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W 52A

~~Currently, where a requirement is imposed under the campaign finance law for filing of a report by a specified date, the requirement may be satisfied by depositing the report with the U.S. postal service no later than the date provided by law for receipt of the report. This bill permits satisfaction of such a requirement by depositing the report with the U.S. postal service no later than the third day before the date provided by law for receipt of the report.~~

***Registration and reporting by certain federal and nonresident registrants***

Currently, a new registrant is generally prohibited from making a contribution or disbursement from property or funds received prior to the date of registration, except that if a registrant has in its possession property or funds at the time of registration that were not intended for political purposes in connection with an election for state or local office at the time they were received, the registrant may report the property or funds as received on the date of registration and may then use the property or funds to make a contribution or disbursement.

This bill exempts a federally registered committee of a state political party organization or a national political party committee from this prohibition. The bill also permits a nonresident registrant who or which has property or funds in the possession of the registrant on the date of registration from which the registrant wishes to make a contribution or disbursement to use the property or funds to make a contribution or disbursement to the extent permitted under current law if the registrant obtained the property or funds from sources and in amounts that were lawful at the time that the property or funds were received by the registrant. In addition, the bill requires every new nonresident registrant to report any information specified by the board for the year in which the registrant registers and the one-year period preceding that year, plus any additional period required to enable the registrant to make a contribution or disbursement from the property or funds.

Currently, with certain exceptions, a registrant who or which is required to register with a filing officer in this state must file regular reports identifying contributions received and disbursements made and providing certain other information. However, a nonresident registrant need report only contributions and other income received from sources in this state and disbursements made and obligations incurred with respect to an election for state or local office in this state. In addition, a state political party committee that is registered with the federal elections commission and that makes contributions to candidates for national office, as well as contributions to other state political party committees, need not file reports for any period covered by a report filed by the committee with the federal elections commission if the elections board receives a copy of that report and the committee makes no contributions to any individual who or organization which is required to register with a filing officer under Wisconsin law. This bill deletes these exceptions to state reporting requirements.

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→ Sub 56 Internet posting of electronic reports

*Currently* → specified by law. Candidates for state office or their personal campaign or authorized support committees and other individuals, committees, and groups supporting or opposing candidates for state office or statewide ballot questions file their reports with the state elections board. Each registrant for whom the elections board serves as a filing agency and who or which accepts contributions in a total amount or value of \$20,000 or more during a campaign period, or a biennial period for a registrant other than a candidate or personal campaign or support committee, must file reports with the board electronically. ~~The board must make available to registrants software that is designed to facilitate complete electronic filing of campaign finance reports at a price that may not exceed cost. Any registrant who or which files a report electronically must also file a copy of the report recorded on a medium prescribed by the board. The board must provide complete instructions to any registrant who or which files reports electronically.~~

This bill requires campaign finance reports to be filed electronically by each candidate for state office who applies for and receives a public grant, as well as by each individual or organization who or which is currently subject to a registration requirement with the elections board and who or which accepts contributions exceeding a total of \$20,000 within a calendar year and by each individual or organization who or which makes expenditures exceeding a total of \$20,000 within a calendar year for mass communications which include the name or likeness of one or more candidates for state office. Under the bill, the reports must be made monthly, except that an electronic report must be filed within 24 hours of the occurrence of a transaction during the period beginning 30 days before the primary election, if any, or beginning 30 days before the election if no primary is held, and ending on the day of the election, unless a registrant makes no disbursements and incurs no obligations in connection with such an election. In addition, 24-hour electronic reports need only contain an itemization of cumulative annual contributions or donations exceeding \$100 from a single contributor, instead of cumulative annual contributions or donations exceeding \$20 as required for other reports. The bill requires the board to provide one copy of the software prescribed by the board and each revision thereof and to offer basic training in the use of that software, at state expense, to each candidate for state office or that candidate's personal campaign committee. In accordance with current law, the bill also requires registrants who file electronically to file copies of reports, at the times currently prescribed by law, recorded on a medium prescribed by the board. Under the bill, once a registrant or other individual or organization becomes subject to an electronic reporting requirement, the requirement continues to apply until a termination report is filed, regardless of the level of continuing financial activity of the registrant or other individual or organization. ~~The changes apply effective with reports filed on July 1, 2003.~~

*9* This bill requires the elections board, within 24 hours after receiving any information that is required to be reported to the board electronically (or if the information is received on a Saturday, Sunday, or holiday on which state offices are closed, within 24 hours after the beginning of the first business day after receiving such information), to post the information electronically for public inspection on the Internet.

MS 3B

***Registration by independent committees and individuals***

Currently, with certain exceptions, every committee that makes or accepts contributions, incurs obligations, or makes disbursements, and every individual who accepts contributions, incurs obligations, or makes disbursements for the purpose of influencing an election for state or local office in an aggregate amount exceeding \$25 must register with the appropriate filing officer. This bill provides that if a committee makes or accepts contributions, incurs obligations, or makes disbursements, or if an individual accepts contributions, incurs obligations, or makes disbursements independently of any candidate or agent or authorized committee of a candidate who is supported or whose opponent is opposed, the committee or individual need not register unless the committee's or individual's contributions, obligations, or disbursements exceed, in the aggregate, \$500 per calendar year with respect to an election or elections for state office, county office in a county having a population of 300,000 or more, or city office in a city having a population of 500,000 or more, or \$100 per calendar year with respect to an election or elections for any other office, unless the committee or individual is required to register in accordance with current law on the basis of other contributions made or accepted, obligations incurred, or disbursements made.

***Reporting exemptions***

Currently, if a registrant does not accept contributions, make disbursements, or incur obligations within a calendar year in an aggregate amount exceeding \$1,000, the registrant may annually apply for and receive an exemption from filing campaign finance reports without terminating registration. This bill deletes that privilege. However, the bill retains another provision of current law that accords a similar privilege to any registrant except a registrant who or which makes disbursements to expressly advocate the election or defeat of a candidate independently of any candidate who is supported or whose opponent is opposed, provided that the registrant does not accept any contributions from a single source, other than contributions by a candidate to his or her own campaign, exceeding \$100 within a calendar year.

***Duplicate filing requirements***

Currently, certain registrants whose filing officer is the elections board and who or which make disbursements in connection with elections affecting only one county or a portion thereof must file duplicate originals of their campaign finance reports with the county clerk or board of election commissioners of every county in which such elections are held. This bill requires, instead, that these registrants file duplicate originals of these reports with the filing officer of each jurisdiction in which such elections are held.

***Mass media, mass mailing, and telephoning activities***

Currently, an organization making contributions or an individual or organization accepting contributions, making disbursements (expenditures), or

*WS 8A:1*

This bill requires each person who transfers a contribution of money to a conduit to make a written direction, on a form prescribed by the elections board, specifying clearly the name of the intended recipient, the amount of the contribution, and the date on which the contribution is made. Each item of information on the form must be entered by the contributor. A conduit receiving a form must retain the form with its records for three years after the date of the election in connection with which the contribution identified on the form is made. The bill prohibits any person from entering or changing a date that a contribution is made on such a form so as to indicate a date that a contribution is made other than the actual date.

Currently, the recipient of a contribution of money must deposit the contribution in the recipient's campaign depository account no later than five business days after receipt of the contribution. A conduit who or which deposits a contribution of money is considered to receive and accept the contribution. A contribution must be reported by the recipient as received and accepted on the date received unless it is returned to the contributor or donated within 15 days of receipt.

This bill provides that each conduit who or which receives a contribution of money must transfer the contribution to the recipient specified by the contributor within five days of the date on which the contribution is received by the conduit. Under the bill, the contribution must be deposited no later than the time it is transferred.

*500* ***Transfer of campaign surpluses for use in campaigns for different offices***

Currently, a candidate, personal campaign committee of a candidate, former candidate, or former personal campaign committee may make a contribution or disbursement for any political purpose not prohibited by law, and specifically may transfer money or property to another candidate or personal campaign committee, subject to applicable contribution limitations. If a candidate for one office becomes a candidate for a second office, that candidate or his or her personal campaign committee may use money or property received on his or her behalf when the candidate was a candidate for the first office, without limitation. In addition, if the personal campaign committee of a former candidate files an oath affirming its independence from any candidate, the committee may make disbursements in an unlimited amount to advocate the election or defeat of any candidate. However, with certain limited exceptions, a candidate or committee may not use property or funds that were accepted for the purpose of influencing an election for any purpose other than for the purpose of influencing an election.

This bill prohibits any candidate, personal campaign committee, former candidate, former personal campaign committee, or principal campaign committee of a candidate for national office from making a contribution to a candidate or personal campaign committee from money or property that was received on behalf of the candidate when the candidate was seeking a different office than the office the candidate currently seeks, or from money or property that was received on behalf of the former candidate when the former candidate was seeking an office. The bill also prohibits a candidate, personal campaign committee, former personal campaign committee, or principal campaign committee of a candidate for national office from



BR 58A:2

making a disbursement for the purpose of influencing the election or nomination to election of that candidate from money or property that was received on behalf of the candidate when the candidate was seeking an office other than the one that the candidate currently seeks, or from money or property that was received on behalf of the former candidate when the former candidate was seeking an office.

#### ***Treatment of legislative campaign committees***

Currently, the adherents of any political party in either house of the legislature may organize a "legislative campaign committee" to support the candidacy of members of their party for legislative office. Committees other than legislative campaign committees and political party committees are generally subject to a limitation upon the contributions that they may make to candidates for legislative office or to political parties. Legislative campaign committees are subject only to overall limitations on the aggregate contributions that may be accepted by a candidate from entities other than individuals.

The bill eliminates the special status of legislative campaign committees, thus causing them to be treated in the same manner as other special interest committees for the purpose of contribution limitations.

#### ***Reporting of incurred obligations***

Currently, a registrant who or which is subject to a reporting requirement must report the name of any person to whom any obligation exceeding \$20 in amount or value has been incurred, together with the date and the specific purpose for which the obligation is incurred. This bill requires such a registrant, in addition, to report the amount of each obligation known or estimated to exceed \$20 in amount or value, if the amount is known, or a reasonable estimate of the amount of each obligation if the amount is not known.

#### ***Public grants***

Under current law, public financing from the Wisconsin election campaign fund is available to finance certain campaign expenses of eligible candidates for the offices of state senator, representative to the assembly, governor, lieutenant governor, attorney general, state treasurer, secretary of state, justice of the supreme court, and superintendent of public instruction at a general, spring, or special election. To qualify for a grant from the Wisconsin election campaign fund, a candidate for state office at the general election must receive at least 6% of the total vote cast for the office that the candidate seeks at the September primary and must have won the primary. In addition to other requirements, a candidate must also receive, during a specified time period, a specified amount through contributions from individuals of \$100 or less. For a candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, attorney general, justice of the supreme court, or superintendent of public instruction, the amount is 5% of the authorized disbursement level for the office that the candidate seeks. For a candidate for the office of state senator or representative to the assembly, the amount is 10% of the authorized disbursement level for the office that the candidate seeks. Currently, the

disbursement level applicable to candidates for the office that the candidate seeks, provided that there are sufficient moneys in the Wisconsin clean election system fund to make payment of the full amounts of the grants for which candidates qualify.

The bill disqualifies a candidate from receiving a grant if the candidate or his or her personal campaign committee is not in compliance with all obligations imposed under the public grant law with respect to any grant previously received by the candidate.

The bill also permits the elections board to require any candidate who receives a grant, in accordance with rules promulgated by the board, to file a report with the board providing information specified by the board in addition to the information currently required to be reported. A candidate must file any such report together with its first regular semiannual report following an election at which the candidate receives a grant or together with the candidate's termination report if the candidate terminates his or her registration at an earlier date.

Currently, any grant moneys that are not encumbered by a candidate on the day after an election in which the candidate participates revert to the state. In addition, any deposits and refunds derived from grant moneys that are received by a candidate after the date of an election in which the candidate participates revert to the state. This bill provides, instead, that all unencumbered moneys in the campaign depository account of a candidate who receives a grant on the day after an election in which the candidate participates plus all deposits and refunds received by such a candidate after that date, revert to the state to the extent that the unencumbered moneys, together with the deposits and refunds, do not exceed the amount of the grant received by that candidate.

*Penalties for violations*

Currently, any person who violates any provision of the campaign finance law, except a contribution prohibition, is subject to a forfeiture (civil penalty) of not more than \$500 for each violation. This bill increases this amount to \$1,500. In addition, currently, any person who is delinquent in filing a report is subject to a forfeiture of not more than \$50 or 1% of the annual salary of the office for which a candidate is being supported or opposed, whichever is greater, for each day of delinquency. This bill increases these amounts to a maximum of \$150 or 3% of the annual salary, whichever is greater. ~~Currently, any person who makes an unlawful contribution is subject to a forfeiture of treble the amount of the unlawful contribution. This bill increases this amount to nine times the amount of the unlawful contribution.~~

Currently, whoever intentionally violates certain provisions of the campaign finance law, such as registration requirements, contribution limitations, the prohibition against making contributions in the name of another person, the prohibition against using contributions for most nonpolitical purposes, and the prohibition against filing false reports and statements may be fined not more than \$1,000 or imprisoned for not more than six months, or both, if the violation does not exceed \$100 in amount or value, and may be fined not more than \$10,000 or imprisoned for not more than four years and six months, or both, if the violation exceeds \$100 in amount or value. This bill increases these amounts to a maximum

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fine of \$3,000 or imprisonment for not more than one year, or both, if the violation does not exceed \$100 in amount or value, and a maximum fine of \$30,000 or imprisonment for not more than nine years, or both, if the violation exceeds \$100 in amount or value.

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**Public funding of campaigns for county and first class city offices**

The bill permits counties and first class cities to provide by ordinance for appropriations to pay for lawful campaign expenses of candidates for county and city offices, subject to reasonable qualifications and agreements by candidates to adhere to disbursement and self-contribution limitations. Under the bill, any such ordinance may prescribe civil penalties for violations of the ordinance or an agreement entered into under the ordinance not exceeding the amount that would apply to a violation of the state campaign finance law. The bill also directs the elections board to review the operation of any such ordinance and provide its recommendations, if any, concerning extension of a similar system of public funding to other campaigns for local elective offices in this state to the appropriate legislative standing committees.

Currently, counties have no such authority. Cities may have such authority under constitutional home rule powers if an enactment of this nature is considered to be a "local affair."

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**Composition of the elections board**

Currently, the elections board consists of eight members appointed by the governor for two-year terms without senate confirmation. One member is selected by the governor and one member each is designated by the chief justice of the supreme court, the speaker of the assembly, the senate majority leader, the minority leader in each house of the legislature, and the chief officer of each political party qualifying for a separate ballot or column on the ballot whose candidate for governor received at least 10% of the vote in the most recent gubernatorial election.

The bill recreates the board to consist of eight members appointed by the governor for staggered four-year terms. One member is selected by the governor and one member each is designated by the speaker of the assembly, the senate majority leader, and the minority leader in each house of the legislature. Three additional nonpartisan members are appointed by the governor, subject to senate confirmation. Under the bill, no nonpartisan member may hold any other office or employment in the government of this state or any political subdivision thereof or in any department of state government. In addition, no nonpartisan member, for one year immediately prior to the date of appointment, may have been, or while serving on the board may become, a member of a political party, an officer or member of a committee in any partisan political club or organization, or a candidate for any partisan elective public office. Under the bill, the members of the current board serve until all of the members of the board who are appointed under the bill qualify for office, at which time the current members are replaced.

any matter arising in connection with a recount. The bill also directs the elections board to periodically examine and review decisions issued under the procedure with a view to clarifying and improving the administration of the election laws.

***Injunctive relief***

Currently, the elections board or any elector may sue for injunctive relief (a court order) requiring compliance with the elections laws. Before bringing a suit concerning a state office or statewide referendum, an elector must file a sworn complaint with the board alleging such facts as are within his or her knowledge to show probable cause that a violation has occurred or is proposed to occur. If the board does not sue for injunctive relief within ten days after filing the complaint, the elector may then file suit. This bill requires, instead, that an elector who proposes to bring suit for injunctive relief with respect to an alleged violation concerning an election for state office or a statewide referendum first must file a sworn complaint with the executive director of the board. ~~If the executive director does not order the relief sought by the elector within ten days after the complaint is filed and the elector does not appeal the matter to the board or the board, after hearing the elector's appeal, does not order the relief sought by the elector, the elector may then sue for injunctive relief.~~

The complaint must include a notice that the elector intends to seek

***Biennial review of campaign finance practices***

The bill directs the elections board to conduct a biennial review of campaign finance practices in this state. The review must include an assessment of the continued appropriateness of the contribution limitations prescribed by law and any other important problems that require the attention of the legislature, as well as an assessment of whether a bipartisan committee should be created to provide for additional study of issues and recommendations for possible additional legislative changes. If the board concludes that any contribution limitations should be increased or that any other action should be taken as a result of its review, the board is directed to transmit its conclusions and recommendations to the appropriate standing committees of the legislature, together with any information supporting the board's conclusions.

injunctive relief. If the board does not sue for injunctive relief within ten days after filing the complaint, the elector may then file suit.

***Study of campaign finance law enforcement***

The bill requests the joint legislative council to review the process for detecting and penalizing violations of the state campaign finance law, with a view to detecting violations quickly and punishing violators firmly, and to report its findings, conclusions, and recommendations, together with any proposed legislation, to the 2003 legislature when it convenes.

***Future study of campaign finance reform***

Currently, the governor may create nonstatutory committees to provide advice concerning policy formation. The bill directs the governor, in cooperation with the legislature, to exercise this existing authority to create a committee to study



*JWS 12-10:1*

1 year exceed \$1,000, or the date on which the registrant accepts any contribution or  
2 contributions exceeding \$100 from a single source, other than contributions made by  
3 a candidate to his or her own campaign, during that year, whichever is earlier. If the  
4 revocation is not timely, the registrant violates s. 11.27 (1).

5 SECTION 18. ~~11.05 (3) (c)~~ of the statutes is amended to read:

6 11.05 (3) (c) In the case of a committee, a statement as to whether the  
7 committee is a personal campaign committee, a political party committee, a  
8 legislative campaign committee, a support committee or a special interest  
9 committee.

10 SECTION 19. ~~11.05 (3) (c)~~ of the statutes is repealed.

11 SECTION 20. 11.05 (3) <sup>(f)</sup> of the statutes is created to read:

12 11.05 (3) <sup>(f)</sup> In the case of a registrant who or which does not maintain a street  
13 address within this state, a report providing the information specified by the board  
14 for the portion of the year in which the registrant initially files a statement under  
15 this section before filing that statement and the one-year period preceding the  
16 beginning of that year, plus any additional period required under sub. (7m) to enable  
17 the registrant to make a contribution or disbursement from the property or funds.  
18 The report required under this paragraph may be filed no later than 10 days  
19 following the remainder of a statement filed under this section. A registration lapses  
20 if the report required under this paragraph is not filed in a timely manner.

21 SECTION 21. 11.05 (6) of the statutes is amended to read:

22 11.05 (6) CONTRIBUTION OR DISBURSEMENT PROHIBITED. Except as provided in  
23 subs. (7) and (13), no person, committee or group subject to a registration  
24 requirement may make any contribution or disbursement from property or funds  
25 received prior to the date of registration under this section. This subsection does not

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1 apply to a federal candidate committee, as defined in s. 11.06 (3m) (a), or a national  
2 party committee as defined in s. 11.06 (3m) (a).

3 SECTION 22. 11.05 (7) of the statutes is amended to read:

4 11.05 (7) CHANGE IN STATUS OF NEW REGISTRANT. ~~Notwithstanding sub. (6)~~ Except  
5 as provided in sub. (7m), any individual or organization who or which has received  
6 property or funds which were not intended for political purposes in connection with  
7 an election for state or local office at the time of receipt may make contributions or  
8 disbursements from such property or funds in connection with an election for state  
9 or local office if the individual or organization complies with applicable provisions of  
10 sub. (1), (2) or (2g) as soon as such intent changes. For purposes of s. 11.06 (1), all  
11 property or funds which are in ~~a registrant's~~ the possession of such an individual or  
12 organization on the date of registration under this section shall be treated as received  
13 on the date that such intent changes so that the property or funds are to be used for  
14 political purposes in connection with an election for state or local office.

15 SECTION 23. 11.05 (7m) of the statutes is created to read:

16 11.05 (7m) NONRESIDENT REGISTRANTS; ADDITIONAL INFORMATION. If a registrant  
17 who or which does not maintain a street address in this state has property or funds  
18 in the possession of the registrant on the date of registration from which the  
19 registrant wishes to make a contribution or disbursement, the registrant may make  
20 a contribution or disbursement from the property or funds to the extent permitted  
21 under this chapter if the registrant obtained the property or funds from sources and  
22 in amounts that were lawful under this chapter at the time that the property or funds  
23 were received by the registrant, and the registrant reports to the appropriate filing  
24 officer the information specified by the board under sub. (3) <sup>(r)</sup> with respect to the  
25 property or funds prior to making any contribution or disbursement from the



ANS 12-10:3

1 property or funds. For purposes of determining the source of property or funds in the  
2 possession of a registrant at the time of registration under this subsection, the  
3 property and funds in the possession of a registrant shall be allocated to the sources  
4 from which the registrant received property and funds in the inverse order in which  
5 the property and funds were chronologically received.

6 ~~SECTION 24. 11.05 (9) (b) of the statutes is amended to read:~~

7 ~~11.05 (9) (b) An individual who or a committee or group which receives a  
8 contribution of money and transfers the contribution to another individual,  
9 committee or group while acting as a conduit is not subject to registration under this  
10 section unless the individual, committee or group transfers the contribution to a  
11 candidate or a personal campaign, legislative campaign, political party or support  
12 committee.~~

13 ~~SECTION 25. 11.05 (11) of the statutes is amended to read:~~

14 ~~11.05 (11) EXEMPTION FOR INDIRECT CERTAIN POLITICAL ACTIVITY. If any individual  
15 makes only those disbursements and incurs only those obligations which are  
16 exempted from reporting under s. 11.06 (2), ~~or~~ if any committee or group makes no  
17 contributions, and makes only those disbursements and incurs only those  
18 obligations which are exempted from reporting under s. 11.06 (2), or if a corporation  
19 described in s. 11.065 (6) makes no contributions then no registration requirement  
20 under this section applies to that individual, committee ~~or~~ group or corporation.~~

21 ~~SECTION 26. 11.05 (13) of the statutes is amended to read:~~

22 ~~11.05 (13) BANK ACCOUNT AND POSTAL BOX; EXEMPTION. An individual, committee  
23 or group does not violate this section by accepting a contribution and making a  
24 disbursement in the amount required to rent a postal box, or in the minimum amount  
25 required by a bank or trust company to open a checking account, prior to the time of~~

- 31 -  
JNS 12-10:4

1 registration, if the disbursement is properly reported on the first report submitted  
2 under s. 11.20 or 11.21 (16) after the date that the individual, committee or group is  
3 registered, whenever a reporting requirement applies to the registrant.

4 SECTION 27. 11.06 (1) (intro.) of the statutes is amended to read:

5 11.06 (1) CONTENTS OF REPORT. (intro.) Except as provided in subs. (2), (3) and

6 (3m) and ~~ss. 11.05 (2r) and 11.19 (2)~~, each registrant under s. 11.05 shall make full  
7 reports, upon a form prescribed by the board and signed by the appropriate  
8 individual under sub. (5), of all contributions received, contributions or  
9 disbursements made, and obligations incurred. ~~Each, except as required under sub.~~

10 ~~(1e),~~ each report shall contain the following information, covering the period since  
11 the last date covered on the previous report, unless otherwise provided:

12 SECTION 28. ~~11.06 (1) (a)~~ of the statutes is amended to read:

13 11.06 (1) (a) An itemized statement giving the date, full name and street  
14 address of each contributor who has made a contribution in excess of \$20, or whose  
15 contribution if \$20 or less aggregates more than \$20 for the calendar year, together  
16 with the amount of the contribution and, the cumulative total contributions made by  
17 that contributor for the calendar year and any allocation of all or part of that  
18 contribution which is required to be made under s. 11.26 (17) (a).

19 SECTION 29. 11.06 (1) (h) of the statutes is amended to read:

20 11.06 (1) (h) An itemized statement of every incurred obligation exceeding  
21 known or reasonably estimated by the registrant to exceed \$20 in amount or value,  
22 together with the name of the person or business with whom the obligation was  
23 incurred, the amount of the obligation, if known, or a reasonable estimate of the  
24 amount of the obligation, if not known, and the date and the specific purpose for  
25 which each such the obligation was incurred, together with amount of any incurred

PWS 12-19

1 Notwithstanding sub. (1), if a disbursement is made or an obligation is incurred by  
2 an individual other than a candidate or by a committee or group which is not  
3 primarily organized for political purposes, and the disbursement or obligation does  
4 not constitute a contribution or obligation to make a contribution to any candidate  
5 or other individual, committee or group, the disbursement or obligation is required  
6 to be reported only if the purpose is to expressly advocate the election or defeat of a  
7 clearly identified candidate or the adoption or rejection of a referendum. The  
8 exemption provided by this subsection shall in no case be construed to apply to a  
9 political party, legislative campaign, personal campaign or support committee.

10 SECTION 34. 11.06 (3) <sup>(b)</sup> of the statutes is repealed.

11 SECTION 35. 11.06 (3r) of the statutes is repealed.

12 SECTION 36. 11.06 (4) (b) of the statutes is amended to read:

13 11.06 (4) (b) Unless The recipient of any contribution other than a conduit shall  
14 report the contribution as received and accepted on the date received, unless it is  
15 returned or donated within 15 days of receipt, a contribution must be reported as  
16 received and accepted on the date received. A conduit who or which receives a  
17 contribution shall report the contribution as received and accepted no later than the  
18 date on which the conduit transfers the contribution to the recipient specified by the  
19 contributor under s. 11.16 (4) (a) unless the conduit returns the contribution to the  
20 contributor on or before that date. This subsection paragraph applies  
21 notwithstanding the fact that the contribution is not deposited in the a campaign  
22 depository account by the closing date for the a reporting period as provided in s.  
23 11.20 (8) or the reporting deadline provided in s. 11.21 (16).

24 SECTION 37. 11.06 (5) of the statutes is amended to read:

JWS 14-3

1 is not established by a business corporation or labor organization, and that does not  
2 accept donations from any business corporation or labor organization.

3 (7) This section does not apply to the publication of a voter guide for the use  
4 of prospective voters at an election that contains information supplied to the  
5 publisher by candidates at that election, and that provides substantially uniform  
6 treatment of all candidates for the same office without regard to political affiliation.

7 SECTION 47. 11.09 (3) of the statutes is amended to read:

8 11.09 (3) Each registrant whose filing officer is the board, and who or which  
9 makes disbursements in connection with elections for offices which serve or  
10 referenda which affect only one county or portion thereof, except a candidate,  
11 personal campaign committee, political party committee or other committee making  
12 disbursements in support of or in opposition to a candidate for state senator,  
13 representative to the assembly, court of appeals judge or circuit judge, shall file a  
14 duplicate original of each financial report filed that the registrant files with the  
15 board with the county clerk or board of election commissioners of the county in which  
16 the elections filing officer for each jurisdiction in connection with an election in which  
17 the registrant participates are held makes disbursements. Such reports shall be  
18 filed no later than the dates specified under s. 11.20 (2) and (4) for the filing of each  
19 report with the board. This subsection does not apply to a registrant who or which  
20 files reports under s. 11.21 (16).

21 SECTION 48. 11.10 (3) of the statutes is amended to read:

22 11.10 (3) Every committee shall appoint a treasurer. Every individual filing  
23 a statement under s. 11.06 (7) (a) shall be deemed his or her own treasurer. No  
24 disbursement may be made or obligation incurred by or on behalf of a committee  
25 without the authorization of the treasurer or designated agents. No contribution

**2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

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INSERT 14-9:

**SECTION 1.** 11.12 (4) of the statutes is amended to read:

11.12 (4) Each registrant shall report contributions, disbursements and incurred obligations in accordance with s. 11.20. Except as permitted under s. 11.06 (2),~~(3)~~ and (3m), each report shall contain the information which is required under s. 11.06 (1).

**History:** 1973 c. 334; 1975 c. 93 ss. 59, 60, 119 (2); 1975 c. 199; 1979 c. 328 ss. 53, 69 to 71, 146; 1985 a. 303; 1987 a. 370.

*JWS 17-14:1*

1 ~~person becomes subject to a requirement to report electronically under this~~  
2 ~~subsection, the registrant or other person shall continue to report electronically~~  
3 ~~regardless of the amount of contributions accepted or expenditures made by the~~  
4 ~~registrant or other person, until a termination report is filed. The board shall provide~~  
5 ~~offer basic training to each candidate for state office or that candidate's personal~~  
6 ~~campaign committee in the use of the software specified by the board and shall~~  
7 ~~provide complete instructions in the use of that software to any registrant other~~  
8 ~~person who or which files a report under this subsection. In this subsection, the~~  
9 ~~"campaign period" of a candidate, personal campaign committee or support~~  
10 ~~committee begins and ends with the "campaign" of the candidate whose candidacy~~  
11 ~~is supported, as defined in s. 11.26 (17), and the "campaign period" of any other~~  
12 ~~registrant begins on January 1 of each odd-numbered year and ends on December~~  
13 ~~31 of the following year Section 990.001 (4) does not apply to the computation of time~~  
14 ~~permitted for compliance with the filing requirements under this subsection. The~~  
15 ~~board shall prescribe, by rule, requirements for persons who or which become subject~~  
16 ~~to an electronic filing requirement under this subsection to file electronically any~~  
17 ~~information that was reported by the persons by nonelectronic means before the~~  
18 ~~persons became subject to the filing requirement imposed under this subsection.~~

19 SECTION 72. 11.21 (17) of the statutes is created to read:

20 11.21 (17) No later than 24 hours after receiving any information electronically  
21 under sub. (16), or if the information is received on a Saturday, Sunday, or holiday  
22 specified in s. 230.35 (4) (a), no later than 24 hours after the beginning of the first  
23 business day after receiving such information, post the information electronically for  
24 public inspection on the Internet.

25 SECTION 73. 11.21 (18) of the statutes is created to read:



JWS 17-14:2

1 11.21 (18) Conduct a review of campaign finance practices in this state. The  
2 review shall include an assessment of the continued appropriateness of the  
3 contribution limitations prescribed in s. 11.26 and any other important problems  
4 that require the attention of the legislature, as well as an assessment of whether a  
5 bipartisan committee should be created to provide for additional study of issues and  
6 recommendations for possible additional legislative changes. If the board concludes  
7 that any of the contribution limitations prescribed in s. 11.26 should be increased or  
8 that any other action should be taken as a result of its review, the board shall  
9 transmit its conclusions and recommendations to the appropriate standing  
10 committees of each house of the legislature under s. 13.172 (3), together with  
11 information supporting the board's conclusions, no later than January 1 of each  
12 odd-numbered year.

13 SECTION 74. 11.21 (19) of the statutes is created to read:

14 11.21 (19) Review the operation of any system adopted by a county or 1st class  
15 city to provide for public funding of campaigns for county or city offices and provide  
16 its recommendations, if any, for extension of a similar system for financing  
17 campaigns to other local offices to the appropriate standing committees of each house  
18 of the legislature under s. 13.172 (3).

19 SECTION 75. 11.22 (3) of the statutes is amended to read:

20 11.22 (3) Furnish to each registrant prescribed forms for the making of reports  
21 and statements. Forms shall be sent by 1st class mail not earlier than 21 days and  
22 not later than 14 days prior to the applicable filing deadline under s. 11.20 and  
23 addressed to the attention of the treasurer or other person indicated on the  
24 registration statement. Forms need not be sent to a registrant who has made an  
25 indication that aggregate contributions, disbursements and obligations will not

FW 517-20:1

1 information required under s. 11.06 (1) in such manner as the board may prescribe.  
 2 The information shall also be included in the treasurer's or individual's next regular  
 3 report. For purposes of the reporting requirement under this subsection, only  
 4 contributions received during the period beginning with the day after the last date  
 5 covered on the preelection report, and ending with the day before the election need  
 6 be reported. ~~This subsection does not apply to a registrant who or which files reports~~  
 7 ~~under s. 11.21 (16).~~

8 SECTION 79. 11.24 (1s) of the statutes is created to read:

9 11.24 (1s) (a) In this subsection, "federal candidate committee" means a  
 10 committee of an individual who seeks or sought election to the U.S. senate or house  
 11 of representatives designated by the individual under 2 USC 432 (e).

12 (b) Except as authorized in ss. 11.16 (5) and 11.25 (1), no individual who is a  
 13 candidate, no personal campaign committee or former personal campaign committee  
 14 of such an individual, and no federal candidate committee may make a contribution  
 15 to a candidate or personal campaign committee from money or property that was  
 16 received on behalf of that individual by the individual, by the personal campaign  
 17 committee or former personal campaign committee, or by the federal candidate  
 18 committee when the individual was seeking an office other than the office for which  
 19 the individual is currently a candidate.

20 (c) No individual who was a candidate or who sought election to a national  
 21 office, no personal campaign committee or former personal campaign committee of  
 22 such an individual, and no federal candidate committee may make a contribution to  
 23 a candidate or personal campaign committee from money or property that was  
 24 received on behalf of that individual by the individual, by the personal campaign  
 25 committee or former personal campaign committee, or by the federal candidate

HW 517-20 12

1 committee when the individual was a candidate or was seeking election to a national  
2 office.

3 ~~SECTION 80. 11.24 (1t) of the statutes is created to read:~~

4 ~~11.24 (1t) No committee that receives a contribution made or transferred to the~~  
5 ~~committee in violation of this chapter may make a contribution from the property or~~  
6 ~~funds which constitute that contribution.~~

7 ~~SECTION 81. 11.25 (2) (a) of the statutes is amended to read:~~

8 ~~11.25 (2) (a) No person, committee or group may make or authorize a~~  
9 ~~disbursement or the incurrence of an obligation from moneys money or property~~  
10 ~~solicited for political purposes for a purpose which is other than political, except as~~  
11 ~~specifically authorized by law.~~

12 SECTION 82. 11.25 (2) (am) and (an) of the statutes are created to read:

13 11.25 (2) (am) Except as authorized in s. 11.16 (5), no individual who is a  
14 candidate, no personal campaign committee or former personal campaign committee  
15 of such an individual, and no federal candidate committee, as defined in s. 11.24 (1s)  
16 (a), may make a disbursement for the purpose of influencing the election or  
17 nomination to election of that individual from money or property that was received  
18 on behalf of that individual, by the individual, by the personal campaign committee  
19 or former personal campaign committee, or by the federal candidate committee when  
20 the individual was seeking an office other than the office for which the individual is  
21 currently a candidate.

22 (an) No individual who was a candidate or who sought election to a national  
23 office, no personal campaign committee or former personal campaign committee of  
24 such an individual, and no federal candidate committee, as defined in s. 11.24 (1s)  
25 (a), may make a disbursement for the purpose of influencing the election or

*Ans 17:20:13*

1 nomination to election of any candidate from money or property that was received  
2 on behalf of that individual, by the individual, by the personal campaign committee  
3 or former personal campaign committee, or by the federal candidate committee when  
4 the individual was a candidate or was seeking election to a national office.

5 ~~SECTION 83. 11.25 (2) (ap) of the statutes is created to read:~~

6 ~~11.25 (2) (ap) No committee that receives a contribution made or transferred~~  
7 ~~to the committee in violation of this chapter may make a disbursement from the~~  
8 ~~property or funds which constitute that contribution.~~

9 SECTION 84. 11.25 (2) (b) of the statutes is amended to read:

10 11.25 (2) (b) Notwithstanding par. (a), a registrant may accept contributions  
11 and make disbursements from a campaign depository account for the purpose of  
12 ~~making expenditures in connection with a campaign for national office; for payment~~  
13 ~~of civil penalties incurred by the registrant under this chapter; or for payment of the~~  
14 ~~expenses of nonpartisan campaigns to increase voter registration or participation.~~  
15 Notwithstanding par. (a), a personal campaign committee or support committee may  
16 accept contributions and make disbursements from a campaign depository account  
17 for payment of inaugural expenses of an individual who is elected to state or local  
18 office. If such expenses are paid from contributions made to the campaign depository  
19 account, they are reportable under s. 11.06 (1) as disbursements. Otherwise, such  
20 expenses are not reportable under s. 11.06 (1). If contributions from the campaign  
21 depository account are used for such expenses, they are subject to s. 11.26.

22 ~~SECTION 85. 11.26 (1) (intro.) of the statutes is amended to read:~~

23 ~~11.26 (1) (intro.) No Except as provided in sub. (9m) and (10), no individual may~~  
24 ~~make any contribution or contributions to a candidate for election or nomination to~~  
25 ~~any of the following offices and to any individual or committee filing a statement~~

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87-

1 information required to be reported under s. 11.06 (1). A candidate shall file any  
2 report required under this subsection together with its first continuing report that  
3 is filed following an election at which the candidate receives a grant, or together with  
4 the termination report of the candidate if the candidate or his or her personal  
5 ~~campaign committee files a termination report at an earlier date.~~

6 SECTION 151. 11.51 of the statutes is created to read:

7 **11.51 Public grants to candidates for county and 1st class city offices.**

8 The board of supervisors of any county or the common council of any 1st class city  
9 may, by ordinance, provide appropriations to pay for any lawful disbursements made  
10 by a candidate for county or city office, respectively. The ordinance may impose  
11 reasonable qualifications for candidates to receive funding from the county or city.  
12 The ordinance may require any candidate, as a condition precedent to receipt of  
13 funding, to make no disbursements or contributions to his or her own campaign for  
14 office exceeding an aggregate amount or value specified in or under the ordinance.  
15 The ordinance may provide for a civil penalty for any violation of the ordinance or  
16 an agreement entered into under the ordinance not exceeding the penalty that would  
17 apply for the same offense under s. 11.60.

18 SECTION 152. 11.60 (1) <sup>and (2)</sup> ~~(1) to (4)~~ of the statutes are amended to read:

19 11.60 (1) Any person, including any committee or group, who violates this  
20 chapter may be required to forfeit not more than \$500 \$1,500 for each violation.

21 (2) In addition to the penalty under sub. (1), any person, including any  
22 committee or group, who is delinquent in filing a report required by this chapter may  
23 be required to forfeit not more than \$50 \$150 or ~~one percent~~ 3% of the annual salary  
24 of the office for which the candidate is being supported or opposed, whichever is  
25 greater, for each day of delinquency.

- 88  
RWS 95-24:2

1 (3) Notwithstanding sub. (1), any person, including any committee or group,  
2 who makes any contribution in violation of this chapter may be required to forfeit  
3 treble 9 times the amount of the contribution or portion thereof which is illegally  
4 contributed.

5 ~~(4) Actions under this section arising out of an election for state office or a  
6 statewide referendum may be brought by the board or by the district attorney of the  
7 county where the violation is alleged to have occurred, except as specified in s. 11.38.  
8 Actions under this section arising out of an election for a local office or a local  
9 referendum may be brought by the district attorney of the county where the violation  
10 is alleged to have occurred. Actions under this section arising out of an election for  
11 county office or a county referendum may be brought by the county board of election  
12 commissioners of the county wherein the violation is alleged to have occurred. If a  
13 violation concerns a district attorney or circuit judge or candidate for such offices, the  
14 action shall be brought by the attorney general. If a violation concerns the attorney  
15 general or a candidate for such office, the governor may appoint special counsel  
16 under s. 14.11 (2) to bring suit in behalf of the state. The counsel shall be independent  
17 of the attorney general and need not be a state employee at the time of appointment.~~

18 SECTION 153. 11.61 (1) of the statutes is amended to read:

19 11.61 (1) (a) Whoever intentionally violates s. 11.05 (1), (2), (2g) or (2r), 11.07  
20 (1) or (5), 11.10 (1), 11.12 (5), 11.23 (6) or 11.24 (1) may be fined not more than \$10,000  
21 \$30,000 or imprisoned for not more than ~~4~~ 13 years and 6 months or both.

22 (b) Whoever intentionally violates s. 11.25, 11.26, 11.27 (1), 11.30 (1) or 11.38  
23 where the intentional violation does not involve a specific figure, or where the  
24 intentional violation concerns a figure which exceeds \$100 in amount or value may

1 be fined not more than \$10,000 \$30,000 or imprisoned for not more than ~~4~~ 13 years  
2 and 6 months or both.

3 (c) Whoever intentionally violates any provision of this chapter other than  
4 those provided in par. (a) and whoever intentionally violates any provision under par.  
5 (b) where the intentional violation concerns a specific figure which does not exceed  
6 \$100 in amount or value may be fined not more than ~~\$1,000~~ \$3,000 or imprisoned for  
7 not more than ~~6 months~~ one year in the county jail or both.

8 SECTION 154. 11.66 of the statutes is renumbered 11.66 (1) and amended to  
9 read:

10 11.66 (1) Any elector may sue for injunctive relief to compel compliance with  
11 this chapter. Before commencing any action concerning <sup>STRIKE SPACES</sup> ~~a~~ an election for state office  
12 or a statewide referendum, an elector shall file a verified complaint with the board <sup>EXECUTIVE DIRECTOR OF</sup> ~~the~~ the

13 ~~under s. 5.066 (2)~~ alleging such facts as are within his or her knowledge to show  
14 probable cause to believe that a violation has occurred or is proposed to occur. The

15 verified complaint shall include a notice that the elector intends to seek relief under  
16 this section. If the ~~Executive director of the~~ board fails to commence an action <sup>restore</sup> ~~order~~

17 ~~the relief that is sought by the elector under s. 5.066 (5)~~ within 10 days of the filing  
18 of the complaint and the elector does not appeal the matter to the board under s.

19 5.066 (8) or the board, after hearing the elector's appeal, does not order the relief  
20 sought by the elector under s. 5.066 (9), the elector may commence an action.

21 (2) Separate from any other bond which may be required by the court, the  
22 elector may be required to post a surety bond in an amount determined by the court  
23 sufficient to cover the actual costs, including reasonable attorney fees, of both  
24 parties. If the elector's action is not successful, he or she shall pay the costs of the  
25 action.

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for state office at  
a general  
Spring or  
special  
election

INSERT 10-D

Sub → Tax credit for free media access

This bill creates an income and franchise tax credit for a business in an amount equal to the amount the business paid to provide print space or broadcast time to a candidate, without exercising editorial control over the content of the candidate's message and without charging anyone for providing such print space or broadcast time. The credit may not exceed \$10,000 in a taxable year. If the credit claimed by a business exceeds the tax liability of the business, the state will not issue a refund check, but the business may carry forward any remaining credit to subsequent taxable years.

For further information see the ~~state fiscal estimate, which will be printed as an appendix to this bill.~~

INSERT 46-7

1 SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
3 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) and (3s) and (5d) and not passed through by a  
4 partnership, limited liability company or tax-option corporation that has added that  
5 amount to the partnership's, company's or tax-option corporation's income under s.  
6 71.21 (4) or 71.34 (1) (g).

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167.

7 SECTION 2. 71.07 (5d) of the statutes is created to read:

8 71.07 (5d) CANDIDATE ACCESS CREDIT. (a) In this subsection:

9 1. "Access" means providing print space or broadcast time to a candidate alone,  
10 without exercising editorial control over the content of the candidate's message and  
11 without charging anyone for providing such print space or broadcast time.

12 2. "Candidate" means an individual whose name is certified to appear as a  
13 candidate for state office on the ballot at <sup>a</sup> ~~the~~ general <sup>or</sup> spring <sup>or</sup> special election.

14 3. "Claimant" means a sole proprietor, a partner, a member of a limited liability  
15 company, or a shareholder of a tax option corporation who files a claim under this  
16 subsection.

(a)  
under s. 7.08(2) or 8.50  
(1)(d)  
or special



1 4. "Communications media" has the meaning given in s. 11.01 (5).

2 (b) A claimant may claim as a credit against the tax imposed under s. 71.02 an  
3 amount equal to the amount the claimant paid or incurred in the taxable year to  
4 grant a candidate access to a communications media that is located in this state and  
5 controlled by the claimant, up to a maximum credit of \$10,000.

6 (c) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit  
7 under s. 71.28 (4), apply to the credit under this subsection.

8 (d) Partnerships, limited liability companies, and tax-option corporations may  
9 not claim the credit under this subsection, but the eligibility for, and the amount of,  
10 the credit are based on the amount paid or incurred under par. (b). A partnership,  
11 limited liability company, or tax-option corporation shall compute the amount of  
12 credit that each of its partners, members, or shareholders may claim and shall  
13 provide that information to each of them. Partners, members of limited liability  
14 companies, and shareholders of tax-option corporations may claim the credit in  
15 proportion to their ownership interest.

16 (e) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),  
17 applies to the credit under this subsection. *lead ins 46-7 >*

18 **SECTION 3.** 71.10 (4) (dw) of the statutes is created to read:

19 71.10 (4) (dw) Candidate access credit under s. 71.07 (5d). *Insert 48-4*

20 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

21 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
22 (2dj), (2dL), (2ds), (2dx) and (3s), and (5d) and passed through to partners shall be  
23 added to the partnership's income.

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27.

24 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

1           71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
 2 the gross income as computed under the internal revenue code as modified under  
 3 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
 4 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed  
 5 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dl), (1ds) ~~and~~, (1dx), and (5d) and not passed  
 6 through by a partnership, limited liability company or tax-option corporation that  
 7 has added that amount to the partnership's, limited liability company's or tax-option  
 8 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from  
 9 the sale or other disposition of assets the gain from which would be wholly exempt  
 10 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at  
 11 a gain and minus deductions, as computed under the internal revenue code as  
 12 modified under sub. (3), plus or minus, as appropriate, an amount equal to the  
 13 difference between the federal basis and Wisconsin basis of any asset sold,  
 14 exchanged, abandoned or otherwise disposed of in a taxable transaction during the  
 15 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

16           **SECTION 6.** 71.28 (5d)<sup>^</sup> of the statutes is created to read:

17           71.28 (5d) CANDIDATE ACCESS CREDIT. (a) In this subsection:

18           1. "Access" means providing print space or broadcast time to a candidate alone,  
 19 without exercising editorial control over the content of the candidate's message and  
 20 without charging anyone for providing such print space or broadcast time.

21           2. "Candidate" means an individual whose name is certified to appear as a  
 22 candidate for state office on the ballot at ~~the~~<sup>a</sup> general ~~or~~<sup>or special</sup> spring election. under s. 7.08(2) or 8.50 (a) (1)(d)

23           3. "Claimant" means a person who files a claim under this subsection.

24           4. "Communications media" has the meaning given in s. 11.01 (5).

1 (b) A claimant may claim as a credit against the tax imposed under s. 71.23 an  
2 amount equal to the amount the claimant paid or incurred in the taxable year to  
3 grant a candidate access to a communications media that is located in this state and  
4 controlled by the claimant, up to a maximum credit of \$10,000.

5 (c) The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit  
6 under sub. (4), apply to the credit under this subsection.

7 (d) Partnerships, limited liability companies, and tax-option corporations may  
8 not claim the credit under this subsection, but the eligibility for, and the amount of,  
9 the credit are based on the amount paid or incurred under par. (b). A partnership,  
10 limited liability company, or tax-option corporation shall compute the amount of  
11 credit that each of its partners, members, or shareholders may claim and shall  
12 provide that information to each of them. Partners, members of limited liability  
13 companies, and shareholders of tax-option corporations may claim the credit in  
14 proportion to their ownership interest.

15 (e) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies  
16 to the credit under this subsection.

17 **SECTION 7.** 71.30 (3) (dm) of the statutes is created to read:

18 71.30 (3) (dm) Candidate access credit under s. 71.28 (5d).

19 **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

P.W.F. { 20 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
21 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) and (3),  
22 and (5d) passed through to shareholders.

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194.

23 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

1           71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
 2           computed under s. 71.47 (1dd) to (1dx) and (5d) and not passed through by a  
 3           partnership, limited liability company or tax-option corporation that has added that  
 4           amount to the partnership's, limited liability company's or tax-option corporation's  
 5           income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under  
 6           s. 71.47 (1), (3), (4) and (5).

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; s. 13.93 (2) (c).

7           **SECTION 10.** 71.47 (5d) of the statutes is created to read:

8           71.47 (5d) CANDIDATE ACCESS CREDIT. (a) In this subsection:

9           1. "Access" means providing print space or broadcast time to a candidate alone,  
 10          without exercising editorial control over the content of the candidate's message and  
 11          without charging anyone for providing such print space or broadcast time.

12          2. "Candidate" means an individual whose name is certified to appear as a  
 13          candidate for state office on the ballot at the <sup>a</sup>general ~~or~~ <sup>or special</sup> spring election. (a)  
under s. 7.08(2) or 8.50  
(1)(d)

14          3. "Claimant" means a person who files a claim under this subsection.

15          4. "Communications media" has the meaning given in s. 11.01 (5).

16          (b) A claimant may claim as a credit against the tax imposed under s. 71.43 an  
 17          amount equal to the amount the claimant paid or incurred in the taxable year to  
 18          grant a candidate access to a communications media that is located in this state and  
 19          controlled by the claimant, up to a maximum credit of \$10,000.

20          (c) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit  
 21          under s. 71.28 (4), apply to the credit under this subsection.

22          (d) Partnerships, limited liability companies, and tax-option corporations may  
 23          not claim the credit under this subsection, but the eligibility for, and the amount of,  
 24          the credit are based on the amount paid or incurred under par. (b). A partnership,

1 limited liability company, or tax-option corporation shall compute the amount of  
2 credit that each of its partners, members, or shareholders may claim and shall  
3 provide that information to each of them. Partners, members of limited liability  
4 companies, and shareholders of tax-option corporations may claim the credit in  
5 proportion to their ownership interest.

6 (e) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),  
7 applies to the credit under this subsection.

8 **SECTION 11.** 71.49 (1) (dm) of the statutes is created to read:

9 71.49 (1) (dm) Candidate access credit under s. 71.47 (5d).

10 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

11 77.92 (4) "Net business income", with respect to a partnership, means taxable  
12 income as calculated under section 703 of the Internal Revenue Code; plus the items  
13 of income and gain under section 702 of the Internal Revenue Code, including taxable  
14 state and municipal bond interest and excluding nontaxable interest income or  
15 dividend income from federal government obligations; minus the items of loss and  
16 deduction under section 702 of the Internal Revenue Code, except items that are not  
17 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
18 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
19 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) and (3s) and (5d); and plus or minus, as  
20 appropriate, transitional adjustments, depreciation differences and basis  
21 differences under s. 71.05 (13), (15), (16), (17) and (19); but excluding income, gain,  
22 loss and deductions from farming. "Net business income", with respect to a natural  
23 person, estate or trust, means profit from a trade or business for federal income tax

1 purposes and includes net income derived as an employee as defined in section 3121  
2 (d) (3) of the Internal Revenue Code.

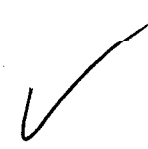
*and ins 48-4*

History: 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9.

INSERT *49-2*

3 ~~SECTION 13. Initial applicability.~~

4 **(5)** (1) CANDIDATE ACCESS CREDIT. The treatment of sections 71.05 (6) (a) 15., 71.07  
5 (5d), 71.10 (4) (dw), 71.21 (4), 71.26 (2) (a), 71.28 (5d), 71.30 (3) (dm), 71.34 (1) (g),  
6 71.45 (2) (a) 10., 71.47 (5d), 71.49 (1) (dm), and 77.92 (4) of the statutes first applies  
7 to taxable years beginning on January 1 of the year in which this subsection takes  
8 effect, except that if this subsection takes effect after July 31 the treatment of  
9 sections 71.05 (6) (a) 15., 71.07 (5d), 71.10 (4) (dw), 71.21 (4), 71.26 (2) (a), 71.28 (5d),  
10 71.30 (3) (dm), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5d), 71.49 (1) (dm), and 77.92 (4)  
11 of the statutes first applies to taxable years beginning on January 1 of the year after  
12 the year in which this subsection takes effect.



HW 548-11

1 office until all members of the elections board who are initially appointed under this  
 2 act are appointed and qualified, at which time the members who are serving on the  
 3 effective date of this subsection shall cease to hold office. Notwithstanding section  
 4 15.61 of the statutes, as affected by this act, of the members of the elections board  
 5 who are initially appointed under this act, the designees of the speaker of the  
 6 assembly and the assembly minority leader shall serve for terms expiring on May 1,  
 7 2003, the designees of the senate majority leader and the senate minority leader  
 8 shall serve for terms expiring on May 1, 2005, and the appointee of the governor shall  
 9 serve for a term expiring on May 1, 2003; and of the remaining members, the  
 10 governor shall designate one to serve for a term expiring on May 1, 2003, and 2 to  
 11 serve for terms expiring on May 1, 2005.

12 (2) STUDY OF CAMPAIGN FINANCE LAW ENFORCEMENT. The joint legislative council  
 13 is requested to review the process for detecting and penalizing violations of the state  
 14 campaign finance law, with a view to detecting violations quickly and punishing  
 15 violators firmly in order to promote full confidence in the election system of this state.  
 16 If the council undertakes such a review, the council is requested to report its findings,  
 17 conclusions, and recommendations, together with any proposed legislation, to the  
 18 2003 legislature when it convenes.

19 **SECTION 9315. Initial applicability; elections board.**

20 (1) ELECTRONIC FILING OF CAMPAIGN FINANCE REPORTS. The treatment of sections  
 21 11.20 (7) and 11.21 (16) of the statutes first applies with respect to campaign finance  
 22 reports that are required to be filed after June 30, 2003.

23 (2) REGISTRATION BY NONRESIDENT REGISTRANTS. The treatment of section 11.05  
 24 (3) of the statutes first applies to registration statements filed on the effective date  
 25 of this subsection.

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2872/P2iJTK  
JTK & RJM.....

INSERT 8B:

<sup>no</sup> Under the bill, if a candidate of an eligible political party qualifies for a grant, that candidate receives any available moneys in the account of his or her political party. Thereafter, all candidates receive any amounts available from the general account, with those amounts prorated within each office if insufficient moneys are available to finance payment of the full amount of the grants for which candidates qualify. ✓

INSERT 42-6:

2m.  
11.50 (3) (a) (1) If an election for state superintendent is scheduled in the following year, 8% of the fund shall be placed in a superintendency account. From this account, an equal amount shall be disbursed to the campaign depository account of each eligible candidate by the state treasurer. Any unencumbered balance in the superintendency account after an election for the office of state superintendent is held shall revert to the general account.

History: 1977 c. 107, 272; 1979 c. 328; 1983 a. 51; 1983 a. 484 s. 174; 1985 a. 303 ss. 73 to 79, 86; 1987 a. 370, 391, 403; 1989 a. 31; 1989 a. 192 s. 75. ✓



DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2872/P1dm  
JTK&RJM:cjs:kjf

P2dn

&JK slays

April 24, 2001

and a tax credit  
for free media access

Representative Duff:

<sup>no H</sup>  
This version incorporates all of the items from  
LRB-1157/1. It also  
incorporates some corrections

1. This draft is in preliminary form and does not completely reflect your instructions. We wanted to get you as much of the draft as soon as possible in order to facilitate a timely review. The items from your instructions that are not included at this time relate to ~~the tax deduction for media outlets, equal access for candidates to public broadcasting and cable access television, and limitations on committees.~~ Also, the items from LRB-1157/1 have not yet been incorporated into this draft.

to  
the  
PI  
draft.

Insert  
Draft

2. Under this draft, state party committee PAC limits include amounts contributed to state sub-units and state affiliates, but not to local party committees and their local sub-units and local affiliates. Similarly, the local party committee PAC limits include amounts contributed to local sub-units and local affiliates, but not to state party committees and their state sub-units and state affiliates. See proposed s. 11.26 (8). This approach applies the limit to all party committees that are likely aware of each other's activities and prevents a committee that is subject to a limit from spinning off an unlimited number of subunits and affiliates, each of which could accept contributions up to the applicable maximum amount. Please let us know if this approach is not consistent with your intent.

The local party committee contribution limits established under the draft are dependent upon the population of the county in which the local party committee primarily operates. Please let us know if this treatment is not consistent with your intent.

3. This draft establishes contribution and disbursement limits that are dependent upon the population of certain areas. This draft includes a procedure for the elections board to determine and publish these populations. See proposed s. 11.263. Generally, the determinations must be based upon the best available data from the federal decennial census. Please let us know if you desire any changes.

4. This draft repeals the checkoff procedure for funding the Wisconsin election campaign fund and replaces it with a procedure that allows individuals, committees, and other persons to make donations to the fund and that allows individuals to claim a tax credit of up to \$5 for donations they make to the fund on their individual income tax returns. The draft transfers amounts in the fund on the day the bill takes effect to the general account.

this point and there is some disagreement between the lower federal courts regarding the coerciveness of public financing mechanisms.

Jeffery T. Kuesel  
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Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

[JK]

D-N insert 1

9 2. The instructions indicate that you wanted a tax "deduction" for corporations that provide free media access to qualified candidates.

However, for Wisconsin <sup>corporate</sup> income and franchise tax purposes, a corporation cannot claim a "deduction," but may, instead, claim any applicable tax credit.

Therefore, <sup>this draft</sup> ~~the bill~~ creates a tax credit for corporations that provide free media access to qualified candidates. Please let us know if this is not <sup>consistent</sup> consistent with your intent.

MM

FWS D2A:1

LRB-1157/ldr  
JTK&RJM:wlfjf

↓  
proposals 11.51 of this

8. ~~5.~~ This draft provides for public funding of campaigns for county or 1st class city offices by local option. Under the draft, a county or city may condition its financing upon agreement by a candidate to accept spending or self-contribution limits specified by the county or city. The draft does not provide for these limits to be constrained by the disbursement levels or contribution limitations prescribed under ch. 11, stats., which are currently unenforceable under *Buckley v. Valeo, et. al.*, 96 S. Ct. 612 (1976). Please let me know if you believe that a county or city should not permit disbursements or self-contributions to exceed the state limitations.

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

LRB-2872/P2dni  
JTK & RJM.....

*ANS DRA: 2*

→ 9. §. With respect to injunctive relief, the proposed changes to s. 11.66, stats. in LRB-1157/1 were integrated with proposed s. 5.066 of that draft, which revised the procedure for enforcement of the election laws. Since proposed s. 5.066 is not included in this draft, the draft does not include that portion of the changes to s. 11.66, stats. in LRB-1157/1 that permitted the executive director of the elections board to order relief, and that further permitted an elector seeking relief to appeal a denial of relief by the executive director to the board, which was then permitted to order the relief sought. This draft retains requirements for an elector seeking relief to file a sworn complaint with the executive director and to include with the complaint notice that the elector intends to sue for injunctive relief. In accordance with current law, if the board fails to file suit within 10 days, the elector may then file suit. Please let us know if you would like to see a different treatment of this issue.

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

LRB-2872/P2dn  
JTK/RJM/JK:cs:pg

April 30, 2001

Representative Duff:

1. This draft is in preliminary form and does not completely reflect your instructions. We wanted to get you as much of the draft as soon as possible in order to facilitate a timely review. This version incorporates all of the items from LRB-1157/1 and a tax credit for free media access. It also incorporates some corrections to the /P1 draft. The items from your instructions that are not included at this time relate to equal access for candidates to public broadcasting and cable access television and limitations on committees.

2. The instructions indicate that you wanted a tax "deduction" for corporations that provide free media access to qualified candidates. However, for Wisconsin corporate income and franchise tax purposes, a corporation cannot claim a "deduction," but may, instead, claim any applicable tax credit. Therefore, this draft creates a tax credit for corporations that provide free media access to qualified candidates. Please let us know if this not consistent with your intent.

3. Under this draft, state party committee PAC limits include amounts contributed to state sub-units and state affiliates, but not to local party committees and their local sub-units and local affiliates. Similarly, the local party committee PAC limits include amounts contributed to local sub-units and local affiliates, but not to state party committees and their state sub-units and state affiliates. See proposed s. 11.26 (8). This approach applies the limit to all party committees that are likely aware of each other's activities and prevents a committee that is subject to a limit from spinning off an unlimited number of subunits and affiliates, each of which could accept contributions up to the applicable maximum amount. Please let us know if this approach is not consistent with your intent.

The local party committee contribution limits established under the draft are dependent upon the population of the county in which the local party committee primarily operates. Please let us know if this treatment is not consistent with your intent.

4. This draft establishes contribution and disbursement limits that are dependent upon the population of certain areas. This draft includes a procedure for the elections board to determine and publish these populations. See proposed s. 11.263. Generally, the determinations must be based upon the best available data from the federal decennial census. Please let us know if you desire any changes.

5. This draft repeals the checkoff procedure for funding the Wisconsin election campaign fund and replaces it with a procedure that allows individuals, committees, and other persons to make donations to the fund and that allows individuals to claim a tax credit of up to \$5 for donations they make to the fund on their individual income tax returns. The draft transfers amounts in the fund on the day the bill takes effect to the general account.

6. Currently, under ss. 11.50 (2) (a) and (i), stats., a candidate must swear that he or she has adhered and will continue to adhere to all disbursement and contribution limitations in order to receive a grant, unless the candidate is opposed by another candidate who could have qualified for a grant but declines to accept one. A candidate who declines to accept a grant may nevertheless bind his or her opponent receiving a grant to adhere to disbursement and contribution limitations if the candidate files an affidavit of voluntary compliance with all disbursement and contribution limitations under s. 11.31 (2m), stats. The instructions for this draft specified that if a candidate filed an affidavit of voluntary compliance with disbursement limitations, the candidate would be entitled to more generous contribution limitations. This draft, therefore, limits the affidavit of voluntary compliance under s. 11.31 (2m), stats., to a pledge to adhere to disbursement limitations (plus self-contribution limitations, which the U.S. Supreme Court has treated the same as disbursement limitations for purposes of constitutional analysis under *Buckley v. Valeo*, 96 S.Ct. 612, 650-653 (1976)). The draft, however, continues to require a candidate who actually receives a grant to adhere to all disbursement and contribution limitations. Please let us know if this is not in accord with your intent.

7. This draft, in its treatment of s. 11.50 (3) (a) 2., stats., provides that the supreme court account has first draw on all available moneys derived from taxpayer designations for the proposed general account. Because, under the draft, candidates for partisan offices may receive funding from political party accounts, this may leave campaigns for the office of state superintendent of public instruction underfunded in comparison to other campaigns for state offices. Under s. 11.50 (3) (a) 1., stats., the superintendency account receives 8% of available moneys in those years preceding the year of an election for that office. If you want to rebalance the allocation of moneys available for candidates for state superintendent, you may wish to consider changing the amount of this set-aside.

8. Proposed s. 11.51 of this draft provides for public funding of campaigns for county or 1st class city offices by local option. Under the draft, a county or city may condition its financing upon agreement by a candidate to accept spending or self-contribution limits specified by the county or city. The draft does not provide for these limits to be constrained by the disbursement levels or contribution limitations prescribed under ch. 11, stats., which are currently unenforceable under *Buckley v. Valco, et. al.*, 96 S. Ct. 612 (1976). Please let me know if you believe that a county or city should not permit disbursements or self-contributions to exceed the state limitations.

9. With respect to injunctive relief, the proposed changes to s. 11.66, stats. in LRB-1157/1 were integrated with proposed s. 5.066 of that draft, which revised the procedure for enforcement of the election laws. Since proposed s. 5.066 is not included

in this draft, the draft does not include that portion of the changes to s. 11.66, stats., in LRB-1157/1 that permitted the executive director of the elections board to order relief, and that further permitted an elector seeking relief to appeal a denial of relief by the executive director to the board, which was then permitted to order the relief sought. This draft retains requirements for an elector seeking relief to file a sworn complaint with the executive director and to include with the complaint notice that the elector intends to sue for injunctive relief. In accordance with current law, if the board fails to file suit within 10 days, the elector may then file suit. Please let us know if you would like to see a different treatment of this issue.

10. There is some authority for the proposition that application of different contribution limits to candidates depending upon whether they accept public grants may be viewed as unconstitutionally coercing candidates to accept public financing. See *Wilkinson v. Jones*, 876 F. Supp. 916, 928 (W.D. Ky. 1995), which holds that a five-to-one disparity in contribution limits and state matching grants for contributions received by nonparticipating candidates are unconstitutionally coercive. This draft, in its treatment of s. 11.26 (1), stats., and in proposed s. 11.26 (1m), imposes separate contribution limitations for candidates who agree to adhere to disbursement and self-contribution limitations, with certain exceptions, regardless of whether they accept public grants. It should be noted that the U.S. Supreme Court has not ruled on this point and there is some disagreement between the lower federal courts regarding the coerciveness of public financing mechanisms.

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## Kunkel, Mark

---

**From:** Marchant, Robert  
**Sent:** Wednesday, March 21, 2001 12:58 PM  
**To:** Kunkel, Mark  
**Cc:** Kuesel, Jeffery  
**Subject:** Candidate time on public and cable access TV

Mark--

F.Y.I., I looked in the campaign finance case digest that I keep and look what I found:

*Vote Choice, Inc. v. DiStefano*, 4 F. 3d 26, 40-42 (1st Cir. 1993). State law that grants free airtime on public television and public cable access channels to candidates who accept public financing is NOT preempted by 47 USC Sec. 315 (a) because the state law does not conflict with that federal law. The federal law would permit the opponent of any candidate who accepts the free air time on public TV to also get free air time on that station. The court did not address the potential preemptive effect of 47 USC Sec. 315 (b) (permissible charges for broadcast time), probably because the state has authority to tell its stations what to charge. It is likely that the court would have reached a different result had the state law also applied to private broadcasters.

**Robert J. Marchant**  
Legislative Attorney  
State of Wisconsin Legislative Reference Bureau  
robert.marchant@legis.state.wi.us

## Kunkel, Mark

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**From:** Marchant, Robert  
**Sent:** Monday, April 09, 2001 3:54 PM  
**To:** Kunkel, Mark  
**Subject:** HELP!

Mark--

Ah, the time has come when I need your assistance with Rep. Duff's campaign finance draft. Could you please do an insert that requires public broadcasting stations and public access cable stations that provide air time to candidates, to make available equal airtime to all other candidates for the same office? The intent is to get at candidates appearing on TV, not coverage by news or community issues shows. The provision should only apply to individuals who are certified under s. 7.08 to have their names appear on the ballot for election to state offices in the general or spring election.

Let me know if you have any questions. The sooner the better, but we will be putting together pieces of this draft over the next couple of weeks so there is no tight deadline.

Thanks for your help.

**Robert J. Marchant**  
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