

**2001 DRAFTING REQUEST**

**Bill**

Received: **12/16/2000**

Received By: **kuesejt**

Wanted: **As time permits**

Identical to LRB:

For: **Michael Ellis (608) 266-0718**

By/Representing: **Genie Martinez**

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

Drafter: **kuesejt**

May Contact:

Alt. Drafters: **rmarchan**

Subject: **Elections - campaign finance**

Extra Copies: **JK - 1**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Campaign finance changes

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**Instructions:**

Per SSA 1 to 1999 SB-113.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 12/18/2000 rmarchan 01/07/2001	wjackson 01/09/2001		_____			State
/1			jfrantze 01/10/2001	_____	lrb_docadmin 01/11/2001	lrb_docadmin 01/25/2001	

FE Sent For:

<END>

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1/?	kuesejt	1 WLj 1/9	Jo 1/10	Jo / hmd 1/10			

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<END>

- 1534/1

LRB 01064

JTK:JK:cl:lf

WJ

Wed. 1-10-02  
Thurs. 1-11

+ RSM

RUNNER

DISTRICT

~~SENATE SUBSTITUTE AMENDMENT 1,~~  
~~TO 1999 SENATE BILL 190~~

March 14, 2000 - Offered by Senators ELLIS, PANZER, RUDE and FARROW.

(regenerate)

1 AN ACT *to repeal* 11.01 (12s), 11.05 (3) (o), 11.26 (9) (e), 11.265, 11.31 (1) (b), 11.31  
2 (2m), 11.31 (3), 11.31 (3m), 11.31 (4), 11.50 (2) (i), 11.50 (3), 11.50 (6), 20.855 (4)  
3 (b) and 71.10 (3); *to renumber and amend* 11.12 (6), 11.26 (9) (a), 11.26 (10),  
4 11.50 (2) (b) 5. and 11.50 (9); *to amend* 5.02 (13), 5.02 (18), 7.08 (2) (c) and (cm),  
5 8.35 (4) (b), 10.02 (3) (b) 2m., 11.01 (5m), 11.05 (3) (c), 11.05 (9) (b), 11.06 (2),  
6 11.06 (7m) (a), 11.06 (7m) (c), 11.09 (3), 11.12 (5), 11.16 (5), 11.20 (2m), 11.20 (3)  
7 (d), 11.20 (3) (g), 11.20 (8) (intro.), 11.20 (12), 11.21 (15), 11.26 (1) (intro.), 11.26  
8 (1) (a), (b) and (c), 11.26 (2) (intro.), 11.26 (2) (a), 11.26 (4), 11.26 (8), 11.26 (9)  
9 (b), 11.26 (13), 11.26 (17) (a), 11.31 (1) (a), 11.31 (1) (c) and (d), 11.31 (1) (e) and  
10 (f), 11.31 (2), 11.31 (7) (a), 11.50 (title), 11.50 (1) (b), 11.50 (2) (a), 11.50 (2) (b)  
11 (intro.), 11.50 (2) (g), 11.50 (5), 11.50 (9) (title), 11.50 (11) (e), 11.61 (1) (a), 11.61  
12 (1) (b), 11.61 (1) (c), 14.58 (20), 20.510 (1) (q), 25.17 (1) (ys) and 25.42; *to repeal*  
13 *and recreate* 11.50 (4); and *to create* 11.01 (16) (a) 3., 11.05 (3) (d), 11.12 (6)

*(New) Analysis by the Legislative Reference Bureau*

1 (b) to (e), 11.12 (7), 11.20 (2e), 11.20 (2s), 11.20 (2t), 11.20 (8) (ak) and (al), 11.20  
 2 (8) (am), 11.20 (8) (an), 11.24 (1t), 11.24 (1w), 11.26 (1m), 11.26 (9) (a) 1. to 5.,  
 3 11.26 (9) (aa), 11.26 (9) (am), 11.26 (10) (b), 11.26 (10a), 11.31 (3p), 11.31 (7) (e),  
 4 11.31 (9), 11.50 (2) (b) 5. a. to e., 11.50 (2) (bm), 11.50 (9) (a) 1. to 5., 11.50 (9) (b),  
 5 11.50 (9) (ba), 11.50 (9) (bb), 11.50 (9) (bc), 11.50 (9a), 11.60 (3s) and (3t), 11.61  
 6 (1) (d), 11.62 and 20.855 (4) (bb) of the statutes; **relating to:** campaign  
 7 financing, providing exemptions from emergency rule procedures, granting  
 8 rule-making authority, making appropriations and providing penalties.

*INSERT ANALYSIS*  
 The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

9 SECTION 1. 5.02 (13)<sup>↓</sup> of the statutes is amended to read:

10 5.02 (13) "Political party" or "party" means a state committee registered under  
 11 s. 11.05 organized exclusively for political purposes under whose name candidates  
 12 appear on a ballot at any election, and all county, congressional, legislative, local and  
 13 other affiliated committees authorized to operate under the same name. For  
 14 purposes of ch. 11, the term does not include a legislative campaign committee or a  
 15 committee filing an oath under s. 11.06 (7).

16 SECTION 2. 5.02 (18)<sup>↓</sup> of the statutes is amended to read:

17 5.02 (18) "September primary" means the primary held the 2nd Tuesday in  
 18 September to nominate candidates to be voted for at the general election, and to  
 19 determine which candidates for state offices other than district attorney may  
 20 participate in the Wisconsin election campaign clean government fund.

21 SECTION 3. 7.08 (2) (c)<sup>↓</sup> and (cm)<sup>↓</sup> of the statutes are amended to read:

22 7.08 (2) (c) As soon as possible after the canvass of the spring and September  
 23 primary votes, but no later than the first Tuesday in March and the 4th Tuesday in

1 September, transmit to the state treasurer a certified list of all eligible candidates  
2 for state office who have filed applications under s. 11.50 (2) and ~~whom~~ who the board  
3 determines ~~to be~~ is eligible to receive payments from the ~~Wisconsin election~~  
4 ~~campaign~~ clean government fund. The board shall also transmit a similar list of  
5 candidates who the board determines is eligible to receive a grant under s. 11.50 (9)  
6 (b), (ba), (bb) or (bc) within 3 days after any candidate qualifies to receive such a  
7 grant. Each list shall contain each candidate's name, the mailing address indicated  
8 upon the candidate's registration form, the office for which the individual is a  
9 candidate and the party or principle which he or she represents, if any.

10 (cm) As soon as possible after the canvass of a special primary, or the date that  
11 the primary would be held, if required, transmit to the state treasurer a certified list  
12 of all eligible candidates for state office who have filed applications under s. 11.50 (2)  
13 and ~~whom~~ who the board determines to be is eligible to receive a grant from the  
14 ~~Wisconsin election campaign~~ clean government fund prior to the election. The board  
15 shall also transmit a similar list of candidates, if any, who have filed applications  
16 under s. 11.50 (2) and ~~whom~~ who the board determines to be is eligible to receive a  
17 grant under s. 11.50 (1) (a) 2. after the special election. ~~The~~ or a grant under s. 11.50  
18 (9) (b), (ba), (bb) or (bc) within 3 days after any candidate qualifies to receive such a  
19 grant. Each list shall contain each candidate's name, the mailing address indicated  
20 upon the candidate's registration form, the office for which the individual is a  
21 candidate and the party or principle which he or she represents, if any.

22 SECTION 4. 8.35 (4) (b)<sup>↓</sup> of the statutes is amended to read:

23 8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys  
24 received by a candidate from the ~~Wisconsin election campaign~~ clean government  
25 fund shall be immediately transferred to any candidate who is appointed to replace

1 such candidate, upon filing of a proper application therefor under s. 11.50 (2). If there  
2 is no candidate appointed or if no proper application is filed within 7 days of the date  
3 on which the vacancy occurs, such moneys shall revert to the state as provided in s.  
4 11.50 (8).

5 **SECTION 5.** 10.02 (3) (b) 2m. of the statutes is amended to read:

6 10.02 (3) (b) 2m. At the September primary, the elector shall select the party  
7 ballot of his or her choice or the ballot containing the names of the independent  
8 candidates for state office, and make a cross [x] in the square at the right of or  
9 depress the lever or button next to the candidate's name for each office for whom the  
10 elector intends to vote or insert or write in the name of the elector's choice for a party  
11 candidate, if any. In order to qualify for participation in the ~~Wisconsin election~~  
12 ~~campaign~~ clean government fund, a candidate for state office at the September  
13 primary, other than a candidate for district attorney, must receive at least 6% of all  
14 votes cast on all ballots for the office for which he or she is a candidate, in addition  
15 to other requirements.

16 **SECTION 6.** 11.01 (5m)<sup>↓</sup> of the statutes is amended to read:

17 11.01 (5m) "Conduit" means an individual who or ~~an organization~~ a committee  
18 which receives a contribution of money and transfers the contribution to another  
19 individual or ~~organization~~ committee without exercising discretion as to the amount  
20 which is transferred and the individual to whom or ~~organization~~ committee to which  
21 the transfer is made.

22 **SECTION 7.** 11.01 (12s)<sup>↓</sup> of the statutes is repealed.

23 **SECTION 8.** 11.01 (16) (a) 3.<sup>↓</sup> of the statutes is created to read:

24 11.01 (16) (a) 3. A communication that is made by means of one or more  
25 communications media, other than a communication that is exempt from reporting

1 under s. 11.29, that is made during the period beginning on the 60th day preceding  
2 an election and ending on the date of that election and that includes a reference to  
3 a candidate whose name is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear on  
4 the ballot at that election, <sup>a reference to</sup> an office to be filled at that election or a political party.

5 SECTION 9. 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 10. 11.05 (3) (d) of the statutes is created to read:

11 11.05 (3) (d) An indication of whether the proposed registrant is a conduit.

12 SECTION 11. 11.05 (3) (e) of the statutes is repealed.

13 SECTION 12. 11.05 (9) (b) of the statutes is amended to read:

14 11.05 (9) (b) An individual who or a committee or group which receives a  
15 contribution of money and transfers the contribution to another individual,  
16 committee or group while acting as a conduit is not subject to registration under this  
17 section unless the individual, committee or group transfers the contribution to a  
18 candidate or a personal campaign, ~~legislative campaign~~, political party or support  
19 committee.

20 SECTION 13. 11.06 (2) of the statutes is amended to read:

21 11.06 (2) DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS. Notwithstanding  
22 sub. (1), if a disbursement is made or obligation incurred by an individual other than  
23 a candidate or by a committee or group which is not primarily organized for political  
24 purposes, and the disbursement does not constitute a contribution to any candidate  
25 or other individual, committee or group, the disbursement or obligation is required



1 to be reported only if the purpose is to expressly advocate the election or defeat of a  
2 clearly identified candidate or the adoption or rejection of a referendum or if the  
3 disbursement is made or the obligation incurred <sup>to make a communication that</sup> for a purpose is specified in s. 11.01  
4 (16) (a) 3. The exemption provided by this subsection shall in no case be construed  
5 to apply to a political party, ~~legislative campaign~~, personal campaign or support  
6 committee.

7 **SECTION 14.** 11.06 (7m) (a) of the statutes is amended to read:

8 11.06 (7m) (a) If a committee which was registered under s. 11.05 as a political  
9 party committee ~~or legislative campaign committee~~ supporting candidates of a  
10 political party files an oath under sub. (7) affirming that it does not act in cooperation  
11 or consultation with any candidate who is nominated to appear on the party ballot  
12 of the party at a general or special election, that the committee does not act in concert  
13 with, or at the request or suggestion of, such a candidate, that the committee does  
14 not act in cooperation or consultation with such a candidate or agent or authorized  
15 committee of such a candidate who benefits from a disbursement made in opposition  
16 to another candidate, and that the committee does not act in concert with, or at the  
17 request or suggestion of, such a candidate or agent or authorized committee of such  
18 a candidate who benefits from a disbursement made in opposition to another  
19 candidate, the committee filing the oath may not make any contributions in support  
20 of any candidate of the party at the general or special election or in opposition to any  
21 such candidate's opponents exceeding the amounts specified in s. 11.26 (2), except as  
22 authorized in par. (c).

23 **SECTION 15.** 11.06 (7m) (c) of the statutes is amended to read:

24 11.06 (7m) (c) A committee filing an oath under sub. (7) which desires to change  
25 its status to a political party committee ~~or legislative campaign committee~~ may do

1 so as of December 31 of any even-numbered year. Section 11.26 does not apply to  
2 contributions received by such a committee prior to the date of the change. Such a  
3 committee may change its status at other times only by filing a termination  
4 statement under s. 11.19 (1) and reregistering as a newly organized committee under  
5 s. 11.05.

[bold]

HP (3m) Each report  
under this section

6 SECTION 16. 11.09 (3) of the statutes is amended to read:

7 11.09 (3) Each registrant whose filing officer is the board, who or which makes  
8 disbursements in connection with elections for offices which serve or referenda  
9 which affect only one county or portion thereof, except a candidate, personal  
10 campaign committee, political party committee or other committee making  
11 disbursements in support of or in opposition to a candidate for state senator,  
12 representative to the assembly, court of appeals judge or circuit judge, shall file a  
13 duplicate original of each financial report filed with the board with the county clerk  
14 or board of election commissioners of the county in which the elections in which the  
15 registrant participates are held. ~~Such reports~~ shall be filed no later than the  
16 applicable dates specified under s. 11.20 (2), (2e), (2m), (2s), (2l) and (4) for the filing  
17 of each report with the board.

18 SECTION 17. 11.12 (5) of the statutes is amended to read:

19 11.12 (5) If Except as otherwise required under sub. (7), if any contribution or  
20 contributions of \$500 or more cumulatively are received by a candidate for state office  
21 or by a committee or individual from a single contributor later than 15 days prior to  
22 a primary or election such that it is not included in the preprimary or preelection  
23 report submitted under s. 11.20 (3), the treasurer of the committee or the individual  
24 receiving the contribution shall within 24 hours of receipt inform the appropriate  
25 filing officer of the information required under s. 11.06 (1) in such manner as the

1 board may prescribe. The information shall also be included in the treasurer's or  
2 individual's next regular report. For purposes of the reporting requirement under  
3 this subsection, only contributions received during the period beginning with the day  
4 after the last date covered on the preprimary or preelection report, and ending with  
5 the day before the primary or election need be reported.

6 SECTION 18. 11.12 (6) of the statutes is renumbered 11.12 (6) (a) and amended  
7 to read:

8 11.12 (6) (a) <sup>SECRET</sup> <sup>PLAIN</sup> <sup>any</sup> ~~Except as provided in part (b) of this subsection,~~ <sup>an individual or committee ~~has an obligation~~ makes a</sup>  
9 \$20 cumulatively ~~is made~~ to advocate the election or defeat of a clearly identified  
10 candidate ~~by an individual or committee~~ later than 15 days prior to a primary or  
11 election in which the candidate's name appears on the ballot without cooperation or  
12 consultation with a candidate or agent or authorized committee of a candidate who  
13 is supported or <sup>whose opponent is</sup> opposed, and not in concert with or at the request or suggestion of  
14 such a candidate, agent or committee, <sup>after ~~making a disbursement~~</sup> the individual or treasurer of the committee  
15 shall, within 24 hours ~~of making the disbursement,~~ inform the appropriate filing  
16 officer of the information required under s. 11.06 (1) in such manner as the board may  
17 prescribe. ~~The information shall also be included in the next regular report of the~~ <sup>PLAIN</sup> <sup>SECRET</sup>  
18 ~~individual or committee under s. 11.20.~~ For purposes of this subsection paragraph,  
19 ~~obligations and~~ <sup>disbursements</sup> cumulate beginning with the day after the last date covered on the  
20 preprimary or preelection report and ending with the day before the primary or  
21 election. Upon receipt of a report under this subsection paragraph, the filing officer  
22 shall, within 24 hours of receipt, mail a copy of the report to all candidates for any  
23 office in support of or opposition to one of whom ~~a disbursement~~ <sup>an incurred obligation</sup> identified in the  
24 report is ~~made~~ <sup>incurred or</sup> made. <sup>SECRET</sup> <sup>PLAIN</sup>

25 SECTION 19. 11.12 (6) (b) to (e) of the statutes are created to read:

1           11.12 (6) (b) 1. If any conduit has accepted or intends to accept any contribution  
2 to be transferred to a candidate or personal campaign committee of a candidate for  
3 a state office specified in s. 11.31 (1) (a) to (d), (e) or (f) at the general or a special  
4 election, or to any such candidate who seeks a nomination for such an office at a  
5 primary election, the conduit shall report to the board at the times specified in s.  
6 11.20 (2s), in such manner as the board may prescribe, the name of each candidate  
7 or personal campaign committee to whom the conduit intends to transfer one or more  
8 contributions during the 21-day period following the date on which the report is due  
9 to be filed and the amount to be transferred to that candidate or committee.

10           2. A conduit who or which is required to file reports under this paragraph shall  
11 also report to the board, at the times specified in s. 11.20 (2t), in such manner as the  
12 board may prescribe, the name of each candidate or personal campaign committee  
13 to whom the conduit transferred one or more contributions during the 21-day period  
14 ending on each date specified in s. 11.20 (2t) and the date and amount of that transfer.

15           (c) 1. If any committee identified under s. 11.05 (3) (c), <sup>as a special interest</sup> other than a conduit, <sup>committee</sup>  
16 intends to receive any contribution, make any disbursement or incur any obligation  
17 to make a disbursement for the purpose of advocating the election or defeat of a  
18 clearly identified candidate for a state office specified in s. 11.31 (1) (a) to (d), (e) or  
19 (f) at the general or a special election, or any such candidate who seeks a nomination  
20 for such an office at a primary election, without cooperation or consultation with a  
21 candidate or agent or authorized committee of a candidate who is supported or whose  
22 opponent is opposed, and not in concert with or at the request or suggestion of such  
23 a candidate, agent or committee, the committee shall report to the board at the times  
24 specified in s. 11.20 (2s), in such manner as the board may prescribe, the name of each  
25 candidate who is supported or whose opponent is opposed and the total amount of

1 contributions to be received, disbursements to be made, and obligations to be incurred  
2 for such a purpose in support or opposition to that candidate during the 21-day  
3 period following the date on which the report is due to be filed.

4 2. A committee which is required to file reports under this paragraph shall also  
5 report to the board, at the times specified in s. 11.20 (2t), in such manner as the board  
6 may prescribe, the amount and date of each contribution received, disbursement  
7 made, or obligation incurred for the purpose of advocating the election or defeat of a  
8 candidate specified in this paragraph in the manner specified in this paragraph, and  
9 the name of the candidate in support of or in opposition to whom the contribution was  
10 received, disbursement made, or obligation incurred, during the 21-day period  
11 ending on each date specified in s. 11.20 (2l).

12 3. A committee which files a report under this paragraph concerning a  
13 disbursement is not required to file a report pertaining to the same disbursement  
14 under par. (a).

15 (d) All information reported by a registrant under this subsection shall also be  
16 included in the next regular report of the registrant under s. 11.20.

17 (e) 1. If any committee identified <sup>under</sup> s. 11.05 (3) (c) <sup>as a special interest committee</sup> other than a conduit, intends  
18 to make one or more contributions to a candidate for a state office specified in s. 11.31

19 (1) (a) to (d), (e) or (f) at the general or a special election, or to any such candidate who  
20 seeks a nomination for such an office at a primary election, or to the personal  
21 campaign committee of any such candidate, the committee shall report to the board  
22 at the times specified in s. 11.20 (2s), in such manner as the board may prescribe, the  
23 name of each candidate or personal campaign committee to whom the committee  
24 intends to make one or more contributions during the 21-day period following the

1 date on which the report is due to be filed and the amount or value of the  
2 contributions to be made to that candidate or committee.

3 2. A committee who or which is required to file reports under this paragraph  
4 shall also report to the board, at the times specified in s. 11.20 (2t), in such manner  
5 as the board may prescribe, the name of each candidate or personal campaign  
6 committee to whom the committee made one or more contributions during the  
7 21-day period ending on each date specified in s. 11.20 (2t) and the date and amount  
8 or value of that contribution.

9 SECTION 20. 11.12 (7) <sup>(a)</sup> of the statutes is created to read:

10 11.12 (7) (a) Except as provided in par. (c), if a candidate at the general or a  
11 special election for a state office specified in s. 11.31 (1) (a) to (d), (e) or (f) does not  
12 accept a grant under s. 11.50, that candidate or the candidate's personal campaign  
13 committee shall report to the board the information specified in s. 11.06 (1)  
14 pertaining to all contributions received no later than 24 hours after receipt of any  
15 contribution, in such manner as the board may prescribe, if the candidate or personal  
16 campaign committee receives, during the campaign of that candidate, as defined in  
17 s. 11.26 (17), or if the candidate has an opponent whose name is certified to appear  
18 on the ballot as a candidate for the party nomination of his or her party in a primary  
19 election in that campaign, during the period beginning on the day after the date of  
20 the primary election and ending on the date of the election, total contributions that  
21 equal more than the following amount or value, as adjusted under par. (d):

22 1. For candidates for the offices of governor and lieutenant governor jointly,  
23 \$330,000 from all political party committees or \$1,670,000 from all <sup>Contributors</sup> ~~individuals~~.

24 2. For a candidate for the office of attorney general, \$65,000 from all political  
25 party committees or \$335,000 from all <sup>Contributors</sup> ~~individuals~~.

1 3. For a candidate for the office of secretary of state or state treasurer, \$33,000  
2 from all political party committees or \$167,000 from all ~~individuals~~ <sup>contributors</sup>

3 4. For a candidate for the office of justice or state superintendent, \$167,000  
4 from all ~~individuals~~ <sup>contributors</sup>

5 5. For a candidate for the office of state senator, \$20,000 from all political party  
6 committees or \$100,000 from all ~~individuals~~ <sup>contributors</sup>

7 6. For a candidate for the office of representative to the assembly, \$10,000 from  
8 all political party committees or \$50,000 from all ~~individuals~~ <sup>contributors</sup>

9 # CR; 11.12(7)(b)  
10 11.12(7)(b) The first report filed by a candidate or personal campaign committee under  
11 par. (a) during any campaign shall include the information required under par. (a)  
12 for all contributions received since the closing date for the preceding report filed by  
13 that candidate or committee as provided in s. 11.20 (8).

14 # CR; 11.12(7)(c)  
15 11.12(7)(c) For purposes of computing the applicable amount under par. (a), if one of the  
16 candidates of a political party for the office of governor or lieutenant governor has  
17 an opponent whose name is certified to appear on the ballot as a candidate for the  
18 party nomination of his or her party in the September primary election, the  
19 contributions received on or before the date of the primary election by the candidate  
20 who has an opponent in that election shall be excluded.

21 # CR; 11.12(7)(d)  
22 11.12(7)(d) 1. In this paragraph, "consumer price index" means the average of the  
23 consumer price index over each 12-month period, all items, U.S. city average, as  
24 determined by the bureau of labor statistics of the federal department of labor.

25 2. The dollar amounts of the total contributions under par. (a) shall be subject  
to a biennial adjustment to be determined by rule of the board in accordance with this  
subdivision. To determine the adjustment, the board shall calculate the percentage  
difference between the consumer price index for the 12-month period ending on

1 December 31 of each odd-numbered year and the consumer price index for ~~the base~~  
2 ~~period~~ calendar year 2000<sup>3</sup>. For each biennium, the board shall multiply the amount  
3 of each contribution amount under par. (a) by the percentage difference in the  
4 consumer price indices. The board shall adjust each amount to substitute that result  
5 for the existing amount to the extent required to reflect any difference, rounded to  
6 the nearest multiple of \$25. The amount so determined shall then be in effect until  
7 a subsequent rule is promulgated under this subdivision. Notwithstanding s. 227.24  
8 (1) (a), (2) (b) and (3), determinations under this subdivision may be promulgated as  
9 an emergency rule under s. 227.24 without providing evidence that the emergency  
10 rule is necessary for the public peace, health, safety or welfare and without a finding  
11 of emergency.

12 SECTION 21. 11.16 (5)<sup>↓</sup> of the statutes is amended to read:

13 11.16 (5) ESCROW AGREEMENTS. Any personal campaign committee, or political  
14 party committee or legislative campaign committee may, pursuant to a written  
15 escrow agreement with more than one candidate, solicit contributions for and  
16 conduct a joint fund raising effort or program on behalf of more than one named  
17 candidate. The agreement shall specify the percentage of the proceeds to be  
18 distributed to each candidate by the committee conducting the effort or program.  
19 The committee shall include this information in all solicitations for the effort or  
20 program. All contributions received and disbursements made by the committee in  
21 connection with the effort or program shall be received and disbursed through a  
22 separate depository account under s. 11.14 (1) that is identified in the agreement.  
23 For purposes of s. 11.06 (1), the committee conducting the effort or program shall  
24 prepare a schedule in the form prescribed by the board supplying all required  
25 information under s. 11.06 (1) and items qualifying for exclusion under s. 11.31 (6)



1 for the effort or program, and shall transmit a copy of the schedule to each candidate  
2 who receives any of the proceeds within the period prescribed in s. 11.06 (4) (c).

3 **SECTION 22.** 11.20 (2e)<sup>↓</sup> of the statutes is created to read:

4 11.20 (2e) Postelection reports under s. 11.06 (1) with respect to an election for  
5 a state office specified in s. 11.31 (1) (a) to (d), (e)<sup>↗</sup> or (f) shall be received by the board  
6 no earlier than 4 days after and no later than 10 days after each general election at  
7 which that office is filled.

8 **SECTION 23.** 11.20 (2m)<sup>↓</sup> of the statutes is amended to read:

9 11.20 (2m) Election Postelection reports under s. 11.12 with respect to a special  
10 election for an office specified in s. 11.31 (1) (a) to (d), (e)<sup>↗</sup> or (f) shall be received by  
11 the board no earlier than 4 days and no later than 10 days after that election.  
12 Postelection reports under s. 11.12 with respect to any other special election shall be  
13 received by the appropriate filing officer no earlier than 23 days and no later than  
14 30 days after each that special election, unless a continuing report is required to be  
15 filed under sub. (4) on or before the 30th day after the special election.

16 **SECTION 24.** 11.20 (2s)<sup>↓</sup> of the statutes is created to read:

17 11.20 (2s) A registrant who or which is required to file reports under s. 11.12  
18 (6) (b) 1., (c) 1.<sup>↗</sup> or (e) 1. with respect to a candidate at the general election shall file  
19 the reports on the 63rd, 42nd<sup>↗</sup> and 21st day prior to that election. A registrant who  
20 is required to file reports under s. 11.12 (6) (b) 1., (c) 1.<sup>↗</sup> or (e) 1. with respect to a special  
21 election shall file a report on the 21st day prior to that election.

22 **SECTION 25.** 11.20 (2t)<sup>↓</sup> of the statutes is created to read:

23 11.20 (2t) A registrant who or which is required to file reports under s. 11.12  
24 (6) (b) 2., (c) 2.<sup>↗</sup> or (e) 2. with respect to a candidate at the general election shall file  
25 the reports no later than the 39th and 18th days prior to that election. A registrant

1 who or which is required to file reports under s. 11.12 (6) (b) 2., (c) 2. or (e) 2. with  
2 respect to a candidate at a special election shall file the reports no later than the 18th  
3 day prior to that election.

4 **SECTION 26.** 11.20 (3) (d) of the statutes is amended to read:

5 11.20 (3) (d) A registered committee or individual other than a candidate or  
6 personal campaign committee making or accepting contributions, making  
7 disbursements or incurring obligations in support of or in opposition to one or more  
8 candidates for office at an election, or supporting or opposing other committees or  
9 individuals who are engaging in such activities, shall file a preelection report. A  
10 registered committee or individual other than a candidate or personal campaign  
11 committee making or accepting contributions, making disbursements, or incurring  
12 obligations in support of or in opposition to one or more candidates for an office  
13 specified in s. 11.31 (1) (a) to (d), (e) or (f) at the general election or a special election,  
14 or supporting or opposing other committees or individuals who are engaging in such  
15 activities, shall file a postelection report.

16 **SECTION 27.** 11.20 (3) (g) of the statutes is amended to read:

17 11.20 (3) (g) A contribution, disbursement or obligation in support of or in  
18 opposition to a candidate at an election which is made, accepted or incurred during  
19 the period covered by the preelection report, or by a postelection report following the  
20 general election or a special election, is considered to be made, accepted or incurred  
21 in support of or in opposition to that candidate at the election, regardless of whether  
22 the candidate is opposed at the election.

23 **SECTION 28.** 11.20 (8) (intro.) of the statutes is amended to read:

24 11.20 (8) (intro.) Reports filed under subs. (2), (2e), (2m), (2s), (2t), (4) and (4m)  
25 shall include all contributions received and transactions made as of the end of:

1 SECTION 29. 11.20 (8) (ak) and (aL) of the statutes are created to read:

2 11.20 (8) (ak) The day on which the report is due in the case of the report

3 required under s. 11.12 (6) (b) 1., (c) 1. or (e) 1.

4 (aL) The 3rd day prior to the date on which the report is due in the case of the

5 report required under s. 11.12 (6) (b) 2., (c) 2. or (e) 2.

6 SECTION 30. 11.20 (8) (am) of the statutes is created to read:

7 11.20 (8) (am) The 3rd day after the election in the case of the postelection

8 report that follows the general election or a special election for an office specified in

9 s. 11.31 (1) (a) to (d), (e) or (f).

10 SECTION 31. 11.20 (8) (an) of the statutes is created to read:

11 11.20 (8) (an) The 22nd day after the election in the case of a postelection report

12 that follows a special election for an office other than an office specified in s. 11.31

13 (1) (a) to (d), (e) or (f).

14 SECTION 32. 11.20 (12) of the statutes is amended to read:

15 11.20 (12) If a candidate is unopposed in a primary or election, the obligation

16 to file the reports required by this chapter does not cease. Except as provided in ss.

17 11.05 (2r) and 11.19 (2), a registrant who makes or receives no contributions, makes

18 no disbursements or incurs no obligations shall so report on the applicable dates

19 designated in subs. (2), (2e), (2m), (2t) and (4).

20 SECTION 33. 11.21 (15) of the statutes is amended to read:

21 11.21 (15) Inform each candidate who files an application to become eligible to

22 receive a grant from the ~~Wisconsin election campaign~~ clean government fund of the

23 dollar amount of the applicable disbursement limitation under s. 11.31 (1), adjusted

24 as provided in s. 11.31 (9), which applies to the office for which such person is a

1 candidate. Failure to receive the notice required by this subsection does not  
2 constitute a defense to a violation of s. 11.27 (1) or 11.31.

3 **SECTION 34.** 11.24 (1t) of the statutes is created to read:

4 **11.24 (1t)** No candidate for a state office specified in s. 11.31 (1) (a) to (d), (e)  
5 or (f) or personal campaign committee of such a candidate at any election other than  
6 a primary election may receive and accept any contribution during the period  
7 beginning on the 10th day preceding that election and ending on the date of that  
8 election.

9 **SECTION 35.** 11.24 (1w) of the statutes is created to read:

10 **11.24 (1w) (a)** No candidate or personal campaign committee of a candidate  
11 who accepts a grant under s. 11.50 may accept any contribution from a committee  
12 identified under s. 11.05 (3) (c) as a special interest committee.

13 (b) No committee identified under s. 11.05 (3) (c) as a special interest committee  
14 may intentionally make any contribution to a candidate or personal campaign  
15 committee of a candidate who ~~has qualified to receive~~ <sup>accepts</sup> a grant under s. 11.50.

16 **SECTION 36.** 11.26 (1) (intro.) of the statutes is amended to read:

17 **11.26 (1) (intro.)** ~~No~~ Except as authorized in sub. (10), no individual may make  
18 any contribution or contributions to a candidate for election or nomination to any of  
19 the following offices and to any individual or committee under s. 11.06 (7) acting  
20 solely in support of such a candidate or solely in opposition to the candidate's  
21 opponent to the extent of more than a total of the amounts specified per candidate:

22 **SECTION 37.** 11.26 (1) (a), (b) and (c) of the statutes are amended to read:

23 **11.26 (1) (a)** Candidates for governor, lieutenant governor, secretary of state,  
24 state treasurer, attorney general, state superintendent or justice, ~~\$10,000~~ \$1,000.

25 (b) Candidates for state senator, ~~\$1,000~~ \$500.

1 (c) Candidates for representative to the assembly, \$500 ~~\$250~~.

2 SECTION 38. 11.26 (1m)<sup>↓</sup> of the statutes is created to read:

3 11.26 (1m) (a) Except as provided in par. (b), no individual who is a candidate  
4 for state office and who files a sworn statement and application to receive a grant  
5 from the clean government fund may receive and accept more than the amount or  
6 value of contributions provided in this subsection for the office for which he or she  
7 is a candidate during any campaign, or if the individual has an opponent whose name  
8 is certified to appear on the ballot as a candidate for the nomination of his or her party  
9 in a primary election in that campaign, after the date of the primary election, from  
10 all individuals, including contributions from the individual to his or her own  
11 campaign. Except as provided in sub. (10a), the amount or value is:

12 1. For candidates for the offices of governor and lieutenant governor jointly,  
13 \$1,000,000.

14 2. For a candidate for the office of attorney general, \$200,000.

15 3. For a candidate for the office of secretary of state, state treasurer, state  
16 superintendent or justice, \$100,000.

17 4. For a candidate for the office of state senator, \$60,000.

18 5. For a candidate for the office of representative to the assembly, \$30,000.

19 (b) For purposes of computing the applicable amount under par. (a), if one of  
20 the candidates of a political party for the office of governor or lieutenant governor has  
21 an opponent whose name is certified to appear on the ballot as a candidate for the  
22 party nomination of his or her party in the September primary election, the  
23 contributions received on or before the date of the primary election by the candidate  
24 who has an opponent in the election shall be excluded.

25 SECTION 39. 11.26 (2) (intro.)<sup>↓</sup> of the statutes is amended to read:

1           11.26 (2) (intro.) No committee other than a political party committee or  
2 ~~legislative campaign committee~~ may make any contribution or contributions to a  
3 candidate for election or nomination to any of the following offices and to any  
4 individual or committee under s. 11.06 (7) acting solely in support of such a candidate  
5 or solely in opposition to the candidate's opponent to the extent of more than a total  
6 of the amounts specified per candidate:

7           **SECTION 40.** 11.26 (2) (a) of the statutes is amended to read:

8           11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,  
9 state treasurer, attorney general, state superintendent or justice, 4% of the value of  
10 the disbursement level specified in the schedule under s. 11.31 (1), as adjusted under  
11 s. 11.31 (9).

12           **SECTION 41.** 11.26 (4) of the statutes is amended to read:

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

18           **SECTION 42.** 11.26 (8) of the statutes is amended to read:

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

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

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

7 SECTION 43. 11.26 (9) (a) of the statutes is renumbered 11.26 (9) (a) (intro.) and  
8 amended to read:

9 11.26 (9) (a) (intro.) ~~No~~ Except as provided in par. (aa), no individual who is a  
10 candidate for state or local office and who files a sworn statement and application to  
11 receive a grant from the clean government fund may receive and accept more than  
12 ~~65% of the value of the total disbursement level determined under s. 11.31~~ the  
13 amount or value of contributions provided in this subsection for the office for which  
14 he or she is a candidate during any ~~primary and election campaign combined, or if~~  
15 the individual has an opponent whose name is certified to appear on the ballot as a  
16 candidate for the nomination of his or her party at a primary election, after the date  
17 of the primary election in that campaign, from all committees subject to a filing  
18 requirement, including political party and legislative campaign committees. Except  
19 as provided in sub. (10a), the amount or value of contributions is:

20 SECTION 44. 11.26 (9) (a) 1. to 5. of the statutes are created to read:

21 11.26 (9) (a) 1. For candidates for the offices of governor and lieutenant  
22 governor jointly, \$330,000.

23 2. For a candidate for the office of attorney general, \$65,000.

24 3. For a candidate for the office of secretary of state, state treasurer, justice or  
25 state superintendent, \$33,000.

1           4. For a candidate for the office of state senator, \$20,000.

2           5. For a candidate for the office of representative to the assembly, \$10,000.

3           **SECTION 45.** 11.26 (9) (aa) of the statutes is created to read:

4           11.26 (9) (aa) For purposes of computing the applicable amount under par. (a),  
5 if one of the candidates of a political party for the office of governor or lieutenant  
6 governor has an opponent whose name is certified to appear on the ballot as a  
7 candidate for the party nomination of his or her party in the September primary  
8 election, the contributions received on or before the date of the primary election by  
9 the candidate who has the opponent in that election shall be excluded.

10          **SECTION 46.** 11.26 (9) (am) of the statutes is created to read:

11          11.26 (9) (am) No individual who is a candidate for state or local office, other  
12 than an office specified in par. (a), may receive and accept more than 65% of the value  
13 of the total disbursement level determined under s. 11.31 (1), as adjusted under s.  
14 11.31 (9), for the office for which he or she is a candidate during any primary and  
15 election campaign combined from all committees subject to a filing requirement,  
16 including political party committees.

17          **SECTION 47.** 11.26 (9) (b) of the statutes is amended to read:

18          11.26 (9) (b) No individual who is a candidate for a state or local office, other  
19 than an office specified in par. (a), may receive and accept more than 45% of the value  
20 of the total disbursement level determined under s. 11.31 (1), as adjusted under s.  
21 11.31 (9), for the office for which he or she is a candidate during any primary and  
22 election campaign combined from all committees other than political party and  
23 legislative campaign committees subject to a filing requirement.

24          **SECTION 48.** 11.26 (9) (c) of the statutes is repealed.



1           **SECTION 49.** 11.26 (10)<sup>✓</sup> of the statutes is renumbered 11.26 (10) (a)<sup>✓</sup> and  
2 amended to read:

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

24           **SECTION 50.** 11.26 (10) (b)<sup>✓</sup> of the statutes is created to read:

1           11.26 (10) (b) For purposes of computing the applicable amount under par. (a),  
2 if one of the candidates of a political party for the office of governor or lieutenant  
3 governor has an opponent whose name is certified to appear on the ballot as a  
4 candidate for the party nomination of his or her party in the September primary  
5 election, the contributions received on or before the date of the primary election by  
6 the candidate who has an opponent in that election shall be excluded.

7           **SECTION 51.** 11.26 (10a) of the statutes is created to read:

8           11.26 (10a) (a) In this subsection, “consumer price index” means the average  
9 of the consumer price index over each 12-month period, all items, U.S. city average,  
10 as determined by the bureau of labor statistics of the federal department of labor.

11           (b) The dollar amounts of the limitations under subs. (1m), (9) (a) and (10) (a)  
12 shall be subject to a biennial adjustment to be determined by rule of the board in  
13 accordance with this subsection. To determine the adjustment, the board shall  
14 calculate the percentage difference between the consumer price index for the  
15 12-month period ending on December 31 of each odd-numbered year and the  
16 consumer price index for the base period calendar year 2001. For each biennium,  
17 the board shall multiply the amount of each limitation under subs. (1m), (9) (a) and  
18 (10) by the percentage difference in the consumer price indices. The board shall  
19 adjust the amount of each limitation to substitute that result for the existing amount  
20 to the extent required to reflect any difference, rounded to the nearest multiple of  
21 \$25. The amount so determined shall then be in effect until a subsequent rule is  
22 promulgated under this subsection. Notwithstanding s. 227.24 (1) (a), (2) (b) and (3),  
23 determinations under this subsection may be promulgated as an emergency rule  
24 under s. 227.24 without providing evidence that the emergency rule is necessary for  
25 the public peace, health, safety or welfare and without a finding of emergency.

1 SECTION 52. 11.26 (13) of the statutes is amended to read:

2 11.26 (13) ~~Except as provided in sub. (9), contributions~~ Contributions received  
3 from the ~~Wisconsin election campaign~~ clean government fund are not subject to  
4 limitation by this section.

5 SECTION 53. 11.26 (17) (a) of the statutes is amended to read:

6 11.26 (17) (a) For purposes of application of the limitations imposed in subs.  
7 (1), (1m), (2), (9) and (10), the “campaign” of a candidate begins and ends at the times  
8 specified in this subsection, except as otherwise provided in subs. (1m), (9) and (10).

9 SECTION 54. 11.265 of the statutes is repealed.

10 SECTION 55. 11.31 (1) (a) of the statutes is amended to read:

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

13 SECTION 56. 11.31 (1) (b) of the statutes is repealed.

14 SECTION 57. 11.31 (1) (c) and (d) of the statutes are amended to read:

15 11.31 (1) (c) Candidates for attorney general, ~~\$539,000~~ \$400,000.

16 (d) Candidates for secretary of state, state treasurer, justice or state  
17 superintendent, ~~\$215,625~~ \$200,000.

18 SECTION 58. 11.31 (1) (e) and (f) of the statutes are amended to read:

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

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

25 SECTION 59. 11.31 (2) of the statutes is amended to read:

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

16           **SECTION 60.** 11.31 (2m)<sup>↓</sup> of the statutes is repealed.

17           **SECTION 61.** 11.31 (3)<sup>↓</sup> of the statutes is repealed.

18           **SECTION 62.** 11.31 (3m)<sup>↓</sup> of the statutes is repealed.

19           **SECTION 63.** 11.31 (3p)<sup>↓</sup> of the statutes is created to read:

20           11.31 (3p) CANDIDATES RECEIVING ADDITIONAL GRANTS; EXCEPTION. If a candidate  
21 receives a grant under s. 11.50 (9) (b), (ba), (bb) or (bc), the disbursement limitation  
22 of that candidate for the campaign in which the grant is received is increased by the  
23 amount of that grant.

24           **SECTION 64.** 11.31 (4)<sup>↓</sup> of the statutes is repealed.

**SECTION 65.** 11.31 (7) (a)<sup>↓</sup> of the statutes is amended to read:

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1 11.31 (7) (a) For purposes of this section, except as provided in par. (e), the  
 2 "campaign" of a candidate extends from July 1 preceding the date on which the spring  
 3 primary or election occurs or January 1 preceding the date on which the September  
 4 primary or general election occurs for the office which the candidate seeks, or from  
 5 the date of the candidate's public announcement, whichever is earlier, through the  
 6 last day of the month following the month in which the election ~~or primary~~ is held  
 7 for the office which the candidate seeks, except that if a candidate for an office  
 8 specified in s. 11.31 (1) (a) to (d), (e) or (f) has an opponent whose name is certified  
 9 to appear on the ballot as a candidate for the nomination of his or her party at a  
 10 primary election, the campaign of that candidate extends from the day after the date  
 11 of the primary election through the last day of the month following the month in  
 12 which the election is held for the office which the candidate seeks. *Vol*

13 ~~SECTION 66. 11.31 (7) (e) of the statutes is created to read:~~ *to the campaign*

14 11.31 (7) (e) For purposes of ~~computing~~ <sup>determining</sup> the ~~applicable amount~~ <sup>period of time</sup> under par. (a)  
 15 to the campaign of a candidate  
 16 if one of the candidates <sup>who</sup> of a political party for the office of governor or lieutenant  
 17 governor <sup>any</sup> has an opponent whose name is certified to appear on the ballot as a  
 18 candidate for the party nomination of his or her party in the September primary  
 19 election, ~~the~~ disbursements made or obligated to be made on or before the date of the  
 20 primary election by the candidate who has an opponent shall be excluded.

21 ~~SECTION 67. 11.31 (9) of the statutes is created to read:~~

22 11.31 (9) ADJUSTMENT OF DISBURSEMENT LEVELS. (a) In this subsection,  
 23 "consumer price index" means the average of the consumer price index over each  
 24 12-month period, all items, U.S. city average, as determined by the bureau of labor  
 statistics of the federal department of labor.

1 (b) The dollar amounts of all disbursement levels specified in sub. (1) shall be  
2 subject to a biennial adjustment to be determined by rule of the board in accordance  
3 with this subsection. To determine the adjustment, the board shall calculate the  
4 percentage difference between the consumer price index for the 12-month period  
5 ending on December 31 of each odd-numbered year and the consumer price index for  
6 the base period, calendar year 200~~3~~<sup>3</sup>. For each biennium, the board shall multiply  
7 that result by the percentage difference in the consumer price indices. The board  
8 shall adjust the disbursement levels specified under sub. (1) to substitute that result  
9 for the existing levels to the extent required to reflect any difference, rounded to the  
10 nearest multiple of \$25 in the case of amounts of \$1 or more, which amounts shall  
11 be in effect until a subsequent rule is promulgated under this subsection.  
12 Notwithstanding s. 227.24 (1) (a), (2) (b) and (3), determinations under this  
13 subsection may be promulgated as an emergency rule under s. 227.24 without  
14 providing evidence that the emergency rule is necessary for the public peace, health,  
15 safety or welfare and without a finding of emergency.

16 **SECTION 68.** 11.50 (title) of the statutes is amended to read:

17 **11.50 (title) ~~Wisconsin election campaign~~ Clean government fund.**

18 **SECTION 69.** 11.50 (1) (b) of the statutes is amended to read:

19 11.50 (1) (b) "Fund" means the ~~Wisconsin election campaign~~ clean government  
20 fund.

21 **SECTION 70.** 11.50 (2) (a) of the statutes is amended to read:

22 11.50 (2) (a) Any individual who desires to qualify as an eligible candidate may  
23 file an application with the board requesting approval to participate in the fund. The  
24 application shall be filed no later than the applicable deadline for filing nomination  
25 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.

1 on the 7th day after the primary or date on which the primary would be held if  
2 required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day  
3 after appointment in the case of candidates appointed to fill vacancies. The  
4 application shall contain a sworn statement that the candidate and his or her  
5 authorized agents have complied with the contribution limitations prescribed in s.  
6 11.26 and the disbursement limitations prescribed under s. 11.31 (1), as adjusted  
7 under s. 11.31 (9), at all times to which such limitations have applied to his or her  
8 candidacy and will continue to comply with the limitations at all times to which the  
9 limitations apply to his or her candidacy for the office in contest, unless the board  
10 determines that the candidate is not eligible to receive a grant, the candidate  
11 withdraws his or her application under par. (h), or ~~par. (i)~~ s. 11.31 (3p) applies.

12 SECTION 71. 11.50 (2) (b) (intro.)<sup>↓</sup> of the statutes is amended to read:

13 11.50 (2) (b) (intro.) The Except as provided in par. (bm), the board shall  
14 approve the application of an eligible candidate for participation if:

15 SECTION 72. 11.50 (2) (b) 5.<sup>↓</sup> of the statutes is renumbered 11.50 (2) (b) 5. (intro.)<sup>↓</sup>  
16 and amended to read:

17 11.50 (2) (b) 5. (intro.) The financial reports filed by or on behalf of the  
18 candidate as of the date of the spring or September primary, or the date that the  
19 special primary is or would be held, if required, indicate that the candidate has  
20 received at least the amount provided in this subdivision, from contributions of  
21 money, other than loans, made by individuals who are residents of this state, other  
22 than contributions received through conduits, which have been received during the  
23 period ending on the date of the spring primary and July 1 preceding such date in  
24 the case of candidates at the spring election, or the date of the September primary  
25 and January 1 preceding such date in the case of candidates at the general election,

1 or the date that a special primary will or would be held, if required, and 90 days  
2 preceding such date or the date a special election is ordered, whichever is earlier, in  
3 the case of special election candidates, which contributions are in the aggregate  
4 amount of \$100 or less, and which are fully identified and itemized as to the exact  
5 source thereof. ~~A contribution received from a conduit which is identified by the~~  
6 ~~conduit as originating from an individual shall be considered a contribution made by~~  
7 ~~the individual~~ In the case of a candidate for legislative office, the contributions may  
8 only be received from individuals who are residents of the district in which the  
9 candidate seeks office. Only the first \$100 of an aggregate contribution of more than  
10 \$100 may be counted toward the required percentage. ~~For a candidate at the spring~~  
11 ~~or general election for an office identified in s. 11.26 (1) (a) or a candidate at a special~~  
12 ~~election, the required amount to qualify for a grant is 5% of the candidate's~~  
13 ~~authorized disbursement limitation under s. 11.31. For any other candidate at the~~  
14 ~~general election, the required amount to qualify for a grant is 10% of the candidate's~~  
15 ~~authorized disbursement limitation under s. 11.31. Except as provided in sub. (9a),~~  
16 the amount of contributions required under this subdivision is:

17 SECTION 73. 11.50 (2) (b) 5. a. to e. of the statutes are created to read:

18 11.50 (2) (b) 5. a. For candidates for the offices of governor and lieutenant  
19 governor jointly, \$80,400.

20 b. For a candidate for the office of attorney general, \$16,200.

21 c. For a candidate for the office of secretary of state, state treasurer, justice or  
22 state superintendent, \$8,040.

23 d. For a candidate for the office of state senator, \$5,000.

24 e. For a candidate for the office of representative to the assembly, \$2,500.

25 SECTION 74. 11.50 (2) (bm) of the statutes is created to read:



1           11.50 (2) (bm) The board shall not approve the application of an eligible  
2 candidate for the office of governor or lieutenant governor of the same political party  
3 unless both candidates qualify to receive a grant under this subsection.

4           **SECTION 75.** 11.50 (2) (g) of the statutes is amended to read:

5           11.50 (2) (g) A candidate who voluntarily files an application to receive a grant  
6 in accordance with this subsection accepts and agrees to comply with the  
7 contribution limitations prescribed in s. 11.26 and the disbursement limitations  
8 imposed under s. 11.31 (2), as adjusted under s. 11.31 (9), as binding upon himself or  
9 herself and his or her agents during the campaign as defined in s. 11.31 (7), as a  
10 precondition to receipt of a grant under this section, unless the board determines  
11 that the candidate is not eligible to receive a grant, the candidate withdraws the  
12 application under par. (h), or par. (i) s. 11.31 (3p) applies.

13           **SECTION 76.** 11.50 (2) (i) of the statutes is repealed.

14           **SECTION 77.** 11.50 (3) of the statutes is repealed.

15           **SECTION 78.** 11.50 (4) of the statutes is repealed and recreated to read:

16           11.50 (4) AMOUNT OF GRANTS. Except as provided in sub. (9) (h), (ha), (hb) and  
17 (bc), each eligible candidate for the same office who qualifies for grant under this  
18 section shall receive an equal amount.

19           **SECTION 79.** 11.50 (5) of the statutes is amended to read:

20           11.50 (5) TIME OF DISBURSEMENT. The state treasurer shall make the  
21 disbursements to the campaign depository account of each eligible candidate under  
22 subs. (3) and (4) by the end of the 3rd business day following notice from the board  
23 under s. 7.08 (2) (c) or (cm). Eligible candidates for governor and lieutenant governor  
24 of the same political party may combine accounts if desired, except that the state  
25 treasurer shall make disbursements for eligible candidates for the office of governor

1 and lieutenant governor jointly to the campaign depository account of the candidate  
2 for governor.

3 SECTION 80. 11.50 (6) of the statutes is repealed.

4 SECTION 81. 11.50 (9) (title) of the statutes is amended to read:

5 11.50 (9) (title) ~~LIMITATION ON~~ AMOUNT OF GRANTS.

6 SECTION 82. 11.50 (9) of the statutes is renumbered 11.50 (9) (a) (intro.) and  
7 amended to read:

8 11.50 (9) (a) (intro.) The Except as provided in pars. (b), (ba), (bb) and (bc) and  
9 sub. (9a), the total grant available to an eligible candidate may not exceed that  
10 amount which, when added to all other contributions accepted from sources other  
11 than individuals, political party committees and legislative campaign committees,  
12 is equal to 45% of the disbursement level specified for the applicable office under s.  
13 11.31. The board shall scrutinize accounts and reports and records kept under this  
14 chapter to assure that applicable limitations under ss. 11.26 (9) and 11.31 are not  
15 exceeded and any violation is reported. is:

16 (am) No candidate or campaign treasurer may accept grants exceeding the  
17 amount authorized by this subsection.

18 SECTION 83. 11.50 (9) (a) 1. to 5. of the statutes are created to read:

19 11.50 (9) (a) 1. For candidates for the office of governor and lieutenant governor  
20 jointly, \$670,000.

21 2. For a candidate for the office of attorney general, \$135,000.

22 3. For a candidate for the office of secretary of state, state treasurer,  
23 superintendent or justice, \$67,000.

24 4. For a candidate for the office of state senator, \$40,000.

25 5. For a candidate for the office of representative to the assembly, \$20,000.

1           **SECTION 84.** 11.50 (9) (b) <sup>↓</sup> of the statutes is created to read:

2           11.50 (9) (b) If an eligible candidate who accepts a grant is opposed by one or  
3 more candidates in a general or special election whose names are certified under s.  
4 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot, and if a committee intends to receive  
5 or receives any contribution or contributions that are intended to be used or that are  
6 used to oppose the election of the eligible candidate who accepts a grant or to support  
7 a certified opponent of that candidate without cooperation or consultation with any  
8 certified opposing candidate or such a candidate's agent or authorized committee,  
9 and not in concert with, or at the request or suggestion of any certified opposing  
10 candidate's agent or authorized committee, then the board shall make an additional  
11 grant to the eligible candidate who accepts a grant in an amount equal to the total  
12 amount of contributions received for the purpose of advocating the election of the  
13 certified opposing candidate or for the purpose of opposing the election of the eligible  
14 candidate who accepts the grant, as reported by committees under s. 11.12 (6) (c).

15           **SECTION 85.** 11.50 (9) (ba) <sup>↓</sup> of the statutes is created to read:

16           11.50 (9) (ba) If an eligible candidate who accepts a grant is opposed by one or  
17 more candidates in a general or special election who are required, or whose personal  
18 campaign committees are required, to file a report under s. 11.12 (7), then the board  
19 shall make an additional grant to the eligible candidate who accepts a grant in an  
20 amount equal to the total amount or value of contributions accepted by the opposing  
21 candidate or candidates exceeding the amount specified for the office sought by the  
22 candidate or candidates under s. 11.12 (7) (a) for contributions from political party  
23 committees or from all contributors, or if both amounts specified in s. 11.12 (7) (a) are  
24 exceeded, an amount equal to the excess over both amounts specified, as reported by  
25 the opposing candidate under s. 11.12 (7) (a).

1           **SECTION 86.** 11.50 (9) (bb)<sup>↓</sup> of the statutes is created to read:

2           11.50 (9) (bb) If any eligible candidate who accepts a grant is opposed by one  
3 or more candidates in a general or special election whose names are certified under  
4 s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot, and if a conduit has accepted or  
5 intends to accept one or more contributions which the conduit has transferred or  
6 intends to transfer to the certified opposing candidate and the contributions are  
7 required to be reported by the conduit under s. 11.12 (6) (b), then the board shall  
8 make an additional grant to the eligible candidate who accepts a grant in an amount  
9 equal to the amount or value of contributions accepted by the opposing candidate or  
10 candidates, as reported by the conduit under s. 11.12 (6) (b).

11           **SECTION 87.** 11.50 (9) (bc)<sup>↓</sup> of the statutes is created to read:

12           11.50 (9) (bc) If any eligible candidate who accepts a grant is opposed by one  
13 or more candidates in a general or special election whose names are certified under  
14 s. 7.08 (2) (a) or 8.50 (1) (d) to appear on the ballot, and if a committee identified in  
15 s. 11.05 (3) (c), other than a conduit, intends to make or makes one or more  
16 contributions to the certified opposing candidate and the contributions are required  
17 to be reported by the committee under s. 11.12 (6) (e), then the board shall make an  
18 additional grant to the eligible candidate who accepts a grant in an amount equal to  
19 the amount or value of contributions intended to be made or made to the opposing  
20 candidate or candidates, as reported by the committee under s. 11.12 (6) (e).

21           **SECTION 88.** 11.50 (9a)<sup>↓</sup> of the statutes is created to read:

22           11.50 (9a) ADJUSTMENT OF QUALIFYING AND GRANT AMOUNTS. (a) In this  
23 subsection, “consumer price index” means the average of the consumer price index  
24 over each 12-month period, all items, U.S. city average, as determined by the bureau  
25 of labor statistics of the federal department of labor.

1 (b) The dollar amounts of all qualifying amounts specified in sub. (2) (b) 5. and  
2 all grant amounts specified in sub. (9) shall be subject to a biennial adjustment to be  
3 determined by rule of the board in accordance with this subsection. To determine the  
4 adjustment, the board shall calculate the percentage difference between the  
5 consumer price index for the 12-month period ending on December 31 of each  
6 odd-numbered year and the consumer price index for the base period calendar year  
7 2002. For each biennium, the board shall multiply each qualifying amount and grant  
8 amount by the percentage difference in the consumer price indices. The board shall  
9 adjust each qualifying amount and grant amount to substitute that result for the  
10 existing amount to the extent required to reflect any difference, rounded to the  
11 nearest multiple of \$25. The amounts so determined shall then be in effect until a  
12 subsequent rule is promulgated under this subsection. Notwithstanding s. 227.24  
13 (1) (a), (2) (b) and (3), determinations under this subsection may be promulgated as  
14 an emergency rule under s. 227.24 without providing evidence that the emergency  
15 rule is necessary for the public peace, health, safety or welfare and without a finding  
16 of emergency.

17 **SECTION 89.** 11.50 (11) (e) of the statutes is amended to read:

18 11.50 (11) (e) No candidate may expend, authorize the expenditure of or incur  
19 any obligation to expend any grant if he or she violates the pledge required under  
20 sub. (2) (a) as a precondition to receipt of a grant, except as authorized in sub. (2) (h)  
21 or (i).

22 **SECTION 90.** 11.60 (3s) and (3t) of the statutes are created to read:

23 11.60 (3s) Notwithstanding sub. (1), if any candidate or other individual or  
24 committee, including a conduit, accepts or transfers a contribution, makes a  
25 disbursement or incurs an obligation to make a disbursement for the purpose of

1 supporting or opposing a candidate for an office specified in s. 11.31 (1) (a) to (d), (e),  
 2 or (f) or for a purpose specified in s. 11.01 (16) (a) 3. without first registering under  
 3 s. 11.05 (1), (2) or (2g) to the extent required under s. 11.05 (1), (2) and (2g), or without  
 4 reporting the information required under s. 11.12 (6) (b), (c) or (e) or (7) or 11.20 (3)  
 5 or (4) with respect to that contribution, disbursement or obligation, to the extent  
 6 required under ss. 11.12 (6) (b), (c) and (e) and (7) and 11.20 (3) and (4), the candidate  
 7 or other individual or committee may be required to forfeit not more than \$500 per  
 8 day for each day of continued violation.

9 (3t) Notwithstanding sub. (1), if any candidate or other individual or  
 10 committee, including a conduit, accepts or transfers one or more contributions,  
 11 makes one or more disbursements or incurs one or more obligations to make  
 12 disbursements for the purpose of supporting or opposing a candidate for an office  
 13 specified in s. 11.31 (1) (a) to (d), (e) or (f) or for a purpose specified in s. 11.01 (16)  
 14 (a) 3. in an amount or value that differs from the amount reported by that individual  
 15 or committee under s. 11.12 (6) (b), (c) or (e) or (7) or 11.20 (3) or (4):

16 (a) By more than 5% but not more than 10% cumulatively, the individual or  
 17 committee shall forfeit 4 times the amount or value of the difference.

18 (b) By more than 10% but not more than 15% cumulatively, the individual or  
 19 committee shall forfeit 6 times the amount or value of the difference.

20 (c) By more than 15% cumulatively, the individual or committee shall forfeit  
 21 8 times the amount of the difference.

22 SECTION 91. 11.61 (1) (a) of the statutes, as affected by 1997 Wisconsin Act 283,  
 23 is amended to read:

24 11.61 (1) (a) Whoever Except as provided in par. (d), whoever intentionally  
 25 violates s. 11.05 (1), (2), (2g) or (2r), 11.07 (1) or (5), 11.10 (1), 11.12 (5), 11.23 (6) or

*candidate or other*

1 11.24 (1) may be fined not more than \$10,000 or imprisoned for not more than 4 years  
2 and 6 months or both.

3 SECTION 92. 11.61 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 283,  
4 is amended to read:

5 11.61 (1) (b) ~~Whoever~~ Except as provided in par. (d), whoever intentionally  
6 violates s. 11.25, 11.26, 11.27 (1), 11.30 (1) or 11.38 where the intentional violation  
7 does not involve a specific figure, or where the intentional violation concerns a figure  
8 which exceeds \$100 in amount or value may be fined not more than \$10,000 or  
9 imprisoned for not more than 4 years and 6 months or both.

10 SECTION 93. 11.61 (1) (c) of the statutes is amended to read:

11 11.61 (1) (c) ~~Whoever~~ Except as provided in par. (d), whoever intentionally  
12 violates any provision of this chapter other than those provided in par. (a) and  
13 whoever intentionally violates any provision under par. (b) where the intentional  
14 violation concerns a specific figure which does not exceed \$100 in amount or value  
15 may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

16 SECTION 94. 11.61 (1) (d) of the statutes is created to read:

17 11.61 (1) (d) Whoever, with intent to conceal or deceive, accepts or transfers a  
18 contribution, makes a disbursement or incurs an obligation to make a disbursement  
19 for the purpose of supporting or opposing a candidate for an office specified in s. 11.31  
20 (1) (a) to (d), (e) or (f) or for a purpose specified in s. 11.01 (16) (a) 3. without first  
21 registering under s. 11.05 (1), (2) or (2g), to the extent required under s. 11.05 (1), (2)  
22 and (2g), or without reporting the information required under s. 11.12 (6) (b), (c) or  
23 (e) or (7) or 11.20 (3) or (4) with respect to that contribution, disbursement or  
24 obligation, to the extent required under ss. 11.12 (6) (b), (c) and (e) and (7) and 11.20

1 (3) and (4), may be fined not more than \$10,000 or imprisoned for not more than 5  
2 years, or both.

3 SECTION 95. 11.62<sup>1</sup> of the statutes is created to read:

4 **11.62 Nullification of election.** (1) If one or more violations that are  
5 punishable under s. 11.60 (3t) (c) are of sufficient severity to have affected the result  
6 of an election, the board or the district attorney for any county where such a violation  
7 occurs, or any candidate who is adversely affected by the result of the election, may  
8 commence a civil action to obtain a judgment nullifying the election, vacating the  
9 office filled at the election, and ordering a special election to be held to fill the office  
10 vacated by the judgment.

11 (2) Notwithstanding s. 5.05 (1) (c), if a candidate is a party to an action  
12 commenced under this section, the action may not be compromised or settled without  
13 consent of the candidate. If an action under this section is commenced by the board  
14 or a district attorney and any unsuccessful candidate whose name appeared on the  
15 ballot at the election is not a party to the action, the board or district attorney shall  
16 provide at least 30 days' written notice to each such candidate of any intent of the  
17 board or district attorney to compromise and settle the action. Notwithstanding s.  
18 5.05 (1) (c), during the 30-day period following service of notice, the board or district  
19 attorney shall not compromise and settle the action, and any candidate upon whom  
20 notice is served may intervene in the action. If any such candidate intervenes in the  
21 action within the 30-day period following service of notice, the board or district  
22 attorney shall not compromise or settle the action. If no nonconsenting candidate  
23 who is adversely affected by the result of the election is a party to the action and no  
24 such candidate intervenes in the action within the 30-day period following service  
25 of notice, the party commencing the action may compromise and settle the action.



1           **SECTION 96.** 14.58 (20)<sup>↓</sup> of the statutes is amended to read:

2           14.58 (20) ~~ELECTION CAMPAIGN~~ CLEAN GOVERNMENT FUND. Make disbursements  
3 to each candidate certified under s. 7.08 (2) (c) or (cm) by the elections board as  
4 eligible to receive moneys from the ~~Wisconsin election campaign~~ clean government  
5 fund.

6           **SECTION 97.** 20.510 (1) (q)<sup>↓</sup> of the statutes is amended to read:

7           20.510 (1) (q) ~~Wisconsin election campaign~~ Clean government fund. As a  
8 continuing appropriation, from the ~~Wisconsin election campaign~~ clean government  
9 fund, the moneys amounts determined under s. 11.50 to provide for payments to  
10 eligible candidates certified under s. 7.08 (2) (c) and (cm).

11           **SECTION 98.** 20.855 (4) (b)<sup>↓</sup> of the statutes is repealed.

12           **SECTION 99.** 20.855 (4) (bb)<sup>↓</sup> of the statutes is created to read:

13           20.855 (4) (bb) Clean government fund supplement. A sum sufficient equal to  
14 the amounts required to make full payment of grants which candidates qualify to  
15 receive from the clean government fund, to be transferred from the general fund to  
16 the clean government fund no later than the time required to make payments of  
17 grants under s. 11.50 (5).

18           **SECTION 100.** 25.17 (1) (ys)<sup>↓</sup> of the statutes is amended to read:

19           25.17 (1) (ys) ~~Wisconsin election campaign~~ Clean government fund (s. 25.42);

20           **SECTION 101.** 25.42<sup>↓</sup> of the statutes is amended to read:

21           **25.42 ~~Wisconsin election campaign~~ Clean government fund**. All moneys  
22 appropriated under s. 20.855 (4) (b) (bb) together with all moneys reverting to the  
23 state under s. 11.50 (8) and all gifts, bequests and devises received under s. 11.50 (13)  
24 constitute the ~~Wisconsin election campaign~~ clean government fund, to be expended

1 for the purposes of s. 11.50. All moneys in the fund not disbursed by the state  
2 treasurer shall continue to accumulate indefinitely.

3 **SECTION 102.** 71.10 (3)<sup>1</sup> of the statutes is repealed.

4 **SECTION 103. Nonstatutory provisions.**

5 (1) Notwithstanding section 990.001 (11) of the statutes, if a court finds that  
6 any provision of this act is unconstitutional, the entire act is void.

7 **SECTION 104. Initial applicability.**

8 (1) The treatment of sections 11.12 (7) (d)<sup>1</sup>, 11.26 (10a)<sup>1</sup>, 11.31 (9)<sup>1</sup> and 11.50 (9a)<sup>1</sup>  
9 of the statutes first applies to adjustments for the biennium beginning on January  
10 1, 2000<sup>4</sup>

11

(END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1534/linsJTK  
...JTK & RJM:.....

INSERT 3A:

*ALSO*  
The bill requires each special interest committee, other than a conduit, that intends to make any contribution to a candidate for a major state office at the general election or a special election to file similar reports with the elections board specifying the name of each candidate or personal campaign committee to whom the committee intends to make one or more contributions during the 21-day period following the date on which the report is due to be filed.

INSERT 6A:

*R*  
The bill changes the maximum amount that may be given by an individual to a candidate for a major state office per campaign as follows:

Office	Current amount	Proposed amount
Governor, lieutenant governor, secretary of state, state treasurer, attorney general, superintendent of public instruction, justice of the supreme court	\$10,000	\$1,000
<i>STET</i> State senator	1,000	500
Representative to the assembly	500	250

*Also under*

## SENATE BILL 113

## INSERT ANALYSIS

1 (8) (ak) and (aL), 11.20 (8) (am), 11.20 (8) (an), 11.24 (1t), 11.24 (1w), 11.26 (1m),  
 2 11.26 (9) (a) 1. to 5., 11.26 (9) (aa), 11.26 (9) (am), 11.26 (10) (a) 1. to 5. and (b),  
 3 11.26 (10a), 11.31 (3p), 11.31 (7) (e), 11.31 (9), 11.50 (2) (b) 5. a. to e., 11.50 (2)  
 4 (bm), 11.50 (9) (a) 1. to 5., 11.50 (9) (b), 11.50 (9) (ba), 11.50 (9) (bb), 11.50 (9a),  
 5 11.60 (3s) and (3t), 11.61 (1) (d), 11.62, 20.855 (4) (ba), 20.855 (4) (bb) and  
 6 subchapter XIII of chapter 77 [precedes 77.997] of the statutes; **relating to:**  
 7 **campaign financing, imposition of a lobbying expenditure tax, providing**  
 8 **exemptions from emergency rule procedures, granting rule-making authority,**  
 9 **making appropriations and providing penalties.**

*Analysis by the Legislative Reference Bureau*

This bill makes numerous changes in the campaign finance law and imposes a tax on lobbying expenditures. Significant changes include:

**Filing of campaign finance reports**

Currently, a committee making contributions or a candidate or other individual or committee accepting contributions, making disbursements (expenditures) or incurring obligations in support of or opposition to a candidate is generally required to file a report no later than the eighth day before a primary or election at which the candidate seeks nomination or election to office. The report must disclose contributions made or accepted, disbursements made, and obligations incurred through the 14th day prior to the primary or election.

Currently, if a candidate for state office receives one or more contributions from a single contributor aggregating \$500 or more during the 14-day period preceding an election, the candidate must report to the elections board the information currently required to be disclosed pertaining to contributions received by the candidate no later than 24 hours following receipt of any such contribution or contributions.

Currently, if an individual or organization receives a political contribution consisting of money and transfers the contribution to another individual or organization without exercising discretion as to the amount to be transferred and the individual to whom or the organization to which the transfer is to be made, the contribution is considered to be made by the original contributor for purposes of reporting by the ultimate recipient. The contribution is also treated as an individual contribution for purposes of determining contribution limitations and qualifying contributions for public grants. The individual or organization making the transfer is called a "conduit" under the law. A conduit must identify itself to the ultimate

Compliance with

**SENATE BILL 113**

recipient as a conduit and provide to that recipient the information about the contribution that is necessary for the recipient to file its campaign finance reports.

This bill requires each conduit that has accepted or intends to accept any contribution to be transferred to a candidate for a major state office (governor, lieutenant governor, attorney general, secretary of state, state treasurer, state superintendent of public instruction, justice of the supreme court, state senator, or representative to the assembly) at the general election or a special election to report to the elections board, in the case of the general election, on the 63rd, 42nd and 21st day prior to that election, and in the case of a special election, on the 21st day prior to that election, specifying the name of each candidate to whom the conduit intends to transfer any contribution during the 21-day period following the date on which the report is due to be filed and the amount to be transferred to that candidate.

The bill similarly requires each committee, other than a conduit, that intends to receive any contribution, make any disbursement, or incur any obligation to make a disbursement for the purpose of advocating the election or defeat of a candidate for a major state office at the general election or a special election independently of any candidate who is supported or whose opponent is opposed to report to the elections board on the 63rd, 42nd and 21st day prior to that election, and in the case of a special election, on the 21st day prior to that election, specifying the name of each candidate who is supported or whose opponent is opposed and the total amount of contributions to be received, disbursements to be made, and obligations to be incurred for that purpose during the 21-day period following the date on which the report is due to be filed.

*special interest (political action)*

The bill also requires conduits and committees other than conduits who or which are subject to these special reporting requirements to file additional reports on the 39th and 18th days preceding each general election and the 18th day preceding each special election itemizing actual contributions transferred and received, disbursements made and obligations incurred during the 21-day periods ending on the 42nd and 21st days preceding the election.

*special interest*

*JWS  
3A*

In addition, the bill provides that if a candidate for a major state office at the general or a special election does not enter into an agreement to accept a public grant in return for abiding by disbursement limitations and contribution restrictions, the candidate must report to the elections board all information currently required to be disclosed pertaining to any contributions received by the candidate no later than 24 hours following receipt of any contribution or contributions after that candidate receives total contributions equal to more than the following amounts during his or her campaign, or if the candidate has an opponent whose name is certified to appear on the ballot as a candidate for the party nomination of his or her party in a primary election in that campaign, during the period beginning after the date of that primary election:

1. For candidates for the offices of governor and lieutenant governor jointly, \$330,000 from all political party committees or \$1,670,000 from all individuals

*Contributors*

2. For a candidate for the office of attorney general, \$65,000 from all political party committees or ~~\$200,000~~ from all individuals

*Contributors*

*\$335,000*

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3. For a candidate for the office of secretary of state or state treasurer, \$33,000 from all political party committees or \$167,000 from all individuals.

\$167,000

Contributors

4. For a candidate for the office of justice or state superintendent, \$100,000 from all individuals.

\$100,000

\$20,000

5. For a candidate for the office of state senator, \$25,000 from all political party committees or \$125,000 from all individuals.

\$50,000

\$10,000

Contributors

6. For a candidate for the office of representative to the assembly, \$12,500 from all political party committees or \$62,500 from all individuals.

Contributors

Under the bill, these amounts are subject to a biennial cost-of-living adjustment beginning in 2000, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

4

The bill also requires each candidate at the general election, and each committee or individual making disbursements or incurring obligations in support of or in opposition to a candidate at the general or a special election, to file an additional report on the tenth day after the election.

Mass media activities

stat

Currently, individuals who accept contributions, organizations that make or accept contributions, and individuals who or organizations that incur obligations or make disbursements for the purpose of influencing an election for state or local office are generally required to register with the appropriate filing officer and to file financial reports with that officer, regardless of whether they act in conjunction with or independently of any candidate who is supported or opposed.

within 60 days of an election and expenses

~~This bill requires each individual who and organization that makes a communication by means of a newspaper, periodical, commercial billboard, or radio or television station, other than communication by a corporation, cooperative or nonpolitical voluntary association limited to its members, shareholders or subscribers during the period beginning on the 60th day preceding an election and ending on the date of that election, which includes a reference to a candidate at that election, an office to be filled at that election, or a political party to register with the appropriate filing officer and to file financial reports with that officer to the same extent as currently required of individuals who and organizations that engage in activity for the purpose of influencing elections.~~

With certain exceptions, this bill imposes registration and reporting requirements, upon any

marks a communication

Disbursement limitations

The bill, however, does not require registration and reporting if the communication is made by a corporation, cooperative, or nonpolitical voluntary association and is limited to the corporation's, cooperative's, or association's members, shareholders, or subscribers.

Under current law, disbursement (expenditure) levels are specified for candidates for various state and local offices. These levels become a binding limitation upon any candidate for state office who accepts a state grant from the Wisconsin election campaign fund or who agrees to be bound by the limitation, unless the candidate is opposed by a major opponent who could have qualified for a grant but who declines to accept one and declines to file an affidavit of voluntary compliance with disbursement and contribution limitations. Under current law, the disbursement limitations apply to a candidate's entire primary and election campaign combined. Additionally, the disbursement levels for candidates for the offices of state senator and representative to the assembly are subdivided between the primary and election campaign periods in such a way that only about 60% of the

The corporation's, cooperative's, or association's members, shareholders, or subscribers.

**SENATE BILL 113**

total applicable disbursement level for either office may be allocated by a candidate to either the primary or the election campaign period.

This bill:

1. Eliminates disbursement levels and limitations applicable to candidates for state office, except the offices of court of appeals judge, circuit judge, and district attorney, on or before the date of the primary election for those offices.

2. Revises the current disbursement levels applicable to candidates for the offices shown in the following chart:

<i>Office</i>	<i>Current Level</i>	<i>Proposed Level</i>
Governor	\$1,078,200	[\$2,000,000
Lieutenant governor	323,475	for both offices]
Attorney general	539,000	400,000
Secretary of state	215,625	200,000
State treasurer	215,625	200,000
Supreme court justice	215,625	200,000
State superintendent	215,625	200,000
State senator	34,500	150,000
Representative to the assembly	17,250	75,000

3. Provides that disbursement limitations do not apply until after the date of a primary election for a candidate who has an opponent whose name appears on the ballot as a candidate for the nomination of his or her party at the primary election.

4. Creates a biennial cost-of-living adjustment that causes the statutory disbursement levels to be adjusted biennially, beginning in 2000, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor. (4)

5. Deletes current law that permits a candidate who does not accept a grant to continue to bind an opponent to disbursement and contribution limitations by filing an affidavit of voluntary compliance.

6. Deletes current law that makes disbursement limitations inapplicable to a candidate who accepts a grant when the candidate has an opponent who could have qualified for a grant but declines to accept one, and who declines to file an affidavit of voluntary compliance with disbursement and self-contribution limitations. However, the bill increases the disbursement limitation of the candidate who accepts a grant by an amount equal to 1) the amount of any contributions that are received by committees for the purpose of making independent disbursements to oppose that candidate or to support that candidate's opponent; 2) the total amount of contributions that conduits report they have transferred or intend to transfer to opposing candidates; and 3) the total amount of contributions accepted by opposing candidates above the level for which 24-hour reports are required (see below).

***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

**SENATE BILL 113**

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.

This bill eliminates the special status of legislative campaign committees, thus treating them in the same manner as other special interest committees for the purpose of contribution limitations.

**Contribution limitations**

Current law <sup>changes</sup> specifies limitations on the maximum amount of contributions that may be given to and accepted by a candidate for state or local office from any single individual or committee. <sup>FWS 6 A</sup> Under current law, a candidate who receives a grant may make contributions to his or her own campaign in an amount or value not exceeding 200% of the limitation applicable to other individuals making contributions to his or her campaign. Current law also limits the total contributions that a candidate for state or local office may accept from all political committees, including political party and legislative campaign committees, and from the Wisconsin election campaign fund to 65% of the value of the statutory disbursement level specified for the office that the candidate seeks. <sup>and from</sup> The total amount that a candidate may accept from ~~committees other than political party and legislative campaign committees and from the Wisconsin election campaign fund~~ is limited to 45% of that disbursement level.

This bill deletes the current aggregate limitations on contributions that may be received from committees and instead imposes an aggregate contribution limitation on the total amount or value of contributions that a candidate who accepts a grant may accept from all committees, including political party committees, during the entire campaign of the candidate, or if the candidate has an opponent for the nomination of his or her party at a primary election, after the date of the primary election, as follows:

1. For candidates for the offices of governor and lieutenant governor jointly, \$330,000.
2. For a candidate for the office of attorney general, \$65,000.
3. For a candidate for the office of secretary of state, state treasurer, justice or state superintendent, \$33,000.
4. For a candidate for the office of state senator, ~~\$25,000~~ <sup>\$20,000</sup>
5. For a candidate for the office of representative to the assembly, ~~\$12,500~~ <sup>\$10,000</sup>

The bill also imposes an aggregate contribution limitation on the total amount or value of contributions that a candidate who accepts a grant may accept from all individuals, including contributions by an individual to his or her own campaign, during the entire campaign of the candidate, or if the candidate has an opponent for the nomination of his or her party at a primary election, after the date of the primary election, as follows:

1. For candidates for the offices of governor and lieutenant governor jointly, \$1,000,000.



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2. For a candidate for the office of attorney general, \$200,000.

3. For a candidate for the office of secretary of state, state treasurer, state superintendent of public instruction, or justice of the supreme court, \$100,000.

4. For a candidate for the office of state senator, ~~\$75,000~~ <sup>\$100,000</sup>

5. For a candidate for the office of representative to the assembly, ~~\$37,500~~ <sup>\$30,000</sup>

~~Under the bill, a candidate is not subject to the limitation upon contributions by a single individual to his or her campaign.~~ (4)

Under the bill, the aggregate contribution limitations are subject to a biennial cost-of-living adjustment, beginning in 2002, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

**Other contribution restrictions**

This bill prohibits every candidate for a major state office (governor, lieutenant governor, attorney general, secretary of state, state treasurer, superintendent of public instruction or justice of the supreme court) from accepting any contribution during the period beginning on the tenth day preceding any election other than a primary election and ending on the date of that election.

**Wisconsin election campaign fund**

**I. SOURCES AND USES OF FUNDS**

Under current law, the Wisconsin election campaign fund is financed through an individual income tax "checkoff". Every individual filing a state income tax return who has a tax liability or is entitled to a tax refund may direct that \$1 of general purpose revenue be transferred to the fund. Individuals filing a joint return may separately choose whether to direct that the \$1 transfer be made. All moneys transferred to the fund are placed in accounts for specified state offices, and candidates for those offices at the general or a special election may qualify for grants from the fund to be used for specified campaign expenses. No moneys in the fund may be used for any other purpose. Grants at special elections are funded by reallocating moneys set aside to provide grants to candidates at the general election, to the extent that moneys are available.

This bill changes the name of the Wisconsin election campaign fund to the "clean government fund". The bill deletes the checkoff procedure and provides, instead, for the revenue to the fund to be raised by levying a tax on lobbying expenditures (see below), with the balance to be transferred to the fund, as needed, from general purpose revenue.

**II. GRANT ELIGIBILITY  
REQUIREMENTS AND AMOUNTS**

Under current law, public financing from the Wisconsin election campaign fund is available to 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. To receive a grant, a candidate must file an application with the state elections board no later than the deadline for filing nomination papers. Following the primary election or the date on which a primary would be held, if required, the board

Limitation upon candidates who receive grants making contributions to their own campaigns and the

Necessary

**SENATE BILL 113**

determines whether a candidate who applies for a grant meets the following eligibility requirements:

1. If the candidate seeks a partisan state office at a general election, the candidate must have received at least ~~six percent~~ <sup>6%</sup> of the total votes cast in the primary and won the primary. If the candidate seeks a partisan state office at a special election, the candidate must either: a) appear on the ballot or in the column of a political party whose candidate for the same office at the preceding general election received at least ~~six percent~~ of the vote; or b) receive at least ~~six percent~~ of the votes cast at the special election.

2. The candidate must have an opponent in the election. ~~Contributors~~

3. The candidate must receive, during a specified time period, a specified amount through ~~contributions~~ <sup>contributions</sup> from individuals of \$100 or less. The contributions may be received by the candidate directly from individuals or may be transferred to the candidate by a conduit. 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 ~~five percent~~ <sup>5%</sup> 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 ~~ten percent~~ <sup>10%</sup> of the authorized disbursement level for the office that the candidate seeks.

Under current law, a candidate for any office who accepts a grant must comply with statutorily prescribed contribution and disbursement limitations, unless one or more of the candidate's opponents who receive at least ~~six percent~~ <sup>6%</sup> of the votes cast for all candidates for that office at a partisan primary, if a primary was held, do not accept a grant and do not voluntarily comply with the contribution and disbursement limitations for that office. The maximum grant that a candidate may receive is the amount that, when added to all other contributions accepted from sources other than individuals, political party committees and legislative campaign committees, is equal to 45% of the authorized disbursement level for the office that the candidate seeks, if there are sufficient moneys in the Wisconsin election campaign fund to finance the full amount of grants for which candidates qualify.

This bill requires a candidate for any office who desires to qualify for a grant from the clean government fund to receive contributions from individuals, other than contributions transferred by conduits, in amounts of \$100 or less in the following total amounts:

1. For candidates for the offices of governor and lieutenant governor jointly, \$80,400.
2. For a candidate for the office of attorney general, \$16,200.
3. For a candidate for the office of secretary of state, state treasurer, justice of the supreme court or state superintendent of public instruction, \$8,040.
4. For a candidate for the office of state senator, ~~\$6,000~~ <sup>\$5,000</sup>.
5. For a candidate for the office of representative to the assembly, ~~\$3,000~~ <sup>\$2,500</sup>.

The bill also requires that the contributions must be received from individuals who are residents of this state and in the case of a candidate for legislative office, the

**SENATE BILL 113**

contributions must be received from individuals who reside in the district in which the candidate seeks office.

In addition, the bill requires a candidate who seeks a grant to agree not to accept any contributions from special interest ("political action") committees.

The bill revises grant amounts to the following, irrespective of contributions received from other sources:

- 1. For candidates for the office of governor and lieutenant governor jointly, \$670,000.
- 2. For a candidate for the office of attorney general, \$135,000.
- 3. For a candidate for the office of secretary of state, state treasurer, superintendent of public instruction or justice of the supreme court, \$67,000.
- 4. For a candidate for the office of state senator, ~~\$50,000~~ <sup>\$40,000</sup>
- 5. For a candidate for the office of representative to the assembly, ~~\$25,000~~ <sup>\$20,000</sup>

In addition to these amounts, the bill provides that a candidate who accepts a grant shall receive an additional grant in an amount equal to 1) the amount of any contributions that are received by committees for the purpose of making independent disbursements to oppose that candidate or to support that candidate's opponent; 2) the total amount of contributions that conduits report they have transferred or intend to transfer to opposing candidates; and 3) the total amount of contributions accepted by opposing candidates above the level for which 24-hour reports are required.

Under the bill, qualifying amounts and grant amounts are subject to a biennial cost-of-living adjustment, beginning in 2000, in accordance with a formula tied to the "consumer price index" determined by the U.S. department of labor.

**Penalties for violations**

Currently, violators of the campaign finance law are subject to a forfeiture (civil penalty) of not more than \$500 for each violation, except that violators of contribution limitations are subject to a forfeiture of not more than treble the amount unlawfully contributed. In addition, currently, any person who is delinquent in filing a report is subject to a forfeiture of not more than \$50 or one percent of the annual salary of the office for which a candidate is being supported or opposed, whichever is greater, for each day of delinquency. Currently, any person who makes an unlawful contribution is subject to a forfeiture of treble 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 ~~three years~~, or both, if the violation exceeds \$100 in amount or value.

This bill provides that if any candidate or other individual or committee, including a conduit, accepts or transfers a contribution, makes a disbursement or

*Special interest*  
*and the total amount of contributions that those committees that report to make it tend to make to oppose that candidate or to support that candidate's opponent*

*4 years and 6 months*

*\$20,000*

*\$40,000*

*4*

**SENATE BILL 113**

incurs an obligation to make a disbursement for the purpose of supporting or opposing a candidate for a major state office (governor, lieutenant governor, attorney general, secretary of state, state treasurer, state superintendent of public instruction, or justice of the supreme court) or for the purpose of making certain communications by means of communications media (see above) without first registering and reporting to the extent required under the bill, the offender is subject to a forfeiture (civil penalty) of not more than \$500 for each day of violation. The bill also provides that if any of these individuals or committees accepts or transfers one or more contributions, makes one or more disbursements or incurs one or more obligations to make disbursements for such a purpose in an amount that is more or less than the amount reported by that individual or committee:

1. By more than 5% but not more than 10%, the individual or committee must forfeit four times the amount of the difference.

2. By more than 10% but not more than 15%, the individual or committee must forfeit six times the amount of the difference.

3. By more than 15%, the individual or committee must forfeit eight times the amount of the difference.

The bill also provides that if the amount of contributions accepted or transferred, disbursements made, or obligations incurred differs from the amount reported by at least 15% and the violations are of sufficient severity to have affected the result of the election, the elections board, the district attorney for any county where a violation occurs, or any candidate who is adversely affected by the result of the election in connection with which the violation occurred may file suit to have the election nullified and to have a new election ordered for the affected office.

In addition, the bill imposes a new penalty upon any person who, with intent to conceal or deceive, accepts or transfers a contribution, makes a disbursement, or incurs an obligation to make a disbursement for the purpose of supporting or opposing a candidate for a major state office or for the purpose of making certain communications by means of communications media (see above) without registering or reporting to the extent required under the bill, consisting of a fine of not more than \$10,000 or imprisonment for not more than five years, or both (equivalent to a class E felony).

***Lobbying expenditure tax***

This bill imposes a tax on lobbying principals (persons who employ lobbyists) at the rate of ten percent on lobbying expenditures that are reportable to the ethics board. The tax is payable to the department of revenue semiannually.

***Nonseverability***

Currently, if any part of an act is found by a court to be invalid, those parts that are valid are severed from the invalid part and the severed parts continue in force. This bill provides that if any part of the act resulting from enactment of the bill is found by a court to be invalid, then all parts of the act are void.

## SENATE BILL 113

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

STET  
anale line

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 5.02 (13) of the statutes is amended to read:

2           5.02 (13) "Political party" or "party" means a state committee registered under  
3 s. 11.05 organized exclusively for political purposes under whose name candidates  
4 appear on a ballot at any election, and all county, congressional, legislative, local and  
5 other affiliated committees authorized to operate under the same name. For  
6 purposes of ch. 11, the term does not include a legislative campaign committee or a  
7 committee filing an oath under s. 11.06 (7).

8           **SECTION 2.** 5.02 (18) of the statutes is amended to read:

9           5.02 (18) "September primary" means the primary held the 2nd Tuesday in  
10 September to nominate candidates to be voted for at the general election, and to  
11 determine which candidates for state offices other than district attorney may  
12 participate in the ~~Wisconsin election campaign~~ clean government fund.

13           **SECTION 3.** 7.08 (2) (c) and (cm) of the statutes are amended to read:

14           7.08 (2) (c) As soon as possible after the canvass of the spring and September  
15 primary votes, but no later than the first Tuesday in March and the 4th Tuesday in  
16 September, transmit to the state treasurer a certified list of all eligible candidates  
17 for state office who have filed applications under s. 11.50 (2) and ~~whom~~ who the board  
18 determines to be eligible to receive payments from the ~~Wisconsin election campaign~~  
19 clean government fund. The board shall also transmit a similar list of candidates  
20 who the board determines to be eligible to receive a grant under s. 11.50 (9) (b) or (ba)  
21 within 3 days after any candidate qualifies to receive such a grant. Each list shall

25-24

Insert ~~the~~

SECTION #. CR; 11.31(6)(c)

11.31(6)(c) Disbursements which are made or obligated to be made

by a candidate of a political party for the office of

governor or lieutenant governor who has an opponent

whose name is certified to appear on the ballot as a

candidate for the party nomination of his or her party

in the September primary election and which are made or

<sup>obligated</sup>  
~~obligated~~ to be made on or before the date of the primary

election are not subject to any  
~~may not be charged against~~ the disbursement

limitation ~~to the campaign~~ except that the disbursements

~~are subject to~~ § 11.25(4)(b)

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

1534/1dn  
LRBs0406/1dn  
JTK:cmr:jf

+ RSM  
WJ

March 14, 2000

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 s. 11.01 (16) (a) 3., which requires registration and reporting by individuals who or committees that make certain communications within 60 days of an election containing the reference to a candidate at that election, an office to be filled at that election, or political party, appears to extend beyond the boundaries which the court permitted in 1976. As a result, its enforceability 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*, 67 U.S.L.W. 4148 (U.S. CA, 4th Cir., 1999), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*.

168 F.3d at 705

NOTE TO 3rd d. Court (page)

2) Proposed s. 11.50 (9) (b) to (bc), which increase the public grants payable to certain candidates when independent disbursements are made against them or their opponents, or when their opponents raise more than a specified level of contributions from certain sources, or when special interest committees, including conduits, report that they intend to make or transfer contributions to their opponents, and proposed s. 11.31 (3p), which increases disbursement limitations by an amount equal to any grant received under proposed s. 11.50 (9) (b) to (bc) may result in an abridgement of the First Amendment rights of the persons making the disbursements or contributions.

See *Day v. Holahan*, 34 F.3d 1356 (8th Cir., 1994), in which a Minnesota law that included provisions similar to proposed s. 11.31 (3p) was voided. While this case expressly involved only independent expenditures, since this case and other federal cases hold that the making of a contribution is a protected First Amendment right, the same issue could be raised in the context of contributions. It should be noted that there are there are viable arguments to be made on both sides of this issue, this case is not

1) 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 these statutes were challenged.

~~binding in Wisconsin because it did not arise in the circuit that includes Wisconsin and the U.S. Supreme Court has not yet spoken on this issue.~~

2 Proposed s. 11.62, which permits a court to nullify an election if certain violations of the campaign finance law are sufficient to have affected the election result, raises legal issues that make it difficult to predict how it will be applied. In *State ex rel. La Follette v. Kohler*, 200 Wis. 518 (1930), the Wisconsin Supreme Court held that the legislature has the power to void the election of a candidate who procured his nomination by illegal means. However, this case did not apply to a legislative candidate. In the case of a legislative candidate, the result might be affected by article IV, section 7, of the Wisconsin Constitution, which makes each house the judge of the elections, returns, and qualifications of its members. Additionally, under this draft, violations that result in nullification of a candidate's election may be committed by persons other than the candidate. Also, if a candidate takes office and must be removed, it is generally held that where a constitution prescribes methodology for removal of officeholders (as does the Wisconsin Constitution), that methodology is exclusive. See 67 C.J.S. Officers s. 120, p. 486.

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

U.S. Supreme Court

(a) Proposed s. 11.12 (6) (b) and (c), which impose a waiting period of up to 21 days before certain contributions may be transferred or accepted or before certain disbursements may be made or obligations to make disbursements may be incurred.

(b) Proposed s. 11.12 (7) <sup>(a), (b), (c), and (d)</sup> which imposes additional reporting requirements upon candidates who decline to accept disbursement and contribution limitations and restrictions.

(c) Proposed s. 11.24 (1t), which prohibits certain candidates and their personal campaign committees from accepting contributions within 10 days of an election in which the candidates participate.

Insert from first page

(d)

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

+ RJM

Although the U.S. Circuit Court of Appeals that covers Wisconsin has not addressed the constitutionality of this type of provision, the U.S. Court of Appeals for the 6th Circuit has indicated that this type of provision may be constitutional, provided the provision allows a candidate to contribute an unlimited amount to his or her own campaign during this period. See *Cable v. Patton*, 142 F.3d 940 (6th Cir. 1998), (cert. den.) 525 U.S. 1177 (1998).

[ITAL]

BUDGET language 20.512(N)(9) 20.855



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

LRB-1534/1dn  
JTK&RMJ:wlj:jf

January 10, 2001

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 s. 11.01 (16) (a) 3., which requires registration and reporting by individuals who or committees that make certain communications within 60 days of an election containing the reference to a candidate at that election, an office to be filled at that election, or political party, appears to extend beyond the boundaries which the court permitted in 1976. As a result, its enforceability 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), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*.

2. Proposed s. 11.62, which permits a court to nullify an election if certain violations of the campaign finance law are sufficient to have affected the election result, raises legal issues that make it difficult to predict how it will be applied. In *State ex rel. La Follette v. Kohler*, 200 Wis. 518 (1930), the Wisconsin Supreme Court held that the legislature has the power to void the election of a candidate who procured his nomination by illegal means. However, this case did not apply to a legislative candidate. In the case of a legislative candidate, the result might be affected by article IV, section 7, of the Wisconsin Constitution, which makes each house the judge of the elections, returns and qualifications of its members. Additionally, under this draft, violations that result in nullification of a candidate's election may be committed by persons other than the candidate. Also, if a candidate takes office and must be removed, it is generally held that where a constitution prescribes methodology for removal of officeholders (as does the Wisconsin Constitution), that methodology is exclusive. See 67 C.J.S. Officers s. 120, p. 486.

3. I also want to note briefly that a few of the provisions of this draft are innovative, and we do not yet have, to my knowledge, specific guidance from the 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 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 (6) (b) and (c), which impose a waiting period of up to 21 days before certain contributions may be transferred or accepted or before certain disbursements may be made or obligations to make disbursements may be incurred.

(b) Proposed s. 11.12 (7) (a), (b), (c), and (d), which imposes additional reporting requirements upon candidates who decline to accept disbursement and contribution limitations and restrictions.

(c) Proposed s. 11.24 (1t), which prohibits certain candidates and their personal campaign committees from accepting contributions within 10 days of an election in which the candidates participate. Although the U.S. Circuit Court of Appeals that covers Wisconsin has not addressed the constitutionality of this type of provision, the U.S. Court of Appeals for the 6th circuit has indicated that this type of provision may be constitutional, provided the provision allows a candidate to contribute an unlimited amount to his or her own campaign during the period. See *Gable v. Patton*, 142 F.3d 940 (6th cir. 1998), *Cert. den.* 525 U.S. 1177 (1998).

(d) Proposed s. 11.50 (9) (b) to (bc), which increase the public grants payable to certain candidates when independent disbursements are made against them or their opponents, or when their opponents raise more than a specified level of contributions from certain sources, or when special interest committees, including conduits, report that they intend to make or transfer contributions to their opponents, and proposed s. 11.31 (3p), which increases disbursement limitations by an amount equal to any grant received under proposed s. 11.50 (9) (b) to (bc). 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 these statutes were challenged.

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

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



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

January 11, 2001

### MEMORANDUM

To: Senator Ellis

From: Jeffery T. Kuesel, Managing Attorney

Re: LRB-1534 Campaign finance changes

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

\_\_\_ JACKET FOR ASSEMBLY  JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-6778 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.