

**2001 DRAFTING REQUEST**

**Bill**

Received: 12/18/2000

Received By: **kuesejt**

Wanted: **As time permits**

Identical to LRB:

For: **Gary George (608) 266-2500**

By/Representing: **Dan Rossmiller**

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

Drafter: **kuesejt**

May Contact:

Alt. Drafters: **rmarchan**

Subject: **Elections - campaign finance**

Extra Copies: **Ron Sklansky- LCS (e mail)**

**Pre Topic:**

No specific pre topic given

**Topic:**

Campaign financing for the office of justice

**Instructions:**

Per SSA 1 to 1999 SB-181 + SA 1 and SA 2 to SSA 1, with changes attached.

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/5	kuesejt 03/08/2001	wjackson 03/08/2001	martykr 03/08/2001	_____	lrb_docadmin 03/08/2001	lrb_docadmin 03/12/2001	

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*3/6 [Signature]*

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FE Sent For:

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JTK  
2

# State of Wisconsin



GARY R. GEORGE  
SENATOR

MEMORANDUM

CONFIDENTIAL

TO: Jeffrey T. Kuesel,  
Legislative Reference Bureau Drafting Attorney

FROM: Dan Rossmiller *[Signature]*

DATE: December 15, 2000

RE: Drafting Request

Senator George would like to have a version 1999 Senate Bill 181, relating to campaign financing with respect to the office of justice of the supreme court, re-drafted for re-introduction in the 2001 Legislative Session.

The draft should be based on the version of the bill passed by the Senate (Senate Substitute Amendment 1 to 1999 Senate Bill 181 as affected by Senate Amendments 1 and 2 to Substitute Amendment 1), with the changes outlined in the attached document.

Senator George would like to hold a public hearing on a draft of this bill as early as possible in the upcoming session.

Please feel free to contact me (6-2500) if you have any questions or if you need additional information.

Thank you for your assistance.

## CHANGES

- Change the definition of “independent disbursement” to go beyond “express advocacy.” Page 6, line 21.

REVISION: “Independent disbursement” means a disbursement in excess of \$2000 in the aggregate for one or more communications that, during the 30-day period preceding any primary election for justice or the 60-day period preceding any general election for justice, name or otherwise clearly identify a candidate for the office of justice. Any disbursement that is made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of a candidate, shall be deemed a contribution to a candidate.

- Revise the matching funds provision for third-party advocacy.

REVISION: Delete the current version of section 11.513 and substitute as follows: 11.513 Independent disbursements. (1) If any person makes an independent disbursement, that person shall file with the board a report of such disbursement. Such reports shall be filed on the 15<sup>th</sup> or last day of the month, whichever comes first immediately following the date of the disbursement, except that, within 60 days of the date of the spring primary or election, the person shall file such reports on a weekly basis and on a schedule set by the board, and within 14 days of the date of the spring primary or election, the person shall file such reports within 48 hours after each independent disbursement is made. Any such person shall file additional reports after each additional \$2,000 of independent disbursements are made.

(2) An independent disbursement report shall contain the following information: (i) the name of the candidate(s) identified in the communication. (ii) a statement declaring whether the communication was intended to support or oppose the named candidate(s), and a statement of the total amount spent on the disbursement. For the purpose of distributing matching funds, the board shall have the authority to determine whether an independent disbursement supports or opposes a particular named candidate.

(3) An eligible candidate shall be entitled to additional funds beyond the initial public financing benefit when the sum of independent disbursements that oppose the eligible candidate’s nomination or election and the independent disbursements that support the nomination or election of an opponent of the eligible candidate equals at least 20% of the initial public financing benefit for that office in the relevant campaign.

(4) Immediately after the due date for the filing of independent disbursement reports, including on a daily basis during the final six weeks prior to an election, the board shall immediately credit an eligible candidate’s account with any independent disbursements to which the candidate is entitled under this section.

(5) An eligible candidate’s total public funding benefit for any primary or election is limited to 4 times the initial public financing benefit for the relevant primary or election.

- Define “person” for purposes of the statute.

REVISION: On page 7, between lines 9 and 10, add as a new subsection: “ ‘Person’ means any individual, corporation, association, business enterprise or other legal entity either public



or private and any legal successor, representative, agent or agency of that individual, corporation, association, business enterprise or other legal entity.” Renummer the remaining definitions.

- Return to the language contained in the earlier S.B. 181 concerning “lines of credit.”

REVISIONS:

–On page 12, delete the current version of section 11.510(2), and substitute: “The board shall determine a candidate’s eligibility for public funding for a spring primary within three business days from the time that the candidate submits his certification and list of qualifying contributions. The board shall process applications for public funding in the order received. Upon determining eligibility, the board shall immediately distribute to each eligible candidate his or her line of credit for public financing.”

–On page 12, delete the current version of section 11.510(3) and substitute: “The board shall determine a candidate’s eligibility for public funding for a general election within two business days from the time of the completion of a spring primary election. If, however, no spring primary election will be held, then the board shall determine a candidate’s eligibility for public funding for the general election within three business days from the time that nominations for the office closed. The board shall process applications for public funding in the order received. Upon determining eligibility, the board shall immediately distribute to each eligible candidate his or her line of credit for public financing.”

–On page 13, line 5, change “separate checks” to “separate lines of credit,” and add “11.513” at the end of the sentence.

–On page 13, lines 13-16, substitute: “(2) Except as provided in ss. 11.509, 11.512, and 11.513, the initial public financing benefit for a primary election campaign period is \$100,000. (3) Except as provided in ss. 11.509, 11.512, and 11.513, the initial public financing benefit for an election campaign is \$300,000.”

–On page 15, revert to the original version of Senate Bill 181 for section 11.515(1) and (2). Delete the current version of section 11.515(3) and substitute: “(3) Eligible candidates are permitted to establish a separate checking account for campaign expenditures. Funds may be freely transferred between an eligible candidate’s debit card and the candidate’s campaign checking account. No eligible candidate or agent of an eligible candidate may make any disbursement by any other means than through the use of the fair election debit card or the campaign checking account. No candidate or agent may utilize cash for campaign expenditures, except that cash amounts of \$100 or less may be drawn on the fair election debit card and used to make disbursements of no more than \$25. A candidate shall maintain records of all cash disbursements and shall report such disbursements to the board in accordance with s. 11.506.”

**SENATE AMENDMENT 1,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 1999 SENATE BILL 181**

March 28, 2000 – Offered by Senator GEORGE.

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

- 2 **1.** Page 4, line 20: delete the material beginning with that line and ending with  
3 page 5, line 1.
- 4 **2.** Page 7, line 1: delete lines 1 to 6.
- 5 **3.** Page 7, line 12: delete “30 days” and substitute “the day”.
- 6 **4.** Page 13, line 7: delete “, 11.512” and substitute “or 11.512 (2)”.
- 7 **5.** Page 13, line 8: delete “(2) or 11.519 (2).” and substitute “(2).”.
- 8 **6.** Page 13, line 13: delete “ss. 11.512 (2) and 11.519 (2)” and substitute “s.  
9 11.512 (2)”.
- 10 **7.** Page 13, line 15: delete “ss. 11.512 (2) and 11.519 (2)” and substitute “s.  
11 11.512 (2)”.



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

LRBf95/1dn  
JTK:cmh:hmh

March 29, 2000

Senator Ellis:

To fully effect your intent, this amendment requires insertion of references to proposed s. 11.513 (2) in proposed s. 11.511 (1), (2) and (3) [page 13, lines 8, 13 and 15 of SSA 1 to SB-181].

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

# State of Wisconsin



received  
1/15/01 JJK

GARY R. GEORGE  
SENATOR

MEMORANDUM

CONFIDENTIAL

TO: Jeffrey T. Kuesel, Managing Attorney  
Legislative Reference Bureau Drafting Section

FROM: Dan Rossmiller *DR*

DATE: January 9, 2001

RE: Amendment to Earlier Drafting Request

**Background:**

On December 15, 2000, I forwarded to you a memo indicating that Senator George would like to have a version 1999 Senate Bill 181, relating to campaign financing with respect to the office of justice of the supreme court, re-drafted for re-introduction in the 2001 Legislative Session.

In that memo I indicated that the draft should be based on the version of the bill passed by the Senate (Senate Substitute Amendment 1 to 1999 Senate Bill 181 as affected by Senate Amendments 1 and 2 to Substitute Amendment 1), with the changes outlined in an attached document.

**Change to Earlier Memo:**

The draft should now incorporate the changes indicated in the attached memo. Part 1 of the attached memo contains the changes that were indicated as part of the original request. Part 2 contains a set of additional changes that Senator George wishes to incorporate into the draft.

Please feel free to contact me (6-2500) if you have any questions or if you need additional information. Thank you for your assistance.

P.S.: As I noted in the original request, Senator George wishes to hold a public hearing on a draft of this bill as early as possible in the 2001-02 session. Please let me know when we will be able to receive a draft so that we may plan our hearing accordingly. (I can also e-mail you a copy of the attached memo.)

---

I have reviewed the Wisconsin Impartial Justice Act (specifically Senate Substitute Amendment 1 to 1999 Senate Bill 181 and Senate Amendments 1 and 2 to Substitute Amendment 1). The purpose of this memo is to suggest revisions to the Impartial Justice Act and to suggest other changes that may improve the Act, both in terms of surviving legal challenges and practicality.

In Part I, below, I have included suggestions for implementing the idea of allowing candidates to utilize a "line of credit" and matching program for third-party electioneering ads. In Part II below, I have included a number of additional suggested revisions. These revisions are presented in the order that they would appear in the Substitute Amendment.

### Part I

✓ Change the definition of "independent disbursement" to go beyond "express advocacy." Page 6, line 21. *This is the one part of the IJA where I believe it is worth taking a stand in somewhat uncharted legal waters. Although courts have had some trouble with defining independent expenditures beyond "express advocacy," the IJA does not impose any direct restrictions on independent expenditures, but merely requires disclosure of the total amount spent. This minimal burden is required if the system of providing matching funds is to succeed. I have used objective criteria similar to the McCain-Feingold language for defining an independent disbursement. I have, however, suggested using a higher dollar threshold to forestall other possible First Amendment criticisms.*

REVISION: "Independent disbursement" means a disbursement in excess of \$2000 in the aggregate for one or more communications that, during the 30-day period preceding any primary election for justice or the 60-day period preceding any general election for justice, name or otherwise clearly identify a candidate for the office of justice. Any disbursement that is made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of a candidate, shall be deemed a contribution to a candidate.

✓ Revising the matching funds provision for third-party advocacy. Senate Amendment 2. *The current version of the IJA does not contain sufficient detail concerning what information will be contained in the independent disbursement reports and how the amount of matching funds will be calculated. Additionally, the 24 hour reporting requirements for the final six weeks of the election may be more onerous than is necessary.*

REVISION: Delete the current version of section 11.513 and substitute as follows:

**“11.513 Independent disbursements.** (1) If any person makes an independent disbursement, that person shall file with the board a report of such disbursement. Such reports shall be filed on the 15th or last day of the month, whichever comes first immediately following the date of the disbursement, except that, within 60 days of the date of the spring primary or election, the person shall file such reports on a weekly basis and on a schedule set by the board, and within 14 days of the date of the spring primary or election, the person shall file such reports within 48 hours after each independent disbursement is made. Any such person shall file additional reports after each additional \$2,000 of independent disbursements are made.

(2) An independent disbursement report shall contain the following information: (i) the name of the candidate(s) identified in the communication, (ii) a statement declaring whether the communication was intended to support or oppose the named candidate(s), and a statement of the total amount spent on the disbursement. For the purpose of distributing matching funds, the board shall have the authority to determine whether an independent disbursement supports or opposes a particular named candidate.

(3) An eligible candidate shall be entitled to additional funds beyond the initial public financing benefit when the sum of independent disbursements that oppose the eligible candidate's nomination or election and the independent disbursements that support the nomination or election of an opponent of the eligible candidate equals at least 20% of the initial public financing benefit for that office in the relevant campaign.

(4) Immediately after the due date for the filing of independent disbursement reports, including on a daily basis during the final six weeks prior to an election, the board shall immediately credit an eligible candidate's account with any independent disbursements to which the candidate is entitled under this section.

(5) An eligible candidate's total public funding benefit for any primary or election is limited to 4 times the initial public financing benefit for the relevant primary or election.

- X Need to define "person" for purposes of the statute. Page 7, between lines 9 and 10. *In the current version of the IJA, there is no definition of "person," although the term is used in reference to, among other things, those making independent disbursements.*

REVISION: On page 7, between lines 9 and 10, add as a new subsection:

"Person" means any individual, corporation, association, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that individual, corporation, association, business enterprise or other legal entity." Renumber the remaining definitions.

- ✓ Return to the language contained in the earlier S.B. 181 concerning "lines of credit." *The previous version of Senate Bill 181 was based on the notion of granting candidates a bank debit card and transferring public funds into the eligible candidate's account. Such a system should be essentially equivalent to allowing an eligible candidate to obtain a line of credit from a bank for the purpose of responding to last-minute third-party or opponent ads. In either case, the money should not be available until it is clear that the candidate is entitled to an additional matching allocation under the JIA.*

✓ REVISIONS:

-- On page 12, delete the current version of section 11.510(2), and substitute:

"The board shall determine a candidate's eligibility for public funding for a spring primary within three business days from the time that the candidate submits his certification and list of qualifying contributions. The board shall process applications for public funding in the order received. Upon determining eligibility, the board shall immediately distribute to each eligible candidate his or her line of credit for public financing."

-- On page 12, delete the current version of section 11.510(3) and substitute:

"The board shall determine a candidate's eligibility for public funding for a general election within two business days from the time of the completion of a spring primary election. If, however, no spring primary election will be held, then the board shall determine a candidate's eligibility for public funding for the general election within three business days from the time that nominations for the office closed. The board shall process applications for public funding in the order received. Upon determining eligibility, the board shall immediately distribute to each eligible candidate his or her line of credit for public financing."

✓ -- On page 13, line 5, change "separate checks" to "separate lines of credit," and add "11.513" at the end of the sentence.

✓ -- On page 13, lines 13-16, substitute:

"(2) Except as provided in ss. 11.509, 11.512 and 11.513, the initial public financing benefit for a primary election campaign period is \$100,000. (3) Except as provided in ss. 11.509, 11.512 and 11.513, the initial public financing benefit for an election campaign is \$300,000."

✓ -- On page 15, revert to the original version of Senate Bill 181 for section 11.515(1) and (2). Delete the current version of section 11.515(3) and substitute:



“(3) Eligible candidates are permitted to establish a separate checking account for campaign expenditures. Funds may be freely transferred between an eligible candidate’s debit card and the candidate’s campaign checking account. No eligible candidate or agent of an eligible candidate may make any disbursement by any other means than through the use of the fair election debit card or the campaign checking account. No candidate or agent may utilize cash for campaign expenditures, except that cash amounts of \$100 or less may be drawn on the fair election debit card and used to make disbursements of no more than \$25. A candidate shall maintain records of all cash disbursements and shall report such disbursements to the board in accordance with s. 11.506.”

## Part II

✓ • Consider changing \$1,000 contribution limit for political committees to \$5,000. Page 3, lines 19-20. *The Impartial Justice Act (IJA), when combined with other current Wisconsin law, currently has the anomaly of allowing contributions of only \$1,000 from political committees to justices, while permitting political committees to make larger contributions to other lower judicial offices, e.g, \$2,500 to \$3,000 for court of appeals judges, depending on the population of the district. I suggest pairing your \$1,000 individual contribution limit for justices with a \$5,000 limit from committees. This would be consistent with the federal scheme under FECA, and would assist in foreclosing an argument that you are infringing the First Amendment associational rights under the First Amendment.*

✓ • Consider clarifying the definition of “Eligible candidate.” Page 6, lines 4-9. *As currently drafted, the definition of “eligible candidate” contains some ambiguity, since the clause “who qualifies for public financing” could technically refer to either the candidate or the opponent, both of which are mentioned in the same sentence.*

### **REVISION: Substitute:**

“‘Eligible candidate’ means a candidate for the office of justice who (i) has an opponent who has qualified to have his or her name certified for placement on the ballot at the spring primary or election and (ii) qualifies for public financing by . . . .”

✓ • Consider choosing a new phrase for “noncomplying candidate.” Pages 6, 14, and 18. *Several portions of the IJA contain references to “noncomplying candidates.” This language tends to suggest a violation of the requirements of the law, rather than the mere failure to engage in a voluntary act. A word change here will help foreclose a First Amendment argument that the scheme is intended to be coercive.*

**REVISION: On page 6, lines 11 and 12; page 14, lines 11, 12, and 19; and page 18, lines 17-22, substitute “nonparticipating candidate” for “noncomplying candidate.”**

✓  
Consider expanding the ability to make “qualifying” and “seed money” contributions. Page 7, line 23. *Currently you require seed money contributions to come from “an elector of the jurisdiction or district in which the candidate seeks office.” Although it is common to have this type of requirement for “qualifying contributions,” which are meant to gauge local support, “seed money” will often come from a candidate’s friends and relatives, many of whom may live outside the relevant electoral district. Such contributors typically are not looking for something from the candidate, and if the candidate is really running for the first time, it might be easier for him to ask his friends and relatives for \$100 start-up contributions. These are not corrupting amounts, regardless of where they come from. Also consider expanding “elector” to “resident” for qualifying contributions. This is a more inclusive formula, and the aim should be to bring more participants into the system, both through voting and through contributions.*

**REVISION: Delete on lines 24-25 the language “by an elector of the jurisdiction or district in which the candidate seeks office.” On lines 19-20 change “an elector” to “a resident.”**

✓  
Consider deleting “aggregate amount” qualifying criteria. Page 8, lines 16-17. *Currently eligible candidates must collect at least 1,000 qualifying contributions in the \$5 to \$100 range. However, section 11.502(2) adds the further requirement that the aggregate amount raised be between \$5,000 and \$15,000. The minimum is already covered, since 1,000 contributors, each giving the \$5 minimum, would yield \$5,000. However, do you really want to disqualify someone who receives 1,000 contributions averaging \$20 each? It may be hard for someone who is receiving a significant number of \$20 and \$25 contributions to calibrate this exactly, especially if volunteers and others are collecting the money.*

**REVISION: Delete from page 8, lines 16-17: “and in an aggregate amount of not less than \$5,000 nor more than \$15,000.”**

✓  
Consider clarifying the timing for applying for public funding. Page 9, lines 9-12 and page 12, lines 4-10. *Currently section 11.503 and section 11.510 both address the timing for applying for public funding, but they do not do so in a consistent manner. It is my understanding that you would like to require the board to certify candidates within three days after the deadline for submission of nominating papers.*

**REVISIONS:**

-- On page 9, delete past sentence of section 11.503(1) and substitute:  
“The application, including a complete list of qualifying contributions, shall be filed no later than three business days following the deadline for submission of nomination papers.”

-- At page 12, line 4, section “11.51” should be “11.510.” Also delete the current version of section 11.510(1), and substitute:

“To apply for a public financing benefit, a candidate shall, no later than 3 days following the deadline for submission of nominating papers, submit a list of

**qualifying contributions to the board and also certify to the board that the candidate has complied and will comply, throughout the applicable campaign, with all requirements of ss. 11.502 to 11.522 and that all disclosures required as of the time of application have been made. The candidate's request for certification and list of qualifying contributions shall be signed by the candidate and the candidate's campaign treasurer."**

✓ • Consider clarifying the availability of public funding in the spring election.  
Page 9, lines 13-15. *As currently written, the criteria for awarding public funding for the spring election does not appear to require that a candidate have been one of the two top finishers in the primary. Although this seems pretty obvious, you should probably add it as an explicit criteria.*

**REVISION: Add on page 9 at the end of line 15:**

**"If a primary was held, only eligible candidates who finished first and second in the primary are eligible for public financing for the spring election."**

✓ • Consider bringing some regularity to the dollar amounts relating to reporting.  
Page 10, lines 12-14. *As currently written, the IJA has created the anomaly of having certain reporting requirement for contributions under \$50 and certain reporting requirements for contributions over \$50, but not specified what applies to contributions that are exactly \$50.*

**REVISION: Modify language on page 10, lines 12-14 to say, "shall maintain records of all seed money and qualifying contributions received. These records shall contain the full name of the contributor and the contributor's full home address. In addition, if a contributor's . . . ."**

✓ • Consider adding a standard reporting form, with signature, for cash contributions.  
Page 11, lines 1-4. *Cash contributions are very difficult to verify, and therefore create the opportunity for fraud and abuse of the system.*

**REVISION: On page 11, at the end of line 4, add the following additional sentence: "Cash contributions must be acknowledged on a form provided by the board, which shall contain the name, home address, telephone number, and signature of both the donor and the person who accepted the cash donation."**

✓ • Consider limiting the total amount that can be raised and spent under seed money and qualifying contributions, with a reversion to the Democracy Trust Fund.  
Page 11, lines 10-16. *Under the current version of the IJA, there is no explicit cap on the amount of qualifying contributions that can be raised. (There is a cap of \$5,000 for seed money.) In order to assure that participating candidates will abide by the spirit on the Act, and fund their campaigns with at least 90% public funding, there should be a reversion to the Democracy Trust Fund if excessive contributions are raised. However, we must recognize that a prudent candidate will raise more in qualifying contributions than is strictly necessary, in order to protect against possible challenges to individual*

*donations. Rather than enact an upper limit on total contributions, which might inadvertently disqualify a candidate whose campaign was not keeping close track of his or her contribution totals on an ongoing basis, a reversion to the Fund appears appropriate for any excessive sums raised.*

**REVISION:** On page 11, delete current version of section 11.509 and substitute: “If an eligible candidate receives seed money contributions and qualifying contributions that total in excess of \$25,000, any excess funds raised must be deposited in the Democracy Trust Fund within 48 hours after the end of the exploratory period. Seed money contributions and qualifying contributions that total \$25,000 or less may be spent by the candidate at any time during or after the start of the exploratory period. All eligible candidates shall have their public financing benefit reduced by the amount of seed money and qualifying contributions raised.” Also eliminate on page 11, lines 17-19, sec. 11.508(2), which is inconsistent with the new language.

✓  
• Consider modifying the penalties for violations of the Act.

Page 12, line 24. *As currently written, the IJA requires a total loss of public funding for any violation of the act, no matter how minor. It is quite likely, however, that there will be at least some minor violations of the act, especially early on, even among well-intentioned candidates. I suggest saving the most severe penalties for knowing and willful violations, and having lesser, more calibrated fines for minor violations.*

**REVISION:** On page 12, line 24, substitute “knowingly and willfully violates” for “violates.” After that sentence, add: “If a candidate who receives a public financing benefit otherwise violates the requirements of ss. 11.502 to 11.522, the board shall require the candidate to repay a portion of the public funds received by the candidate to the board. Any such repayment shall be commensurate to the scope of the violation.”

✓  
• Consider modifying the threshold for commencing the expedited reporting requirement, and bringing the reporting requirements for candidates more in line with the reporting requirements for those making independent disbursements.

Page 14, line 15 - page 15, line 6. *As currently written, expedited reporting does not begin until the amount spent is five percent greater than the public financing benefit. You may want to consider starting earlier, for example, when the non-participating candidate reaches 90 percent of the public benefit amount. That's a pretty good indication that he or she is going to go over the amount, especially in light of the decision not to participate, which makes sense only if you plan to overspend.*

*Additionally, it may be useful to require nonparticipating candidates to adhere to a reporting schedule that more closely mirrors the reporting schedule for groups that make independent disbursements. However, while weekly reporting may be sufficient for non-candidate spenders, it is appropriate to require 48 hour notification for candidate spending close to an election.*

**REVISION:** (1) In addition to other reports required by law, a nonparticipating candidate for an office at a primary or election must file a report with the board 60

days prior to the primary or election itemizing the total contributions received and disbursements made by the candidate as of the date of the report. In addition, a noncomplying candidate who makes disbursements that total 90% of the public financing benefit shall, within 7 days, file a report with the board itemizing the total contributions received and disbursements made or obligated to be made by the candidate. The board shall transmit copies of the report to all candidates for the same office at the same election. A noncomplying candidate shall file additional reports after the candidate receives each additional \$1,000 of contributions, or the candidate makes each additional \$1,000 of disbursements. If such contributions are received or such disbursements are made more than 60 days prior to the date of the primary or election at which the name of the candidate appears on the ballot, or prior to the date that the primary election would be held, if a primary were required, such reports shall be made at the next regular reporting interval under s. 11.506. If such contributions are received or such disbursement made within 60 days of the date of the primary or election at which the of the candidate appears on the ballot, or within 60 days of the date that the primary election would be held, if a primary were required, such reports shall be made within 48 hours after each instance in which such contributions are received or such disbursements are made.

✓ • Consider clarifying the ceiling for matching funds.

Page 15, lines 7-10. *As currently written, there is some potential ambiguity concerning how much is available in matching funds. Does the phrase "but not to exceed 3 times the public financing benefit" mean a candidate can receive a total of no more than three times the original allocation or does it refer to the "additional amount" only?*

**REVISION:** On page 15, lines 7-10, substitute:

**"(2) Upon receipt of any report indicating that a noncomplying candidate has received contributions or made disbursements in excess of the public financing benefit applicable to the relevant primary or election, the board shall immediately credit an eligible candidate's account with an additional amount <sup>equivalent to the</sup> amount by which the noncomplying candidate has received contributions or made disbursements in excess of the initial public financing benefit for the relevant primary or election. However, any additional sums provided to the eligible candidate may not exceed 3 times the initial public financing benefit for the relevant primary or election. An eligible candidate's total public funding benefit for any primary or election is therefore limited to 4 times the initial public financing benefit for the relevant primary or election."**

*line of a original to*

✓ • On Page 17, line 11, renumber subsection (3), and make it subsection (2). ✕

✓ • Consider eliminating the required disclaimer for noncomplying candidate ads.

**Page 18 lines 21-24.** *The requirement under the IJA that noncomplying candidates put a disclaimer on their ads raises significant First Amendment issues. You may want to consider eliminating the section entirely. If not, I would suggest at least eliminating the last sentence. It is pretty neutral to say, "This communication is paid for with money raised from private sources." But saying, "The candidate has not agreed to abide by*

*campaign contribution and spending limits” may be interpreted as the State disfavoring the candidates who opt for private funding.*

NOTE

1999 - 2000 LEGISLATURE

-1551/1  
LRB 0368/1  
JTK/wlj/AMM  
+RJM:

WANTED by FR: 1/19

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1999 SENATE BILL 181**

LPS: Inserts  
are out of order.

March 7, 2000 - Offered by ~~JOINT COMMITTEE ON FINANCE.~~

(repeals)

1 **AN ACT** ~~to repeal 11.50 (3) (a) 2.; to amend 8.35 (4) (b), 11.12 (2), 11.16 (2) and~~  
2 ~~(3), 11.26 (1) (a), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.26 (13), 11.31 (1) (d),~~  
3 ~~11.33 (1) (a) (intro.), 11.50 (1) (a) 1. and 11.50 (3) (b); and to create 11.26 (1)~~  
4 ~~(am), 11.26 (2) (am), 11.26 (9) (ba), 11.33 (4), 11.501 to 11.522, 20.510 (1) (r),~~  
5 ~~20.585 (1) (q), 20.585 (1) (r), 20.855 (4) (bb), 25.17 (1) (cm) and 25.421/~~ of the  
6 statutes; **relating to:** campaign financing with respect to the office of justice  
7 of the supreme court, making appropriations and providing penalties.

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

ANALYSTS ↓

8 **SECTION 1.** 8.35 (4) (b) of the statutes is amended to read:  
9 8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys  
10 received by a candidate from the Wisconsin election campaign fund shall be  
11 immediately transferred to any candidate who is appointed to replace such  
12 candidate, upon filing of a proper application therefor under s. 11.50 (2). If there is

1 no candidate appointed or if no proper application is filed within 7 days of the date  
2 on which the vacancy occurs, such moneys shall revert to the state as provided in s.  
3 11.50 (8). Notwithstanding par. (a), any unspent and unencumbered moneys  
4 received by a candidate from the democracy trust fund shall be immediately  
5 transferred to any candidate who is appointed to replace such candidate. If there is  
6 no candidate appointed, the moneys shall revert to the state.

7 SECTION 2. 11.12 (2) of the statutes is amended to read:

8 11.12 (2) Any ~~No registrant, except a candidate who receives a public financing~~  
9 ~~benefit from the democracy trust fund,~~ <sup>no registrant</sup> may accept an anonymous contribution  
10 exceeding \$10 received by a campaign or committee treasurer or by an individual  
11 under s. 11.06 (7) may not be used or expended. ~~The.~~ No candidate who receives a  
12 public financing benefit from the democracy trust fund may accept an anonymous  
13 contribution exceeding \$5. Any anonymous contribution that may not be accepted  
14 under this subsection shall be donated to the common school fund or to any charitable  
15 organization at the option of the registrant's treasurer.

16 SECTION 3. 11.16 (2) ~~and (3)~~ of the statutes <sup>is</sup> amended to read:

17 11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. ~~Every~~ Except as provided in s.  
18 11.506 (6), every contribution of money exceeding \$50 shall be made by negotiable  
19 instrument or evidenced by an itemized credit card receipt bearing on the face the  
20 name of the remitter. No treasurer may accept a contribution made in violation of  
21 this subsection. The treasurer shall promptly return the contribution, or donate it  
22 to the common school fund or to a charitable organization in the event that the donor  
23 cannot be identified.

24 (3) ~~FORM OF DISBURSEMENTS.~~ Every ~~Except as authorized under s. 11.511(1).~~  
25 every disbursement which is made by a registered individual or treasurer from the



1 campaign depository account shall be made by negotiable instrument. Such  
 2 instrument shall bear on the face the full name of the candidate, committee,  
 3 individual or group as it appears on the registration statement filed under s. 11.05  
 4 and where necessary, such additional words as are sufficient to clearly indicate the  
 5 political nature of the registrant or account of the registrant. The name of a political  
 6 party shall include the word "party". The instrument of each committee registered  
 7 with the board and designated under s. 11.05 (3) (c) as a special interest committee  
 8 shall bear the identification number assigned under s. 11.21 (12) on the face of the  
 9 instrument.

10 **SECTION 4.** 11.26 (1) (a) <sup>x</sup> of the statutes is amended to read:

11 11.26 (1) (a) Candidates for governor, lieutenant governor, secretary of state,  
 12 state treasurer, attorney general, <sup>(am kvt)</sup> or state superintendent or justice, \$10,000.

13 **SECTION 5.** 11.26 (1) (am) <sup>x</sup> of the statutes is created to read:

14 11.26 (1) (am) Candidates for justice, \$1,000.

15 **SECTION 6.** 11.26 (2) (a) <sup>x</sup> of the statutes is amended to read:

16 11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,  
 17 state treasurer, attorney general, <sup>(am kvt)</sup> or state superintendent or justice, 4% of the value  
 18 of the disbursement level specified in the schedule under s. 11.31 (1).

19 **SECTION 7.** 11.26 (2) (am) <sup>x</sup> of the statutes is created to read:

20 11.26 (2) (am) Candidates for justice, <sup>\$5,000</sup> \$1,000.

21 **SECTION 8.** 11.26 (9) (a) <sup>x</sup> of the statutes is amended to read:

22 11.26 (9) (a) ~~No~~ Except as provided in par. (ba), <sup>✓</sup> no individual who is a candidate  
 23 for state or local office may receive and accept more than 65% of the value of the total  
 24 disbursement level determined under s. 11.31 for the office for which he or she is a  
 25 candidate during any primary and election campaign combined from all committees

1 subject to a filing requirement, including political party and legislative campaign  
2 committees.

3 SECTION 9. 11.26 (9) (b) of the statutes is amended to read:

4 11.26 (9) (b) ~~No~~ Except as provided in par. (ba), no individual who is a candidate  
5 for state or local office may receive and accept more than 45% of the value of the total  
6 disbursement level determined under s. 11.31 for the office for which he or she is a  
7 candidate during any primary and election campaign combined from all committees  
8 other than political party and legislative campaign committees subject to a filing  
9 requirement.

10 SECTION 10. 11.26 (9) (ba) of the statutes is created to read:

11 11.26 (9) (ba) Paragraphs (a) and (b) do not apply to a candidate who receives  
12 a public financing benefit from the democracy trust fund.

13 SECTION 11. 11.26 (13) of the statutes is amended to read:

14 11.26 (13) ~~Except~~ as provided in sub. (9), contributions received from the  
15 Wisconsin election campaign fund and public financing benefits received from the  
16 democracy trust fund <sup>and except</sup> are not subject to limitation by this section.

17 SECTION 12. 11.31 (1) (d) of the statutes is amended to read:

18 11.31 (1) (d) Candidates for secretary of state, state treasurer, <sup>justice</sup> or state  
19 superintendent, \$215,625.

20 SECTION 13. 11.33 (1) (a) (intro.) of the statutes is amended to read:

21 11.33 (1) (a) (intro.) ~~No~~ Except as provided in sub. (4), no person elected to state  
22 or local office who becomes a candidate for national, state or local office may use  
23 public funds for the cost of materials or distribution for 50 or more pieces of  
24 substantially identical material distributed after:

25 SECTION 14. 11.33 (4) of the statutes is created to read:

1 ~~11.33 (4) This section does not apply to a candidate for the office of justice.~~

2 SECTION 15. 11.50 (1) (a) 1. of the statutes is amended to read:

3 11.50 (1) (a) 1. With respect to a spring or general election, any individual who  
4 is certified under s. 7.08 (2) (a) as a candidate in the spring election for justice or state  
5 superintendent, or an individual who receives at least 6% of the vote cast for all  
6 candidates on all ballots for any state office, except district attorney, for which the  
7 individual is a candidate at the September primary and who is certified under s. 7.08  
8 (2) (a) as a candidate for that office in the general election, or an individual who has  
9 been lawfully appointed and certified to replace either such individual on the ballot  
10 at the spring or general election; and who has qualified for a grant under sub. (2).

11 SECTION 16. 11.50 (3) (a) 2. of the statutes is repealed.

12 SECTION 17. 11.50 (3) (b) of the statutes is amended to read:

13 11.50 (3) (b) If a vacancy occurs in the office of state superintendent or justice  
14 after August 15 in any year, and an election is scheduled to fill the vacancy at the  
15 spring election in the following year, the state treasurer shall transfer an amount not  
16 exceeding 8% of the moneys transferred to the fund on the preceding August 15 to  
17 the superintendency account for the office in which the vacancy occurs, such moneys  
18 to be drawn from any account within the accounts created under sub. (4) in the  
19 amount or amounts specified by the board.

20 SECTION 18. 11.501 to 11.522 of the statutes are created to read:

21 11.501 Definitions. In ss. 11.501 to 11.522:

22 (1) "Allowable contribution" means a qualifying contribution, seed money  
23 contribution, or personal contribution authorized under ss. 11.502 to 11.522.

24 (2) "Campaign" has the meaning given in s. 11.26 (17).

JWS  
5-23

1 (3) "Election campaign period" means the period beginning on the day after the  
2 spring primary election or the day on which a primary election would be held, if  
3 required, and ending on the day of the succeeding spring election.

: 7 (a) has

4 (4) "Eligible candidate" means a candidate for the office of justice who has an  
5 opponent who has qualified to have his or her name certified for placement on the  
6 ballot at the spring primary or election and who <sup>Qualifies for a</sup> ~~qualifies for~~ public financing <sup>benefit</sup> by  
7 collecting the required number of qualifying contributions, making all required  
8 reports and disclosures, and being certified by the board as being in compliance with  
9 ss. 11.502 to 11.522.

10 (5) "Excess disbursement amount" means the amount of disbursements made  
11 by a ~~noncomplying~~ <sup>nonparticipating</sup> candidate in excess of the public financing benefit available to an  
12 eligible candidate for the same office that the ~~noncomplying~~ <sup>nonparticipating</sup> candidate seeks.

13 (6) "Excess qualifying contribution amount" means the amount of qualifying  
14 contributions accepted by a candidate beyond the number or dollar amount of  
15 contributions required to qualify a candidate for a public financing benefit.

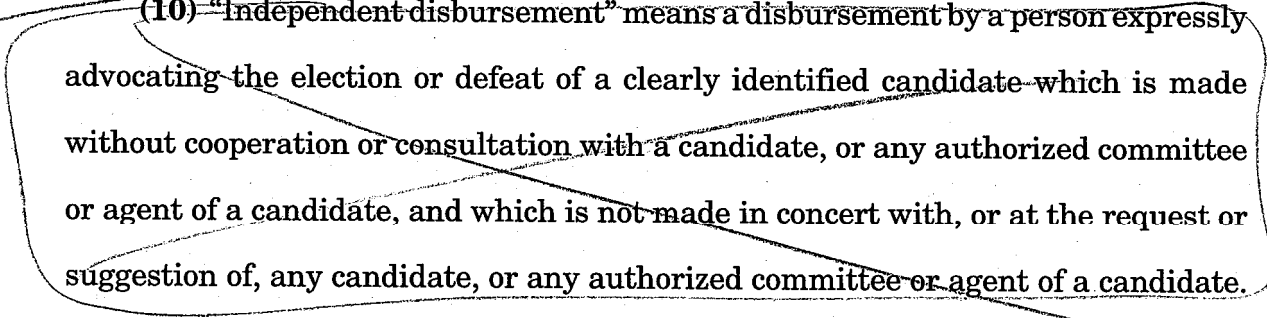
16 (7) "Exploratory period" means the period that begins after the date of a spring  
17 election and ends on the first day of the public financing qualifying period for the next  
18 election for justice.

19 (9) "Immediate family", when used with reference to a candidate, includes the  
20 candidate's spouse and children.

21 (10) "Independent disbursement" means a disbursement by a person expressly  
22 advocating the election or defeat of a clearly identified candidate which is made  
23 without cooperation or consultation with a candidate, or any authorized committee  
24 or agent of a candidate, and which is not made in concert with, or at the request or  
25 suggestion of, any candidate, or any authorized committee or agent of a candidate.

hrs  
6-18

hrs  
6-21



1 ~~(11) "Mass mailing" means a districtwide or statewide mailing of newsletters,~~  
 2 ~~pamphlets, brochures or other similar items of more than 100 pieces in which the~~  
 3 ~~content of the matter mailed is substantially identical. "Mass mailing" does not~~  
 4 ~~include a mailing made in direct response to communications from persons to whom~~  
 5 ~~the matter is mailed, a mailing to a federal, state or local government official or a~~  
 6 ~~news release to communications media.~~

7 ~~(12) "Noncomplying candidate" means a candidate for the office of justice who~~  
 8 ~~does not apply for a public financing benefit or who otherwise is ineligible or fails to~~  
 9 ~~qualify for a public financing benefit under ss. 11.502<sup>1</sup> to 11.522.<sup>1</sup>~~

10 (13) "Personal funds" means funds contributed by a candidate or a member of  
 11 a candidate's immediate family.

12 (14) "Primary election campaign period" means the period beginning <sup>on the day</sup> 30 days  
 13 after the last day prescribed by law for filing nomination papers for <sup>the</sup> that office <sup>of justice</sup> and  
 14 ending on the day of the spring primary election for that office or the day on which  
 15 the primary election would be held, if required.

16 (15) "Public financing qualifying period" means the period beginning on the  
 17 first day of July of any year and ending on the day before the beginning of the primary  
 18 election campaign period for that office.

19 (16) "Qualifying contribution" means a contribution made to a candidate by ~~an~~  
 20 ~~elector of the jurisdiction or district in which the candidate seeks office during the~~  
 21 ~~public financing qualifying period, which is acknowledged by written receipt~~  
 22 ~~identifying the contributor.~~  
 23 <sup>a resident of this state</sup>

24 (17) "Seed money contribution" means a contribution in an amount of not more  
 25 than \$100 made to a candidate by ~~an elector of the jurisdiction or district in which~~  
~~the candidate seeks office during the exploratory period or the public financing~~

1 qualifying period, or a contribution made to a candidate consisting of personal funds  
2 of that candidate in an amount not more than the amount authorized under s. 11.507  
3 during the exploratory period or the public financing qualifying period.

the office of

election for the office of justice is held

4 **11.502 Qualification certification.** (1) Before a candidate for justice in the

5 primary election may be certified as an eligible candidate to receive a public  
6 financing benefit for the primary election campaign period, the candidate shall apply  
7 to the board for a public financing benefit and file a sworn statement that the  
8 candidate has complied and will comply with all requirements of ss. 11.502 to 11.522

9 throughout the applicable campaign which includes the primary and election for  
10 that office. A candidate shall file the application and statement no later than ~~the~~  
11 5 p.m. on the 3rd business day after the last day prescribed by  
12 law for filing nomination papers for the office that the candidate  
seeks.

together with the list of qualifying contributions required

under s. 11.51(1)

13 (2) A candidate shall be certified by the board as an eligible candidate for  
14 receipt of public financing <sup>a benefit</sup> for a primary election if the candidate complies with sub.

15 (1) and receives at least 1,000 qualifying contributions in amounts equal to not less  
16 than \$5 nor more than \$100 and in an aggregate amount of not less than \$5,000 nor  
17 more than \$15,000 before the close of the public financing qualifying period.

18 (3) The board shall verify a candidate's compliance with the requirements of  
19 sub. (2) by such verification and sampling techniques as the board considers  
20 appropriate.

21 (4) Each candidate shall:

22 (a) Acknowledge each qualifying contribution by a receipt to the contributor  
23 which <sup>that</sup> contains the contributor's name and home address.

24 (b) No later than the 15th or the last day of the month <sup>that</sup> which immediately  
25 follows the date of receipt of a qualifying contribution, whichever comes first, file a

*If a spring primary for the office of justice is held and a candidate is nominated at the primary to have his or her name appear as*

1

copy of the receipt under par. (a) with the board, except that during July, August, and September a copy need only be filed on the last day of the month.

2

3

(5) A qualifying contribution may be utilized only for the purpose of making a disbursement authorized by law.

4

5

**11.503 Time of application.** (1) ~~Before~~ a candidate may be certified as

6

*an eligible candidate to receive a benefit for receipt of public financing for a spring election, the candidate shall apply to the board and file a sworn statement that the candidate has fulfilled all the*

7

8

requirements of ss. 11.502 to 11.522 during the primary election campaign period

9

and will comply with such requirements during the election campaign period. The

10

*A candidate shall file the application shall be filed no later than the 14th day after the date of the spring primary*

11

election or the day on which the primary election would be held if a primary were

12

required.

13

(2) The board shall certify a candidate as an eligible candidate for receipt of

14

public financing for a spring election if the candidate *qualifies under sub(1) to receive the benefit and the candidate* complies with sub. (1) and the

15

~~candidate was an eligible candidate during the primary election campaign period.~~

16

**11.505 Agreement by candidate.** An eligible candidate who accepts a public

17

financing benefit under ss. 11.502 to 11.522 during the primary election campaign

18

period shall agree to comply with all requirements of ss. 11.502 to 11.522 throughout

19

the election campaign period during the same campaign as a precondition to receipt

20

of *a* public financing *benefit*. An eligible candidate who accepts a public financing benefit

21

during a primary election campaign period may not elect to accept private

22

contributions in violation of ss. 11.502 to 11.522 during the corresponding election

23

campaign period.

24

**11.506 Requirements imposed upon candidates.** (1) An eligible

25

candidate may not accept private contributions other than seed money contributions

*the spring election, that candidate may apply to the board to receive a public financing benefit for the spring election. Before a candidate*

~~11.505 Agreement by candidate. An eligible candidate who accepts a public financing benefit under ss. 11.502 to 11.522 during the primary election campaign period shall agree to comply with all requirements of ss. 11.502 to 11.522 throughout the election campaign period during the same campaign as a precondition to receipt of public financing. An eligible candidate who accepts a public financing benefit during a primary election campaign period may not elect to accept private contributions in violation of ss. 11.502 to 11.522 during the corresponding election campaign period.~~

1 and qualifying contributions that the candidate accepts during the exploratory  
2 period and the public financing qualifying period.

3 (2) In addition to reports required to be filed under ss. 11.12 (5) and 11.20, a  
4 candidate who receives a public financing benefit shall furnish complete financial  
5 records, including records of seed money contributions, qualifying contributions, and  
6 disbursements, to the board on the 15th or the last day of the month that  
7 immediately follows the receipt of the contribution or the making of the  
8 disbursement, whichever comes first, except that during July, August, and  
9 September records need only be furnished on the last day of the month. Each such  
10 candidate shall cooperate with any audit or examination by the board.

*complying with*

11 (3) In addition to ~~adhering to requirements imposed under~~ ss. 11.06 (5) and  
12 11.12 (3), a candidate who receives a public financing benefit shall maintain records  
13 of all <sup>seed money and qualifying</sup> contributions received by the candidate of more than \$5 but less than \$50,  
14 ~~including seed money contributions and qualifying contributions,~~ which shall  
15 contain the full name of the contributor and the contributor's full home address. In  
16 addition, if a contributor's aggregate contributions to any candidate exceed \$50 for  
17 any campaign, the candidate shall also maintain a record of the contributor's  
18 principal occupation and the name and business address of the contributor's place  
19 of employment.

*These records*

*to which the information relates*

*in accordance with*

20 (4) <sup>the</sup> ~~The~~ failure to record or provide ~~the~~ information specified in sub. (3)  
21 disqualifies a contribution from <sup>being counted</sup> counting as a qualifying contribution. *under s. 11.502(2)*

22 (5) No eligible candidate and no person acting on a candidate's behalf may  
23 deposit any contribution that is not recorded in accordance with sub. (3) in a  
24 candidate's campaign depository account.



1 (6) No eligible candidate may accept more than \$25 in cash from any  
2 contributor and no such candidate may accept cash from all sources in a total amount  
3 greater than one-tenth of 1% of the public financing benefit for the office that the  
4 candidate seeks or \$500, whichever is greater.

*of justice*  
*each contributor with a written acknowledgement of each contribution received, on a*  
*form*

5 **11.507 Personal funds of candidates.** (1) The personal funds of a candidate  
6 contributed as seed money contributions may not exceed an aggregate amount of  
7 \$5,000.

8 (2) No eligible candidate may make any disbursement derived from personal  
9 funds after the close of the public financing qualifying period.

*(prescribed by the board) which shall contain the name, address, home telephone number, and signature*

10 **11.508 Seed money contributions.** (1) An eligible candidate may accept  
11 seed money contributions from any individual or committee prior to the end of the  
12 public financing qualifying period, provided the total contributions from one  
13 contributor, except personal funds and qualifying contributions otherwise permitted  
14 under ss. 11.502 to 11.522, do not exceed \$100, and the aggregate contributions,  
15 including personal funds but not including qualifying contributions, do not exceed  
16 \$5,000.

*of the contributor and the person who receives the contribution*

17 (2) An eligible candidate may make disbursements derived from seed money  
18 contributions only during the exploratory period and the public financing qualifying  
19 period.

*PMS 11-20*

20 **11.509 Excess contributions.** If an eligible candidate receives excess seed  
21 money contributions or qualifying contributions on an aggregate basis, the  
22 candidate may retain the contributions and make disbursements derived from the  
23 contributions, in an amount not exceeding \$15,000. An amount equivalent to the  
24 excess contributions shall be deducted by the board from the candidate's public  
25 financing benefit. A candidate shall return to the board all seed money and

*NG 11*

received by the candidate exceeding a total of \$25,000  
 1 qualifying contributions that exceed the limits prescribed in this section within 48  
 2 hours after the end of the exploratory period. The board shall deposit all  
 3 contributions <sup>received</sup> returned under this section in the democracy trust fund.

4 **11.51 Certification by candidate.** (1) To apply for a public financing benefit,  
 5 a candidate shall certify to the board that the candidate has complied and will  
 6 comply, throughout the applicable campaign, with all requirements of ss. 11.502 to  
 7 11.522 and that all disclosures required as of the time of application have been made  
 8 and shall present evidence of the requisite number of qualifying contributions  
 9 received by the candidate. The candidate's request for certification shall be signed  
 10 by the candidate and the candidate's campaign treasurer.

11 (2) The board shall distribute to each eligible candidate at the spring primary  
 12 election a ~~check for~~ <sup>line of credit equal to</sup> the amount of the public financing benefit payable to the  
 13 candidate promptly after the candidate demonstrates his or her eligibility and, in  
 14 any event, not later than 5 days after the end of the public financing qualifying  
 15 period; however, no candidate may utilize a ~~check~~ <sup>line of credit</sup> received under this subsection  
 16 until the beginning of the primary election campaign period.

17 (3) The board shall distribute to each eligible candidate for justice at a spring  
 18 election a ~~check for~~ <sup>line of credit equal to</sup> the amount of the public financing benefit payable to the  
 19 candidate not later than 48 hours after the date of the spring primary election for the  
 20 office of justice, or the date that the primary election would be held if a primary were  
 21 required. However, no candidate for a particular office shall receive a ~~check~~ <sup>line of credit</sup> until all  
 22 candidates for the same office who apply and qualify for a public financing benefit  
 23 have been certified as eligible candidates.

24 (b)(6)(4) If <sup>a</sup> any candidate who receives a public financing benefit, <sup>intentionally</sup> violates the  
 25 requirements of ss. 11.502 to 11.522, the board shall require the candidate to repay

submit a list  
 identifying  
 the  
 requisite  
 number of  
 qualifying  
 contributions  
 under s.  
 11.502(2)  
 that have  
 been received  
 by  
 the  
 candidate  
 and  
 shall

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*JWS 13-1*

1 all public funds received by the candidate to the board. The board shall deposit all  
2 repayments received under this subsection in the democracy trust fund.

3 **11.511 Public financing benefits.** (1) The board shall provide to each  
4 eligible candidate who qualifies to receive a public financing benefit for the primary  
5 or election campaign period separate ~~checks~~ *lines of credit equal to* for the public financing benefits payable  
6 to the candidate for the primary <sup>or</sup> and election campaign periods in the amounts  
7 specified in this section, subject to any required adjustment under s. ~~11.502~~ *11.501* 11.512

8 (2) or ~~11.512(2)~~ *11.513(3)*. An eligible candidate may use this ~~public financing benefit~~ *credit* to  
9 finance any lawful disbursements during the primary and election campaign periods  
10 to further the election of the candidate in that primary or election. An eligible  
11 candidate may not use this ~~public financing benefit~~ *credit* to repay any loan, or in violation  
12 of ss. 11.502 to 11.522 or any other applicable law.

13 (2) Except as provided in ss. 11.512 (2) and ~~11.519 (2)~~ *11.513(3)*, the public financing  
14 benefit for a primary election campaign period is \$100,000 *initial*

15 (3) Except as provided in ss. 11.512 (2) and ~~11.519 (2)~~ *11.513(3)*, the public financing  
16 benefit for an election campaign period is \$300,000 *initial*

17 (4) If there is no spring primary election for the office of justice, no eligible  
18 candidate may receive a public financing benefit for the primary election campaign  
19 period.

20 (5g) An eligible candidate who receives a public financing benefit in the  
21 primary election campaign period and whose name is certified to appear on the ballot  
22 at the election following that primary may utilize any unencumbered balance of the  
23 ~~public financing benefit~~ *line of credit* received by the candidate in the primary election campaign  
24 period for the election campaign period.

*11.513(3) initial*  
*less the total amount of seed money and qualifying contributions accepted by the candidate*  
*the candidate that not were deducted from a benefit received under sub. (2)*

1 (5r) Except as permitted in sub. (5g), an eligible candidate who receives a  
 2 public financing benefit and who does not encumber or expend some portion of the  
 3 benefit for a purpose described in sub. (1) shall return any unencumbered portion of  
 4 the benefit to the board within 30 days after the primary or election in which the  
 5 candidate participates.

6 (6) Notwithstanding subs. (2) and (3), beginning on July 1, 2002, and every 2  
 7 years thereafter, the board shall modify the public financing benefits provided for in  
 8 subs. (2) and (3) to adjust for the change in the consumer price index, all items, U.S.  
 9 city average, published by the U.S. department of labor for the preceding 2-year  
 10 period ending on December 31.

11 **11.512 Financial activity by nonparticipating candidates.** (1) In addition  
 12 to other reports required by law, a nonparticipating candidate for an office of Justice  
 13 or election who receives contributions or makes or obligates to make disbursements  
 14 in an amount more than 5% greater than the public financing benefit applicable to  
 15 an eligible candidate for the same office at the same primary or election shall file a  
 16 report with the board, itemizing the total contributions received and disbursements  
 17 made or obligated to be made by the candidate as of the date of the report. The board  
 18 shall transmit copies of the report to all candidates for the same office at the same  
 19 election. A nonparticipating candidate shall file additional reports after the candidate  
 20 receives each additional \$1,000 of contributions, or the candidate makes or obligates  
 21 to make each additional \$1,000 of disbursements. If such contributions are received  
 22 or such disbursements are made or obligated to be made more than 60 days  
 23 prior to the date of the primary election at which the name of the candidate appears on the  
 24 ballot, or prior to the date that the primary election would be held, if a primary were  
 25 required, such reports shall be made at the next regular reporting interval under s.

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nonparticipating

nonparticipating the office of Justice

no later than 60 days prior to the spring primary

nonparticipating

60 days

or, if  
no  
spring  
primary  
is held  
for the  
office of  
Justice, no  
later than  
60 days  
prior to  
the date  
that the  
primary  
would be  
held, if  
required.  
The report  
shall contain  
an itemized  
statement of

1 11.506. If such contributions are received or such disbursements, <sup>are</sup> made or obligated  
 2 ~~to be made~~ <sup>60 days</sup> within 6 weeks prior to the date of the primary election at which the name  
 3 of the candidate appears on the ballot, or within <sup>60 days</sup> 6 weeks prior to the date that the  
 4 primary election would be held, if a primary were required, such reports shall be  
 5 made within <sup>48</sup> 24 hours after each instance in which such contributions are received

6 or such disbursements are made, <sup>④ The board shall transmit copies of all</sup> or obligated to be made.  
 reports received under this subsection to all candidates for the same office at the same election

7 <sup>FWS 15-7</sup> (2) Upon receipt of such information, the ~~state treasurer~~ <sup>board</sup> shall immediately  
 8 issue a check to an opposing eligible candidate in an additional amount equivalent <sup>credit each candidate's account with an additional</sup>  
 9 to the total excess disbursements made or obligated to be made, but not to exceed 3 <sup>times or credit equal</sup>  
 10 times the public financing benefit for the applicable office. <sup>(1)</sup>

11 **11.515 Democracy trust fund.** <sup>(1)</sup> The democracy trust fund shall be  
 12 administered by the state treasurer. <sup>(NOT)</sup>

13 **11.516 Administration.** Except as otherwise specifically provided in ss.  
 14 11.501 to 11.522, <sup>the board shall administer and enforce</sup> the duties of and authority for administering and enforcing ss.  
 15 11.501 to 11.522 are vested in the board.

16 **11.517 Penalties; enforcement.** (1) If an eligible candidate makes  
 17 disbursements that exceed the total amount of the public financing benefit allocated  
 18 to the candidate for any campaign and the total qualifying and seed money  
 19 contributions lawfully accepted by the candidate, the candidate may be required to  
 20 forfeit not more than 10 times the amount by which the disbursements exceed the  
 21 allocation.

22 (2) Any eligible candidate who accepts contributions in excess of any limitation  
 23 imposed under ss. 11.502 to 11.522 may be required to forfeit not more than 10 times  
 24 the amount by which the contributions exceed the applicable limitation.

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 FWS 15-10  
 FWS 15-1214  
 FWS 15-1317

1 (3) If the board finds that there is probable cause to believe that a candidate  
2 has made excess disbursements or has accepted excess contributions contrary to sub.  
3 (1) or (2),<sup>↓</sup> the board shall attempt<sup>↻</sup> for a period of not more than 14 days after its  
4 finding<sup>↻</sup> to correct the matter by informal methods of conference and conciliation and  
5 to enter into a settlement and conciliation agreement under s. 5.05 (1) (c)<sup>↓</sup> with the  
6 person involved. A settlement and conciliation agreement made pursuant to this  
7 subsection shall be a matter of public record. Unless violated, a settlement and  
8 conciliation agreement is a bar to any civil action under sub. (4).<sup>↓</sup>

9 (4) If the board has probable cause to believe that a candidate has made excess  
10 disbursements or has accepted excess contributions,<sup>↻</sup> and the board is unable to  
11 correct the matter by informal methods within the time prescribed in sub. (3),<sup>↓</sup> the  
12 board shall make a public finding of probable cause in the matter. After making a  
13 public finding, the board shall bring an action in the circuit court for Dane County  
14 to impose a forfeiture under sub. (1) or (2).<sup>↓</sup>

15 (5) If an<sup>and</sup> elector<sup>of this state</sup> believes that a candidate has violated ss. 11.502 to 11.522<sup>↓</sup> and  
16 ~~the elector is entitled to vote for or against the candidate in the election in connection~~  
17 ~~with which the violation is alleged to occur,~~ the elector may file a complaint with the  
18 board requesting it to take remedial action. If the board refuses to take remedial  
19 action or, within 30 days after the filing of such a complaint, fails to take remedial  
20 action, the elector may commence a civil action in the appropriate circuit court under  
21 sub. (4) requesting the court to impose a forfeiture under sub. (1)<sup>↓</sup> or (2).<sup>↓</sup>

22 (6) The board and courts shall expedite all proceedings under ss. 11.502<sup>↓</sup> to  
23 11.522<sup>↓</sup> so that all complaints brought prior to an election are resolved, to the extent  
24 possible, before the election is held.

1 (7) If a complaint brought under ss. 11.502 to 11.522 is resolved against the  
2 complainant and is found to have been brought in bad faith and without reasonable  
3 basis <sup>a</sup>therefor, the board or court may assess costs, including reasonable attorney  
4 fees, against the complainant.

5 **11.518 Prohibited acts.** (1) If a candidate or agent of a candidate knowingly  
6 accepts more contributions than the candidate is entitled to receive, or makes  
7 disbursements exceeding the total amount of the public financing benefit received  
8 by the candidate and the <sup>total amount of the</sup> qualifying and seed money contributions lawfully received  
9 by the candidate, the candidate or agent may be fined not more than \$25,000 or  
10 imprisoned for not more than 5 years or both.

11 (3) If, in connection with the receipt or disbursement of a public financing  
12 benefit for an election campaign, any person knowingly provides false information  
13 to the board <sup>g</sup>or knowingly conceals or withholds information from the board, that  
14 person may be fined not more than \$25,000 or imprisoned for not more than 5 years  
15 or both.

16 ~~**11.519 Mass mailings.** (1) No person may conduct any mass mailing using  
17 state funds on behalf of any person who is a candidate for the office of justice at the  
18 spring election during the period between December 1 preceding that election and  
19 May 31 following that election.~~

20 ~~(2) If any person uses state funds to conduct a mass mailing on behalf of any  
21 person who is a candidate for the office of justice at the spring election during the  
22 period between September 1 and November 30 preceding that election, the state  
23 treasurer shall immediately issue a check to all other eligible candidates for justice  
24 on behalf of whom the mailing is conducted in an amount equal to the cost of printing~~

tw 5 ✓  
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1 ~~and mailing of that mass mailing. The additional check may be used solely to fund~~  
2 ~~a mailing promoting the candidacy of the candidate who receives the check.~~

3 (3) A candidate for justice at the spring election who plans to use state funds  
4 for a mass mailing shall notify the board in writing of his or her intent to do so no later  
5 than September 1 preceding the spring election, and shall complete the mailing no  
6 later than the following November 30.

7 (4) All mass mailings funded by the state on behalf of any person who is a  
8 candidate for justice at the spring election during the period between September 1  
9 and November 30 preceding that election and all mass mailings authorized under  
10 sub. (2) shall be issue oriented and nonpolitical, shall not mention any of a  
11 candidate's opponents by name and shall be reviewed and approved by the board for  
12 compliance with such requirements in advance of the mailing.

13 (5) Except as permitted under sub. (2), no state funds may be used by any  
14 incumbent individual holding the office of justice to conduct a mass mailing on behalf  
15 of a candidate for that office at the spring election after November 30 preceding that  
16 election.

17 <sup>nonparticipating</sup>  
18 ~~noncomplying~~ **11.522 Contributions to noncomplying candidates; attributions.** (1) A  
19 <sup>nonparticipating</sup>  
20 ~~noncomplying~~ candidate may accept contributions from private sources without  
21 limitation, except that no person may make any contribution or contributions to a  
22 <sup>nonparticipating</sup>  
23 ~~noncomplying~~ candidate exceeding a total of \$1,000 during any campaign.

24 (2) Any electronic or print communication paid for or authorized by a  
<sup>nonparticipating</sup>  
~~noncomplying~~ candidate shall contain the following sentence: "This communication  
is paid for with money raised from private sources. ~~This candidate has not agreed~~  
~~to abide by campaign contribution and spending limits.~~"



1           **SECTION 19.** 20.005 (3) (schedule) of the statutes: at the appropriate place,  
2 insert the following amounts for the purposes indicated:

3

	<del>1999-00</del>	<del>2000-01</del>
	2001-02	2002-03

4           **20.510 Elections board**

5           (1) ADMINISTRATION OF ELECTION AND CAMPAIGN LAWS

6           (r) Democracy trust fund adminis-

7           tration	SEG	A	-0-	-0-
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8           **20.585 Treasurer, state**

9           (1) CUSTODIAN OF STATE FUNDS

10          (r) Democracy trust fund adminis-

11          tration	SEG	A	-0-	-0-
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12          **SECTION 20.** 20.510 (1) (r) of the statutes is created to read:

13           20.510 (1) (r) *Democracy trust fund administration.* From the democracy trust  
14 fund, the amounts in the schedule for the administration of ss. 11.501 to 11.522.

15          **SECTION 21.** 20.585 (1) (q) of the statutes is created to read:

16           20.585 (1) (q) *Democracy trust fund.* As a continuing appropriation, from the  
17 democracy trust fund, the moneys determined under ss. 11.501 to 11.522 to provide  
18 for payments to eligible candidates.

19          **SECTION 22.** 20.585 (1) (r) of the statutes is created to read:

20           20.585 (1) (r) *Democracy trust fund administration.* From the democracy trust  
21 fund, the amounts in the schedule for the administration of ss. 11.501 to 11.522.

22          **SECTION 23.** 20.855 (4) (bb) of the statutes is created to read:

23           20.855 (4) (bb) *Democracy trust fund transfer.* A sum sufficient equal to the  
24 amounts appropriated under ss. 20.510 (1) (r) and 20.585 (1) (r) and the amounts

1 required to provide public financing benefits that candidates qualify to receive from  
 2 the democracy trust fund, to be transferred from the general fund to the democracy  
 3 trust fund no later than the time required to make payments of grants under <sup>ss.</sup> 11.51  
 4 ~~(2) and (3)~~ <sup>(5)</sup>; 11.512(2) <sup>and</sup> 11.513(3) <sup>o</sup>

5 SECTION 24. 25.17 (1) (cm) <sup>v</sup> of the statutes is created to read:

6 25.17 (1) (cm) Democracy trust fund (s. 25.421) <sup>v</sup>;

7 SECTION 25. 25.421 <sup>v</sup> of the statutes is created to read:

8 **25.421 Democracy trust fund.** All moneys appropriated under s. 20.855 (4)  
 9 (bb) <sup>v</sup> and all moneys deposited in the state treasury under ss. 11.509 <sup>and</sup> 11.51 <sup>(6)</sup> ~~(4)~~ and  
 10 ~~11.511 (5)~~ constitute the democracy trust fund, to be expended for the purposes of  
 11 ss. 11.501 <sup>v</sup> to 11.522 <sup>v</sup>.

12 (END)