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1 expenditures made by the registrant or other person, until a termination report is
2 filed. The board shall provide complete instructions to any registrant who or which
3 files a report under this subsection. In this subsection, the “campaign period” of a
4 candidate, personal campaign committee or support committee begins and ends with
5 the “campaign” of the candidate whose candidacy is supported, as defined in s. 11.26
6 (17), and the “campaign period” of any other registrant begins on January 1 of each
7 odd-numbered year and ends on December 31 of the following year. Section 990.001
8 (4) does not apply to the computation of time permitted for compliance with the filing
9 requirements under this subsection.

10 **SECTION 62.** 11.22 (3) of the statutes is amended to read:

11 11.22 (3) Furnish to each registrant prescribed forms for the making of reports
12 and statements. Forms shall be sent by 1st class mail not earlier than 21 days and
13 not later than 14 days prior to the applicable filing deadline under s. 11.20 and
14 addressed to the attention of the treasurer or other person indicated on the
15 registration statement. Forms need not be sent to a registrant who has made an
16 indication that aggregate contributions, disbursements and obligations will not
17 exceed the amount specified under s. ~~11.05 (2r)~~ 11.06 (2m) or to a registrant who has
18 been granted a suspension under s. 11.19 (2). Whenever any notice of the filing
19 requirements under this chapter is sent to a candidate’s campaign treasurer, the
20 filing officer shall also send a notice to the candidate if he or she has appointed a
21 separate treasurer. Failure to receive any form or notice does not exempt a registrant
22 from compliance with this chapter.

23 **SECTION 63.** 11.23 (1) of the statutes is amended to read:

24 11.23 (1) Any group or individual may promote or oppose a particular vote at
25 any referendum in this state. Before making disbursements, receiving contributions

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1 or incurring obligations in excess of \$25 \$100 in the aggregate in a calendar year for
2 such purposes, the group or individual shall file a registration statement under s.
3 11.05 (1), or (2) ~~or (2r)~~. In the case of a group the name and mailing address of each
4 of its officers shall be given in the statement. Every group and every individual
5 under this section shall designate a campaign depository account under s. 11.14.
6 Every group shall appoint a treasurer, who may delegate authority but is jointly
7 responsible for the actions of his or her authorized designee for purposes of civil
8 liability under this chapter. The appropriate filing officer shall be notified by a group
9 of any change in its treasurer within 10 days of the change under s. 11.05 (5). The
10 treasurer of a group shall certify the correctness of each statement or report
11 submitted by it under this chapter.

12 **SECTION 64.** 11.23 (2) of the statutes is amended to read:

13 11.23 (2) Any anonymous contribution exceeding \$10 received by an individual
14 or group treasurer may not be used or expended. The contribution shall be donated
15 to the common school fund or to any charitable organization or transferred to the
16 board for deposit in the Wisconsin election campaign fund. at the option of the
17 treasurer.

18 **SECTION 65.** 11.24 (1w) of the statutes is created to read:

19 11.24 (1w) No candidate or personal campaign committee of a candidate who
20 applies for a grant under s. 11.50 may accept any contribution from a committee
21 other than a political party committee.

22 **SECTION 66.** 11.24 (2) of the statutes is renumbered 11.24 (5).

23 **SECTION 67.** 11.24 (4) of the statutes is created to read:

24 11.24 (4) (a) No person may make a contribution to an incumbent partisan state
25 elective official or to the personal campaign committee or support committee

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1 authorized under s. 11.05 (3) (p) of that official for the purpose of promoting that
2 official's nomination or reelection to the office held by the official during the period
3 beginning on the first Monday of January in each odd-numbered year and ending
4 on the date of enactment of the biennial budget act.

5 (b) Notwithstanding par. (a), a person may make a contribution to an
6 incumbent partisan state elective official against whom a recall petition has been
7 filed during the period beginning on the date that the petition offered for filing is filed
8 under s. 9.10 (3) (b) and ending on the date of the recall election unless the official
9 resigns at an earlier date under s. 9.10 (3) (c).

10 **SECTION 68.** 11.26 (1) (intro.) of the statutes is amended to read:

11 11.26 (1) (intro.) No individual, except an individual serving as a conduit, may
12 make any contribution or contributions to a candidate for election or nomination to
13 any of the following offices and to any individual or committee under s. 11.06 (7)
14 acting solely in support of such a candidate or solely in opposition to the candidate's
15 opponent to the extent of more than a total of the amounts specified per candidate:

16 **SECTION 69.** 11.26 (2) (intro.) of the statutes is amended to read:

17 11.26 (2) (intro.) ~~No committee other than, including a committee serving as a~~
18 ~~conduit, but not including a political party committee or legislative campaign~~
19 ~~committee may make any contribution or contributions to a candidate for election or~~
20 ~~nomination to any of the following offices and to any individual or committee under~~
21 ~~s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the~~
22 ~~candidate's opponent to the extent of more than a total of the amounts specified per~~
23 ~~candidate:~~

24 **SECTION 70.** 11.26 (2) (a) of the statutes is amended to read:

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1 11.26 (2) (a) Candidates for governor, ~~lieutenant governor, secretary of state,~~
2 ~~state treasurer, attorney general, state superintendent or justice, 4% of the value of~~
3 ~~the disbursement level specified in the schedule under s. 11.31 (1) \$45,000.~~

4 **SECTION 71.** 11.26 (2) (ad) to (au) of the statutes are created to read:

5 11.26 (2) (ad) Candidates for lieutenant governor, \$15,000.

6 (am) Candidates for attorney general, \$25,000.

7 (au) Candidates for secretary of state, state treasurer, state superintendent, or
8 justice, \$10,000.

9 **SECTION 72.** 11.26 (4) of the statutes is amended to read:

10 11.26 (4) ~~No~~ Except as provided in sub. (10), no individual, except an individual
11 serving as a conduit, may make any contribution or contributions to all candidates
12 for state and local offices and to any individuals who or committees which are subject
13 to a registration requirement under s. 11.05, including ~~legislative campaign~~
14 ~~committees and~~ committees of a political party, to the extent of more than a total of
15 \$10,000 in any calendar year.

16 **SECTION 73.** 11.26 (8) of the statutes is amended to read:

17 11.26 (8) (a) No political party as defined in s. 5.02 (13) may receive more than
18 a total of ~~\$150,000~~ \$450,000 in value of its contributions in any biennium from all
19 other committees, excluding ~~contributions from legislative campaign committees~~
20 and transfers between party committees of the party. In this paragraph, a biennium
21 commences with January 1 of each odd-numbered year and ends with December 31
22 of each even-numbered year.

23 (b) No such political party may receive more than a total of ~~\$6,000~~ \$18,000 in
24 value of its contributions in any calendar year from any specific committee or its
25 subunits or affiliates, excluding ~~legislative campaign and~~ political party committees.

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1 (c) No committee, other than a political party ~~or legislative campaign~~
2 committee, may make any contribution or contributions, directly or indirectly, to a
3 political party under s. 5.02 (13) in a calendar year exceeding a total value of \$6,000
4 \$18,000.

5 **SECTION 74.** 11.26 (8m) of the statutes is created to read:

6 11.26 (8m) (a) Except as provided in par. (b), no committee may make a
7 contribution to any other committee except a political party, personal campaign, or
8 support committee.

9 (b) Paragraph (a) does not apply to any contribution made by a committee that
10 is affiliated with a labor organization to any other committee that is affiliated with
11 the same labor organization.

12 **SECTION 75.** 11.26 (9) (a) and (b) of the statutes are amended to read:

13 11.26 (9) (a) No individual who is a candidate for state or local office may receive
14 and accept more than ~~65%~~ 20% of the value of the total disbursement level, as
15 determined under s. 11.31 (1) and as adjusted as provided under s. 11.31 (9) but
16 without respect to any adjustment under s. 11.31 (1m), for the office for which he or
17 she is a candidate during any primary and election campaign combined from ~~all~~
18 ~~committees subject to a filing requirement, including political party and legislative~~
19 ~~campaign~~ committees.

20 (b) No individual who is a candidate for state or local office may receive and
21 accept more than ~~45%~~ 25% of the value of the total disbursement level, as determined
22 under s. 11.31 (1) and as adjusted as provided under s. 11.31 (9) but without respect
23 to any adjustment under s. 11.31 (1m), for the office for which he or she is a candidate
24 during any primary and election campaign combined from all committees other than
25 political party ~~and legislative campaign~~ committees subject to a filing requirement.

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1 **SECTION 76.** 11.26 (9) (c) of the statutes is repealed.

2 **SECTION 77.** 11.26 (10) of the statutes is amended to read:

3 11.26 (10) No candidate for state office who files a sworn statement and
4 application to receive a grant from the Wisconsin election campaign fund may make
5 contributions of more than 200% of the amounts specified in sub. (1) to the
6 candidate's own campaign from the candidate's personal funds or property or the
7 personal funds or property which are owned jointly or as marital property with the
8 candidate's spouse, unless the board determines that the candidate is not eligible to
9 receive a grant, ~~the candidate withdraws his or her application under s. 11.50 (2) (h),~~
10 ~~or s. 11.50 (2) (i) applies.~~ For purposes of this subsection, any contribution received
11 by a candidate or his or her personal campaign committee from a committee which
12 is registered with the federal elections commission as the authorized committee of
13 the candidate under 2 USC 432 (e) shall be treated as a contribution made by the
14 candidate to his or her own campaign. The contribution limit of sub. (4) applies to
15 amounts contributed by such a candidate personally to the candidate's own
16 campaign and to other campaigns, except that a candidate may exceed the limitation
17 if authorized under this subsection to contribute more than the amount specified to
18 the candidate's own campaign, up to the amount of the limitation.

19 **SECTION 78.** 11.26 (12m) of the statutes is amended to read:

20 11.26 (12m) For purposes of ~~this section~~ subs. (1) and (4), a contribution of
21 money received from a conduit identified in the manner prescribed in s. 11.06 (11)
22 (a) shall be considered a contribution received from the original contributor.

23 **SECTION 79.** 11.265 of the statutes is repealed.

24 **SECTION 80.** 11.27 (1) of the statutes is amended to read:

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1 11.27 (1) No person may prepare or submit a false report or statement to a filing
2 officer under this chapter. This subsection does not apply to any information
3 reported by a person making an independent expenditure under s. 11.065 (2).

4 **SECTION 81.** 11.31 (1) (intro.) of the statutes is amended to read:

5 11.31 (1) SCHEDULE. (intro.) The following levels of disbursements are
6 established with reference to the candidates listed below. The levels are subject to
7 adjustment under subs. (1m) and (9). Except as provided in sub. (2), such levels do
8 not operate to restrict the total amount of disbursements which are made or
9 authorized to be made by any candidate in any primary or other election.

10 **SECTION 82.** 11.31 (1) (a) to (d) of the statutes are amended to read:

11 11.31 (1) (a) Candidates for governor, ~~\$1,078,200~~ \$2,000,000.

12 (b) Candidates for lieutenant governor, ~~\$323,475~~ \$500,000.

13 (c) Candidates for attorney general, ~~\$539,000~~ \$700,000.

14 (d) Candidates for secretary of state, state treasurer, ~~justice~~ or state
15 superintendent, ~~\$215,625~~ \$250,000.

16 **SECTION 83.** 11.31 (1) (de) of the statutes is created to read:

17 11.31 (1) (de) Candidates for justice, \$300,000.

18 **SECTION 84.** 11.31 (1) (e) and (f) of the statutes are amended to read:

19 11.31 (1) (e) Candidates for state senator, ~~\$34,500~~ \$120,000 total in the primary
20 and election, with disbursements not exceeding ~~\$21,575~~ \$72,000 for either the
21 primary or the election.

22 (f) Candidates for representative to the assembly, ~~\$17,250~~ \$60,000 total in the
23 primary and election, with disbursements not exceeding ~~\$10,775~~ \$36,000 for either
24 the primary or the election.

25 **SECTION 85.** 11.31 (1m) of the statutes is created to read:

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1 11.31 (1m) DISBURSEMENT LEVEL FOR CANDIDATES IN COMPETITIVE PRIMARY
 2 ELECTIONS. The total disbursement level for any candidate whose name appears on
 3 the ballot as a candidate for an office at a primary election and who receives less than
 4 twice as many votes at that election as another candidate for the same office is 120%
 5 of the amount specified in sub. (1) for the candidate who receives the greatest number
 6 of votes in the primary election, adjusted as provided in sub. (9).

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7 **SECTION 86.** 11.31 (2) of the statutes is amended to read:

8 11.31 (2) LIMITATION IMPOSED. No candidate for state office at a spring or general
 9 election who files a sworn statement and application to receive a grant from the
 10 Wisconsin election campaign fund may make or authorize total disbursements from
 11 ~~the~~ his or her campaign treasury in any campaign to the extent of more than the
 12 amount prescribed in sub. (1) or (1m), whichever is applicable, adjusted as provided
 13 under sub. (9), unless the board determines that the candidate is not eligible to
 14 receive a grant, ~~the candidate withdraws his or her application under s. 11.50 (2) (h),~~
 15 or s. 11.50 (2) (i) sub. (3p) applies. No candidate for state office at a special election
 16 who files a sworn statement and application to receive a grant from the Wisconsin
 17 election campaign fund may make or authorize total disbursements from ~~the~~ his or
 18 her campaign treasury in any campaign to the extent of more than the amount
 19 prescribed under sub. (1), adjusted as provided under sub. (9), for the preceding
 20 spring or general election for the same office, unless the board determines that the
 21 candidate is not eligible to receive a grant, ~~the candidate withdraws his or her~~
 22 application under s. 11.50 (2) (h), or s. 11.50 (2) (i) sub. (3p) applies.

23 **SECTION 87.** 11.31 (2m) of the statutes is repealed:

24 **SECTION 88.** 11.31 (3) of the statutes is amended to read:

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1 11.31 (3) GUBERNATORIAL CAMPAIGNS. For purposes of compliance with the
2 limitations imposed under sub. (2), candidates for governor and lieutenant governor
3 of the same political party who both accept grants from the Wisconsin election
4 campaign fund may agree to combine disbursement levels under sub. (1) (a) and (b),
5 adjusted as provided under sub. (9), and reallocate the total level between them. The
6 candidates shall each inform the board of any such agreement.

7 **SECTION 89.** 11.31 (3p) of the statutes is created to read:

8 11.31 (3p) CANDIDATES RECEIVING ADDITIONAL GRANTS; EXCEPTION. If a candidate
9 receives a grant under s. 11.50 (9) (b) ~~(a)~~ ^(ba) ~~(b)~~ ^(bb), the disbursement limitation of that
10 candidate for the campaign in which the grant is received is increased by the amount
11 of that grant.

12 **SECTION 90.** 11.31 (9) of the statutes is created to read:

13 11.31 (9) ADJUSTMENT OF DISBURSEMENT LEVELS. (a) In this subsection,
14 "consumer price index" means the average of the consumer price index over each
15 12-month period, all items, U.S. city average, as determined by the bureau of labor
16 statistics of the U.S. department of labor.

17 (b) The dollar amounts of all disbursement limitations specified in sub. (1) shall
18 be subject to a cost-of-living adjustment to be determined by rule of the board in
19 accordance with this subsection. To determine the adjustment, the board shall
20 calculate the percentage difference between the consumer price index for the
21 12-month period ending on December 31 of each odd-numbered year and the
22 consumer price index for calendar year 2001. For each biennium, the board shall
23 adjust the disbursement limitations specified under sub. (1) by that percentage to the
24 extent required to reflect any difference, rounded to the nearest multiple of \$25 in
25 the case of amounts of \$1 or more, which amount shall be in effect until a subsequent

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1 rule is promulgated under this subsection. Notwithstanding s. 227.24 (1) (a), (2) (b),
2 and (3), determinations under this subsection may be promulgated as an emergency
3 rule under s. 227.24 without providing evidence that the emergency rule is necessary
4 for the public peace, health, safety, or welfare, and without a finding of emergency.

5 **SECTION 91.** 11.38 (1) (a) 2. of the statutes is amended to read:

6 11.38 (1) (a) 2. Notwithstanding subd. 1., any such corporation or association
7 may establish and administer a separate segregated fund and solicit contributions
8 from individuals to the fund to be utilized by such corporation or association, for the
9 purpose of supporting or opposing any candidate for state or local office but the
10 corporation or association may not make any contribution to the fund. The fund shall
11 appoint a treasurer and shall register as a political committee under s. 11.05. A
12 parent corporation or association engaging solely in this activity is not subject to
13 registration under s. 11.05, but shall register and file special reports on forms
14 prescribed by the board disclosing its administrative and solicitation expenses on
15 behalf of such fund. A corporation not domiciled in this state need report only its
16 expenses for administration and solicitation of contributions in this state together
17 with a statement indicating where information concerning other administration and
18 solicitation expenses of its fund may be obtained. The reports shall be filed with the
19 filing officer for the fund specified in s. 11.02 in the manner provided under s. 11.21
20 (16), if applicable, or otherwise in the manner in which continuing reports are filed
21 under s. 11.20 (4) and (8).

22 **SECTION 92.** 11.38 (6) of the statutes is amended to read:

23 11.38 (6) Any individual or campaign treasurer who receives funds in violation
24 of this section shall promptly return such funds to the contributor ~~or~~ donate the
25 funds to the common school fund or a charitable organization or transfer the funds

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1 to the board for deposit in the Wisconsin election campaign fund, at the treasurer's
2 option.

3 **SECTION 93.** 11.38 (8) (b) of the statutes is amended to read:

4 11.38 (8) (b) Except as authorized in s. 11.05 (12) (b) and (13), prior to making
5 any disbursement on behalf of a political group which is promoting or opposing a
6 particular vote at a referendum and prior to accepting any contribution or making
7 any disbursement to promote or oppose a particular vote at a referendum, a
8 corporation or association organized under ch. 185 shall register with the
9 appropriate filing officer specified in s. 11.02 and appoint a treasurer. The
10 registration form of the corporation or association under s. 11.05 shall designate an
11 account separate from all other corporation or association accounts as a campaign
12 depository account, through which all moneys received or expended for the adoption
13 or rejection of the referendum shall pass. The corporation or association shall file
14 periodic reports under s. 11.20 and under s. 11.21 (16), if applicable, providing the
15 information required under s. 11.06 (1).

16 **SECTION 94.** 11.50 (1) (a) 1. (intro.) of the statutes is created to read:

17 11.50 (1) (a) 1. (intro.) For purposes of qualification for a grant from the general
18 account:

19 **SECTION 95.** 11.50 (1) (a) 1. of the statutes is renumbered 11.50 (1) (a) 1. a.

20 **SECTION 96.** 11.50 (1) (a) 2. of the statutes is renumbered 11.50 (1) (a) 1. b.

21 **SECTION 97.** 11.50 (1) (a) 2m. of the statutes is created to read:

22 11.50 (1) (a) 2m. For purposes of qualification for a grant from a political party
23 account, an individual who is certified under s. 7.08 (2) (a) in the general election or
24 a special election as the candidate of an eligible political party for a state office, other
25 than district attorney, or an individual who has been lawfully appointed and certified

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1 to replace such an individual on the ballot at the general or a special election and who
2 has qualified for a grant under sub. (2).

3 **SECTION 98.** 11.50 (1) (am) of the statutes is created to read:

4 11.50 (1) (am) "Eligible political party" means any of the following:

5 1. A party qualifying under s. 5.62 (1) (b) for a separate ballot or one or more
6 separate columns or rows on a ballot for the period beginning on the date of the
7 preceding general election and ending on the day before the general election that
8 follows that election.

9 2. A party qualifying under s. 5.62 (2) for a separate ballot or one or more
10 separate columns or rows on a ballot for the period beginning on the preceding June
11 1, or if that June 1 is in an odd-numbered year, the period beginning on June 1 of the
12 preceding even-numbered year, and ending on May 31 of the 2nd year following that
13 June 1.

14 **SECTION 99.** 11.50 (1) (bm) and (cm) of the statutes are created to read:

15 11.50 (1) (bm) "General account" means the account in the fund created under
16 sub. (2w).

17 (cm) "Political party account" means an account in the fund created under sub.
18 (2s).

19 **SECTION 100.** 11.50 (2) (a) of the statutes is amended to read:

20 11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may
21 file an application with the board requesting approval to participate in the fund. The
22 application shall be filed no later than the applicable deadline for filing nomination
23 papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), no later than 4:30 p.m.
24 on the 7th day after the primary or date on which the primary would be held if
25 required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day

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1 after appointment in the case of candidates appointed to fill vacancies. The
2 application shall contain a sworn statement that the candidate and his or her
3 authorized agents have complied with the contribution limitations prescribed in s.
4 11.26 and the disbursement limitations ~~prescribed~~ imposed under s. 11.31 (2), as
5 adjusted under s. 11.31 (9), at all times to which such limitations have applied to his
6 or her candidacy and will continue to comply with the limitations at all times to
7 which the limitations apply to his or her candidacy for the office in contest, unless
8 the board determines that the candidate is not eligible to receive a grant, ~~the~~
9 ~~candidate withdraws his or her application under par. (h), or par. (i) s. 11.31 (3p)~~
10 applies. The application shall also contain a sworn statement that the candidate and
11 his or her agents have not accepted any contribution made by a committee other than
12 a political party committee during the campaign, or, if any such contribution has
13 been accepted, that the contribution has been returned or donated as provided in par.
14 (j), and the candidate and his or her agents will not accept any such contribution
15 during the campaign, unless the candidate is determined by the board to be ineligible
16 to receive a grant after the date of that determination.

17 **SECTION 101.** 11.50 (2) (b) 5. of the statutes is amended to read:

18 11.50 (2) (b) 5. The financial reports filed by or on behalf of the candidate as
19 of the date of the spring or September primary, or the date that the special primary
20 is or would be held, if required, indicate that the candidate has received an amount
21 equal to at least the amount provided in this subdivision 5% of the applicable
22 authorized disbursement limitation, as determined under s. 11.31 (1) and adjusted
23 under s. 11.31 (9) but without respect to any adjustment under s. 11.31 (1m), from
24 contributions of money, other than loans, made by individuals who reside in this
25 state and, in the case of a candidate for legislative office, by individuals at least 50%

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1 of whom reside in a county having territory within the legislative district in which
2 the candidate seeks office, which contributions have been received during the period
3 ending on the date of the spring primary and July 1 preceding such date in the case
4 of candidates at the spring election, or the date of the September primary and
5 January 1 preceding such date in the case of candidates at the general election, or
6 the date that a special primary will or would be held, if required, and 90 days
7 preceding such date or the date a special election is ordered, whichever is earlier, in
8 the case of ~~special election~~ candidates at a special election, which contributions are
9 in the aggregate amount of \$100 or less, and which contributions are fully identified
10 and itemized as to the exact source thereof. A contribution received from a conduit
11 which is identified by the conduit as originating from an individual shall be
12 considered a contribution made by the individual. Only the first \$100 of an aggregate
13 contribution of more than \$100 may be counted toward the required percentage. For *restive*
14 a candidate at the spring or general election for an office identified in s. 11.26 (1) (a)
15 or a candidate at a special election, the required amount to qualify for a grant is 5%
16 of the candidate's authorized disbursement limitation under s. 11.31. ~~For any other~~
17 ~~candidate at the general election, the required amount to qualify for a grant is 10%~~
18 ~~of the candidate's authorized disbursement limitation under s. 11.31.~~

19 **SECTION 102.** 11.50 (2) (c) of the statutes is amended to read:

20 11.50 (2) (c) If a candidate has not filed financial reports as of the date of the
21 spring primary, September primary, special primary, or date that the special primary
22 would be held, if required, which indicate that he or she has met the qualification
23 under par. (b) 5., the candidate may file a special report with the board. Such report
24 shall be filed not later than the 7th day after the primary, or 7th day after the date
25 the primary would be held, if required, and shall include such supplementary

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1 information as to sources of contributions which may be necessary to complete the
2 candidate's qualification. The special report shall cover the period from the day after
3 the last date covered on the candidate's most recent report, or from the date on which
4 the first contribution was received or the first disbursement was made, whichever
5 is earlier, if the candidate has not previously filed a report, to the date of such report.
6 All information included on the special report shall also be included in the
7 candidate's next report under s. 11.20. This paragraph does not apply to a candidate
8 who files reports under s. 11.21 (16).

9 **SECTION 103.** 11.50 (2) (g) of the statutes is amended to read:

10 11.50 (2) (g) A candidate who voluntarily files an application to receive a grant
11 in accordance with this subsection accepts and agrees to comply with the
12 contribution limitations prescribed in s. 11.26 and the disbursement limitations
13 imposed under s. 11.31 (2), as adjusted under s. 11.31 (9), as binding upon himself
14 or herself and his or her agents during the campaign of that candidate as defined in
15 s. 11.31 (7), as a precondition to receipt of a grant under this section, unless the board
16 determines that the candidate is not eligible to receive a grant, ~~the candidate~~
17 ~~withdraws the application under par. (h), or par. (i) s. 11.31 (3p) applies.~~

18 **SECTION 104.** 11.50 (2) (h) of the statutes is repealed.

19 **SECTION 105.** 11.50 (2) (i) of the statutes is repealed.

20 **SECTION 106.** 11.50 (2) (j) of the statutes is created to read:

21 11.50 (2) (j) If a candidate who desires to apply for a grant has accepted, or the
22 candidate's personal campaign committee has accepted, a contribution from a
23 committee other than a political party committee during the campaign for the office
24 that the candidate seeks, the candidate shall, before filing an application to receive
25 a grant, return the contribution or its monetary equivalent to the contributor, or, at

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1 the contributor's option, donate an amount equal to the contribution to the fund or
2 to the common school fund. If the board later determines that the candidate is
3 ineligible to receive a grant, the candidate may then accept contributions from
4 committees other than political party committees after the date of that
5 determination.

6 **SECTION 107.** 11.50 (2m) of the statutes is created to read:

7 11.50 (2m) PUBLIC INFORMATION. (a) Annually, no later than September 1, the
8 board may notify the state treasurer that an amount not exceeding 5% of the amount
9 transferred to the fund in that year shall be placed in a public information account.
10 Moneys in this account shall be expended by the board for the purpose of providing
11 public information concerning the purpose and effect of this section and s. 71.10 (3).

12 (b) As part of the public information program under par. (a), the board shall
13 prepare an easily understood description of the purpose and effect of this section and
14 s. 71.10 (3).

15 (c) Any amount placed in the public information account that is not expended
16 by the board in any year shall be retained in that account.

17 **SECTION 108.** 11.50 (2s) of the statutes is created to read:

18 11.50 (2s) POLITICAL PARTY ACCOUNTS. (a) There is established a political party
19 account for each eligible political party. Each political party account consists of all
20 moneys designated by individuals for deposit in that account under s. 71.10 (3) (a).

21 (b) From the account of each eligible political party, the board shall apportion
22 moneys to eligible candidates representing that party who qualify to receive grants.
23 Whenever an eligible candidate representing an eligible political party receives a
24 grant, the state treasurer shall first make payment of the grant from the political

BILL

1 party account of that party, to the extent that sufficient moneys are available in that
2 account to make payment of the grant.

3 (c) If a political party for which an account is established under this subsection
4 ceases to be an eligible political party, the board shall transfer the unencumbered
5 balance of that account to the general account.

6 **SECTION 109.** 11.50 (2w) of the statutes is created to read:

7 11.50 (2w) GENERAL ACCOUNT. There is established a general account within
8 the fund consisting of all moneys designated by individuals for deposit in that
9 account under s. 71.10 (3) (a).

10 **SECTION 110.** 11.50 (3) of the statutes is repealed.

11 **SECTION 111.** 11.50 (4) of the statutes is repealed and recreated to read:

12 11.50 (4) PAYMENT OF GRANT AMOUNTS. The state treasurer shall make payment
13 of each grant to an eligible candidate from the political party account of that
14 candidate's political party, if any, if there are sufficient moneys in that account to
15 make full payment of the grant, and then from the general account. If there are
16 insufficient moneys in the general account to make full payment of a grant, the state
17 treasurer shall supplement the general account from the appropriation under s.
18 20.855 (4) (ba) in an amount sufficient to make full payment of the grant. Except as
19 provided in subs. (4m) and (10), the amount of each grant is the amount specified in
20 sub. (9).

21 **SECTION 112.** 11.50 (4m) of the statutes is created to read:

22 11.50 (4m) GRANTS FOR PRIMARY CAMPAIGNS. If an eligible candidate who
23 qualifies to receive a grant in a spring, general, or special election was opposed in the
24 spring or September primary, or in a special primary, by a candidate who qualified
25 to have his or her name appear on the primary ballot and the eligible candidate won

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1 nomination in that primary, the board shall award to that candidate the primary
2 grant specified in sub. (9) (a) at the same time that grants are distributed under that
3 paragraph for the spring, general, or special election, provided that the candidate
4 has filed with the board, no later than the time specified in s. 8.10 (2) (a), 8.15 (1),
5 8.20 (8) (a), or 8.50 (3) (a) nomination papers containing at least the following number
6 of valid signatures of electors for the office that the candidate seeks:

7 (a) For candidates for statewide offices, not less than 4,000 electors.

8 (b) For candidates for state senator, not less than 800 electors.

9 (c) For candidates for representative to the assembly, not less than 400 electors.

10 **SECTION 113.** 11.50 (5) of the statutes is amended to read:

11 11.50 (5) TIME OF DISBURSEMENT. The state treasurer shall make the
12 disbursements of grants under sub. (9) (a) to the campaign depository account of each
13 eligible candidate under subs. (3) and (4) by the end of the 3rd business day following
14 notice from the board under s. 7.08 (2) (c) or (cm). If an eligible candidate notifies the
15 state treasurer of the information required to make electronic transfers to the
16 candidate's campaign depository account, the state treasurer shall transfer to the
17 candidate any supplemental grants under sub. (9) (b), (ba), or (bb) for which the
18 candidate qualifies immediately following notice from the board under s. 7.08 (2) (c)
19 or (cm). Eligible candidates for governor and lieutenant governor of the same
20 political party may combine accounts if desired.

21 **SECTION 114.** 11.50 (6) of the statutes is amended to read:

22 11.50 (6) EXCESS MONEYS. If the amounts which are to be apportioned to each
23 eligible candidate under subs. (3) and (4) are more than the amount which a
24 candidate may accept under sub. (9), or more than the amount which a candidate
25 elects to accept under sub. (10), the excess moneys shall be retained in the fund.

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1 SECTION 115. 11.50 (9) (title) of the statutes is amended to read:

2 11.50 (9) (title) ~~LIMITATION ON~~ AMOUNT OF GRANTS.

3 SECTION 116. 11.50 (9) of the statutes is renumbered 11.50 (9) (a) and amended
4 to read:

5 11.50 (9) (a) ~~The~~ Except as provided in this paragraph and pars. (b), (ba), and
6 (bb) the total grant available to an eligible candidate may not exceed an amount
7 equal to the lesser of 45% of the disbursement level specified for the office that the
8 candidate seeks, as determined under s. 11.31 (1) and adjusted under s. 11.31 (9) but
9 without respect to any adjustment under s. 11.31 (1m) or that amount which, when
10 added to all other contributions accepted from sources other than individuals,
11 political party committees and legislative campaign committees by the candidate, is
12 equal to 45% ~~of~~ ^{of} the disbursement level specified for the applicable office that the
13 candidate seeks, as determined under s. 11.31 (1) and adjusted as provided under s.
14 11.31 (9) but without respect to any adjustment under s. 11.31 (1m). Except as
15 provided in pars. (b), (ba), and (bb), the total grant available to an eligible candidate
16 who qualifies for a grant for primary campaign expenses under sub. (4m) may not
17 exceed an amount equal to the lesser of 55% of the disbursement level specified for
18 the office that the candidate seeks, as determined under s. 11.31 (1) and adjusted
19 under s. 11.31 (9), but without respect to any adjustment under s. 11.31 (1m), or that
20 amount which, when added to all other contributions accepted by the candidate, is
21 equal to the disbursement level specified for the office that the candidate seeks, as
22 determined under s. 11.31 (1) and adjusted under s. 11.31 (9) but without respect to
23 any adjustment under s. 11.31 (1m). The board shall scrutinize accounts and reports
24 and records kept under this chapter to assure that applicable limitations under ss.
25 11.26 (9) and 11.31 are not exceeded and any violation is reported. No candidate or

BILL

1 campaign treasurer may accept grants exceeding the amount authorized by this
2 subsection.

3 **SECTION 117.** 11.50 (9) (b), (ba) and (bb) of the statutes are created to read:

4 11.50 (9) (b) If an eligible candidate at a primary or election, or both, who
5 accepts a grant is opposed by one or more candidates whose names are certified under
6 s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot at that primary or election, and
7 if a committee identified under s. 11.05 (3) (c) makes any disbursement for the
8 purpose of opposing the election of the eligible candidate who accepts a grant or for
9 the purpose of supporting a certified opponent of that candidate ^{that is required to be reported under s. 11.12 (6) (c)} without cooperation
10 or consultation with any certified opposing candidate or such a candidate's agent or
11 authorized committee, and not in concert with, or at the request or suggestion of, any
12 certified opposing candidate's agent or authorized committee, then the board shall
13 make an additional grant to the eligible candidate who accepts a grant in an amount
14 equal to the total amount or value of disbursements ^{as reported under s. 11.12 (6) (c)} made for the purpose of
15 supporting the election of the certified opposing candidate or for the purpose of
16 opposing the election of the eligible candidate who accepts the grant, ^(de) exceeding 10%
17 of the ^{(amount specified under s. 11.31 (1) (a) to (de), (e), or (f))} disbursement limitation for the office that the eligible candidate seeks, as
18 reported by committees under s. 11.12 (6) (c) ^{(adjusted under s. 11.31 (9) but without respect to any adjustment under s. 11.31 (1m))}.

19 (ba) If an eligible candidate at a primary or election, or both, who accepts a
20 grant is opposed by one or more candidates who are required, or whose personal
21 campaign committees are required, to file a report under s. 11.12 (8), then the board
22 shall make an additional grant to the eligible candidate who accepts a grant in an
23 amount equal to the total amount or value of disbursements ^{as reported under s. 11.12 (8)} made by the opposing
24 candidate or candidates exceeding the amount specified under s. 11.31 (1) (a) to (de),

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1 (e), or (f) for the office which the candidate seeks, as reported by the opposing
 2 candidate under s. 11.12(8). *adjusted under s. 11.31(9) but without respect to
 any adjustment under s. 11.31(1m)*

3 *If* (bb) ~~When~~ the sum of the aggregate independent expenditures made against
 4 an eligible candidate² and the independent expenditures made for that candidate's
 5 opponent, as reported under s. 11.065 (1), exceed³ 20% of the amount ~~determined~~
 6 *specified under s. 11.31(1)(a) to (g), (e), or (f)* under par. (a) for the office that the eligible candidate seeks in the primary and
 7 election for which the expenditures are made, the board shall make an additional
 8 grant to the eligible candidate. The amount of the additional grant shall equal the
 9 total of such independent expenditures made. *as adjusted under s. 11.31(9) but without
 respect to any adjustment under s. 11.31(1m),
 then*

10 SECTION 118. 11.50 (11) (a) of the statutes is amended to read:

11 11.50 (11) (a) ~~No~~ Except as authorized for candidates who are awarded grants
 12 under sub. (4m), no grant may be utilized in any primary.

13 SECTION 119. 11.50 (11) (e) of the statutes is amended to read:

14 11.50 (11) (e) No candidate may expend, authorize the expenditure of or incur
 15 any obligation to expend any grant if he or she violates the pledge required under
 16 sub. (2) (a) as a precondition to receipt of a grant, ~~except as authorized in sub. (2) (h)~~
 17 or (i).

18 SECTION 120. 11.50 (14) of the statutes is created to read:

19 11.50 (14) CERTIFICATIONS TO SECRETARY OF REVENUE. (a) In each
 20 even-numbered year, the board shall certify to the secretary of revenue:

21 1. No later than July 1, the name of each political party that qualifies under
 22 sub. (1) (am) 1. as an eligible political party as of the preceding June 1 and whose
 23 state chairperson has filed a request to establish an account for the party under sub.
 24 (2s) (a).

BILL

1 2. No later than December 15, the name of each political party that qualifies
2 under sub. (1) (am) 2. as an eligible political party as of the date of the preceding
3 general election.

4 (b) As soon as possible after receiving a valid application from an eligible
5 candidate under sub. (2) (a) and determining that the candidate is eligible to receive
6 a grant, the board shall certify to the secretary of revenue the full name of that
7 candidate as the name appears on the candidate's nomination papers.

8 (c) In each certification under this subsection, the board shall specify the
9 expiration date of the certification.

10 **SECTION 121.** 11.60 (4) of the statutes is amended to read:

11 11.60 (4) Actions under this section arising out of an election for state office or
12 a statewide referendum may be brought by the board or by the district attorney of
13 the county where the violation is alleged to have occurred, except as specified in s.
14 11.38. Actions under this section arising out of an election for local office or local
15 referendum may be brought by the district attorney of the county where the violation
16 is alleged to have occurred. Actions under this section arising out of an election for
17 county office or a county referendum may be brought by the county board of election
18 commissioners of the county wherein the violation is alleged to have occurred. In
19 addition, whenever a candidate or personal campaign committee or agent of a
20 candidate is alleged to have violated this chapter, action may be brought by the
21 district attorney of any county any part of which is contained within the jurisdiction
22 or district in which the candidate seeks election. If a violation concerns a district
23 attorney or circuit judge or candidate for such offices, the action shall be brought by
24 the attorney general. If a violation concerns the attorney general or a candidate for
25 such office, the governor may appoint special counsel under s. 14.11 (2) to bring suit

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1 in behalf of the state. The counsel shall be independent of the attorney general and
2 need not be a state employe at the time of appointment.

3 **SECTION 122.** 11.61 (1) (a) of the statutes is amended to read:

4 11.61 (1) (a) Whoever intentionally violates s. 11.05 (1), (2), or (2g) or (2r), 11.07
5 (1) or (5), 11.10 (1), 11.12 (5), 11.23 (6), or 11.24 ~~(4)~~ may be fined not more than \$10,000
6 or imprisoned for not more than 4 years and 6 months or both.

7 **SECTION 123.** 12.05 of the statutes is amended to read:

8 **12.05 False representations affecting elections.** No person may
9 knowingly make or publish, or cause to be made or published, a false representation
10 pertaining to a candidate or referendum ~~which~~ that is intended or tends to affect
11 voting at an election. This section does not apply to any information reported by a
12 person making an independent expenditure, as defined in s. 11.001 (11m), under s.
13 11.065 (2).

14 **SECTION 124.** 13.625 (3m) of the statutes is created to read:

15 13.625 (3m) No elective state official and no personal campaign committee of
16 an elective state official may solicit a lobbyist or principal to arrange for another
17 person to make a campaign contribution to that official or personal campaign
18 committee or to another elective state official or the personal campaign committee
19 of that official.

20 **SECTION 125.** 20.510 (1) (q) of the statutes is amended to read:

21 20.510 (1) (q) *Wisconsin election campaign fund.* As a continuing
22 appropriation, from the Wisconsin election campaign fund, the moneys determined
23 under s. 11.50 to provide for payments to eligible candidates whose names are
24 certified under s. 7.08 (2) (c) and (cm) and to provide for public information as
25 authorized under s. 11.50 (2m).

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1 **SECTION 126.** 20.855 (4) (ba) of the statutes is created to read:

2 20.855 (4) (ba) *Wisconsin election campaign fund supplement.* A sum sufficient
3 equal to the amounts required to make full payment of grants which candidates
4 qualify to receive from the Wisconsin election campaign fund, to be transferred from
5 the general fund to the Wisconsin election campaign fund no later than the time
6 required to make payments of grants under s. 11.50 (5).

7 **SECTION 127.** 25.42 of the statutes is amended to read:

8 **25.42 Wisconsin election campaign fund.** All moneys appropriated under
9 s. 20.855 (4) (b) and (ba) together with all moneys deposited under ss. 8.35 (4) (a),
10 11.07 (5), 11.12 (2), 11.16 (2), 11.19 (1), 11.23 (2), and 11.38 (6), all moneys reverting
11 to the state under s. 11.50 (8) and all gifts, bequests and devises received under s.
12 11.50 (13) constitute the Wisconsin election campaign fund, to be expended for the
13 purposes of s. 11.50. All moneys in the fund not disbursed by the state treasurer shall
14 continue to accumulate indefinitely.

15 **SECTION 128.** 71.10 (3) (a) of the statutes is amended to read:

16 71.10 (3) (a) Every individual filing an income tax return who has a tax liability
17 or is entitled to a tax refund may designate \$1 \$5 for transfer to the Wisconsin
18 election campaign fund ~~for the use of eligible candidates under s. 11.50.~~ If the
19 individuals filing a joint return have a tax liability or are entitled to a tax refund,
20 each individual may make a designation of \$1 \$5 under this subsection. Each
21 individual making a designation shall indicate whether the amount designated by
22 that individual shall be placed in the general account for the use of all eligible
23 candidates for state office, or in the account of an eligible political party whose name
24 is certified to the secretary of revenue under s. 11.50 (14). If an individual does not
25 indicate that the amount of his or her designation shall be placed in the account of

BILL

1 a particular eligible political party, that amount shall be placed in the general
2 account.

3 **SECTION 129.** 71.10 (3) (b) of the statutes is amended to read:

4 71.10 (3) (b) The secretary of revenue shall provide a place for these
5 designations under par. (a) on the face of the individual income tax return and shall
6 provide next to that place a statement that a designation will not increase tax
7 liability. ~~Annually on August 15~~ The secretary shall also provide and highlight a
8 place in the instructions that accompany the return for any information submitted
9 to the secretary by the elections board under s. 11.50 (2m) without cost to the board.
10 No later than the 15th day of each month, the secretary of revenue shall certify to
11 the elections board, the department of administration and the state treasurer ~~under~~
12 ~~s. 11.50~~ the total amount of designations made on returns processed by the
13 department of revenue during the preceding ~~fiscal year~~ month and the amount of
14 designations made during that month for the general account and for the account of
15 each eligible political party. If any individual attempts to place any condition or
16 restriction upon a designation not authorized under par. (a), that individual is
17 deemed not to have made a designation on his or her tax return.

18 **SECTION 130.** 806.04 (11m) of the statutes is created to read:

19 806.04 (11m) CAMPAIGN FINANCE REGISTRATION. Any person who proposes to
20 publish, disseminate, or broadcast, or causes to be published, disseminated, or
21 broadcast, any communication may commence a proceeding under this section to
22 determine the application to that person of a registration requirement under s. 11.05
23 (1), (2), or (2g).

24 **SECTION 131. Nonstatutory provisions.**

25 (1) NONSEVERABILITY.

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1 (a) Notwithstanding section 990.01 (11) of the statutes, if a court finds that all
2 or any portion of section 11.01 (4m) or (11m), 11.065, or 11.50 (9) (bb) of the statutes,
3 as created by this act, or section 11.27 (1) or 12.05 of the statutes, as affected by this
4 act, is unconstitutional, then sections 11.01 (4m) and (11m), 11.065, and 11.50 (9) (bb)
5 of the statutes, as created by this act, and the treatment of sections 11.27 (1) and
6 12.05 of the statutes by this act are void in their entirety.

7 (b) Notwithstanding section 990.001 (11) of the statutes, if a court finds that
8 any part of section 11.12 (8) or 11.50 (9) (ba) of the statutes, as created by this act,
9 is unconstitutional, this entire act is void.

SECTION 132. Appropriation changes; elections board.

10
11 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
12 to the elections board under section 20.510 (1) (a) of the statutes, as affected by the
13 acts of 2001, the dollar amount is increased by \$76,100 for fiscal year 2001–02 and
14 the dollar amount is increased by \$85,100 for fiscal year 2002–03 to increase the
15 authorized FTE positions for the elections board by 1.0 GPR campaign finance
16 investigator position and 1.0 GPR auditor position and to fund supporting expenses
17 for these positions.

SECTION 133. Initial applicability.

18
19 (1) Except as provided in subsections (2) and (3), this act first applies to
20 elections held on the day after publication.

21 (2) The treatment of section 71.10 (3) (a) of the statutes first applies to claims
22 filed for taxable years beginning on January 1 of the year in which this subsection
23 takes effect, except that if this subsection takes effect after July 31 the treatment
24 first applies to claims filed for taxable years beginning on January 1 of the year
25 following the year in which this subsection takes effect.

SENATE AMENDMENT 2,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 104

INSERTS

January 24, 2002 Offered by COMMITTEE ON FINANCE.

INSERT
42-16

At the locations indicated, amend the substitute amendment as follows:

1
2
3
4
5
6
7
8

1. Page 33, line 1: delete lines 1 to 7 and substitute:

11.26 (2) (intro.) No committee, other than a political party committee or legislative campaign committee, and no individual or committee serving as a conduit, may make any contribution or contributions to a candidate for election or nomination to any of the following offices and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate.

INSERT
47-6

9
10
11
12

2. Page 37, line 9: delete lines 9 to 14 and substitute:

11.31 (1m) DISBURSEMENT LEVEL FOR CANDIDATES IN COMPETITIVE PARTISAN PRIMARY ELECTIONS. The total disbursement level for any candidate for a partisan

1 office at a general or special election whose name appears on the ballot as a candidate
2 for an office at a primary election preceding that election and who receives less than
3 twice as many votes at that primary election as another candidate for the same office
4 within the same political party, and who has an opponent in the general or special
5 election who received at least 6% of the votes cast for all candidates for the office that
6 the candidate seeks on all ballots at the September primary or any special primary
7 preceding the general or special election, is 120% of the amount specified in sub. (1)
8 for the candidate for the same office who receives the greatest number of votes in the
9 primary election, as adjusted as provided in sub. (9).
10

11 **3.** Page 38, line 16: delete "or (ba)" and substitute ", (ba), or (bb)".

12 **4.** Page 48, line 22: after "45%" insert "of".

13 **5.** Page 49, line 19: delete the material beginning with "without" and ending
14 with "committee" on line 22 and substitute "that is required to be reported under s.
15 11.12 (6) (c)".

16 **6.** Page 49, line 24: after "disbursements" insert ", as reported under s. 11.12
17 (6) (c)".

18 **7.** Page 50, line 2: delete "disbursement limitation" and substitute "amount
19 specified under s. 11.31 (1) (a) to (de), (e), or (f)".

20 **8.** Page 50, line 2: delete the material beginning with "as" and ending with "(c)"
21 on line 3 and substitute ", as adjusted under s. 11.31 (9) but without respect to any
22 adjustment under s. 11.31 (1m)".

23 **9.** Page 50, line 8: after "disbursements" insert ", as reported under s. 11.12
(8)".

JWS DIA

~~LRBa1178/1dn
JTK & RJM:.....~~

2. In adjusting the percentage qualifier for grant applicants, we noted that a sentence in s. 11.50 (2) (b) 5, stats, was inadvertently stricken in a previous draft and carried into this draft. This sentence relates to the first \$100 of a contribution of more than \$100 being counted towards the qualifier. Because this appeared to us to be a mistake, this draft restores that sentence.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

-4780/1dn
LRB-4170/1dn
JTK/RJM/WZ:kg:jf

December 4, 2001

Representative Travis:

1. Concerning proposed s. 11.19 (6), you may wish to exempt candidates for partisan office at a special election that is called concurrently with the spring election from the prohibition on retention of certain campaign moneys after December 31 of even-numbered years.

WS
DIA
3

1. Currently, ch. 11, stats., generally requires disclosure of financial activity by individuals and committees seeking to influence the election or defeat of candidates for state or local office [see ss. 11.01 (6), (7), (11), and (16), 11.05, and 11.06, stats.], unless a disbursement is made or obligation incurred by an individual other than a candidate or by a committee which is not organized primarily for political purposes, the disbursement is not a contribution as defined in the law and the disbursement is not made to expressly advocate the election or defeat of a clearly identified candidate [see s. 11.06 (2), stats.]. This language pretty closely tracks the holding of the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 656-664 (1976), which prescribes the boundaries of disclosure that may be constitutionally enforced (except as those requirements affect certain minor parties and independent candidates). Proposed ss. 11.01 (4m) and (11m) and 11.065, which require registration and reporting by individuals who or committees that make certain mass communications within specified periods preceding an election containing a reference to a candidate at that election, an office to be filled at that election, or a political party, appear to extend beyond the boundaries which the court permitted in 1976. As a result, the enforceability of these provisions at the current time appears to rest upon a shift by the court in its stance on this issue. In this connection, see also *North Carolina Right to Life, Inc., v. Bartlett*, 168 F. 3d 705 (4th Cir. 1999), cert. denied, 120 S. Ct. 1156 (2000), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*.

We want to note briefly that a few of the provisions of this draft are innovative, and we do not yet have, to our knowledge, specific guidance from the U.S. Supreme Court 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 upon 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. 11.12 (8), which requires candidates who do not accept public grants to file special reports that are not required of candidates who accept public grants.

(b) Proposed s. 11.50 (9) (b), (ba), and (bb) which provides public grants to qualifying candidates to match certain independent disbursements and other expenditures and disbursements exceeding the disbursement limitations by candidates who do not accept public grants. Although relevant case law has developed regarding this issue in the federal courts of appeal, there is no consensus among these courts on this issue. Due to the unsettled nature of the law in this area, it is not possible to predict how a court would rule if proposed s. 11.50 (9) (b), (ba), or (bb) were challenged.

(c) Proposed s. 11.26 (8m), which prohibits committees from making contributions to certain other committees. Although the U.S. Supreme Court has not ruled on the enforceability of a provision of this type, the court has indicated some willingness to permit limits on contributions beyond those specifically approved in *Buckley v. Valeo*. See *California Med. Assn. v. FEC*, 453 U.S. 182, 193-99 (1981) (\$5,000 limitation on individual-to-PAC contributions is a reasonable method of preventing individuals from evading limits on direct campaign contributions).

If you need further information or would like to make any changes based on the above information, please let us know.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4780/1dn
JTK/RJM:kg.pg

January 28, 2002

1. Concerning proposed s. 11.19 (6), you may wish to exempt candidates for partisan office at a special election that is called concurrently with the spring election from the prohibition on retention of certain campaign moneys after December 31 of even-numbered years.

2. In adjusting the percentage qualifier for grant applicants, we noted that a sentence in s. 11.50 (2) (b) 5., stats., was inadvertently stricken in a previous draft and carried into this draft. This sentence relates to the first \$100 of a contribution of more than \$100 being counted towards the qualifier. Because this appeared to us to be a mistake, this draft restores that sentence.

3. Currently, ch. 11, stats., generally requires disclosure of financial activity by individuals and committees seeking to influence the election or defeat of candidates for state or local office [see ss. 11.01 (6), (7), (11), and (16), 11.05, and 11.06, stats.], unless a disbursement is made or obligation incurred by an individual other than a candidate or by a committee which is not organized primarily for political purposes, the disbursement is not a contribution as defined in the law and the disbursement is not made to expressly advocate the election or defeat of a clearly identified candidate [see s. 11.06 (2), stats.]. This language pretty closely tracks the holding of the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 656-664 (1976), which prescribes the boundaries of disclosure that may be constitutionally enforced (except as those requirements affect certain minor parties and independent candidates). Proposed ss. 11.01 (4m) and (11m) and 11.065, which require registration and reporting by individuals who or committees that make certain mass communications within specified periods preceding an election containing a reference to a candidate at that election, an office to be filled at that election, or a political party, appear to extend beyond the boundaries which the court permitted in 1976. As a result, the enforceability of these provisions at the current time appears to rest upon a shift by the court in its stance on this issue. In this connection, see also *North Carolina Right to Life, Inc., v. Bartlett*, 168 F. 3d 705 (4th Cir. 1999), cert. denied, 120 S. Ct. 1156 (2000), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*.

We want to note briefly that a few of the provisions of this draft are innovative, and we do not yet have, to our knowledge, specific guidance from the U.S. Supreme Court 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 upon 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. 11.12 (8), which requires candidates who do not accept public grants to file special reports that are not required of candidates who accept public grants.

(b) Proposed s. 11.50 (9) (b), (ba), and (bb) which provides public grants to qualifying candidates to match certain independent disbursements and other expenditures and disbursements exceeding the disbursement limitations by candidates who do not accept public grants. Although relevant case law has developed regarding this issue in the federal courts of appeal, there is no consensus among these courts on this issue. Due to the unsettled nature of the law in this area, it is not possible to predict how a court would rule if proposed s. 11.50 (9) (b), (ba), or (bb) were challenged.

(c) Proposed s. 11.26 (8m), which prohibits committees from making contributions to certain other committees. Although the U.S. Supreme Court has not ruled on the enforceability of a provision of this type, the court has indicated some willingness to permit limits on contributions beyond those specifically approved in *Buckley v. Valeo*. See *California Med. Assn. v. FEC*, 453 U.S. 182, 193-99 (1981) (\$5,000 limitation on individual-to-PAC contributions is a reasonable method of preventing individuals from evading limits on direct campaign contributions).

If you need further information or would like to make any changes based on the above information, please let us know.

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From: Emery, Lynn
Sent: Tuesday, January 29, 2002 12:08 PM
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