/1789/1

LSRB0366/1d

JTK:jlg&kmg:jf

jlg

(5) Proposed ss. 11.24 (1t) and 11.25 (4) prohibit the former personal campaign committee of a candidate which becomes an independent committee from making contributions or disbursements to advocate the election or defeat of a candidate from money or property acquired by the committee prior to its change in status. The U.S. supreme court has held that limits may not be imposed on the spending of committees that wish to express their views independently of candidates. See *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 644-650 (1976) and *F.E.C. v. N.C.P.A.C.*, 105 S.Ct. 1459, 1465-1471 (1985). However, the court has also held, in *Buckley*, that reasonable contribution limitations may be imposed upon committees. If one views this proposal simply as an attempt to restrict independent spending, it would likely not meet the court's current standard for passing constitutional muster. If one views this proposal as only a limited restriction designed to protect contributors by ensuring that their contributions are not used for purposes they did not intend, the proposal may be viewed more favorably, and could be sustained.

(6) I also want to note briefly that a few of the provisions of this draft are innovative, and we do not yet have, to my knowledge, specific guidance from the federal courts concerning the enforceability of provisions of these types. It is well possible that a court may find a rational basis for these provisions that would permit them to be upheld. However, because of the concerns expressed by the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612 (1976), and certain other cases that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association, or equal protection guarantees, it is possible that enforceability problems with these provisions may occur. In particular, those provisions concerning which we do not have specific guidance at this time are:

(a) Proposed s. 11.26 (7) and (8e), which prohibits certain contributions to be made by candidates to other candidates or political parties.

(b) Proposed s. 11.26 (8m), which prohibits political action committees from making certain contributions to other political action committees, and prohibits conduits from transferring certain contributions to political action committees.

(c) Proposed s. 11.31 (2c), which imposes upon all candidates a limitation upon disbursements using moneys derived from sources other than individuals.

MOVE

a provision of this type

WFO  
Log in  
here

and conduits  
is an innovate provision

✓ this provision

✓ and conduits

✓ Jeffery T. Kuesel  
Assistant Chief Counsel  
266-6778

10/16

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa1789/ldn  
JTK:jlg:jf

March 14, 2000

Proposed s. 11.26 (8m), which prohibits political action committees and conduits from making certain contributions to other political action committees and conduits, and prohibits conduits from transferring certain contributions to political action committees is an innovative provision, and we do not yet have, to my knowledge, specific guidance from the federal courts concerning the enforceability of a provision of this type. Because of the concerns expressed by the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612 (1976), and certain other cases that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association, or equal protection guarantees, it is possible that enforceability problems with this provision may occur.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778