

## 2005 DRAFTING REQUEST

### Bill

Received: 10/11/2005

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pocan (608) 266-8570**

By/Representing: **Craig Trost**

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

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - campaign finance**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Pocan@legis.state.wi.us**

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Illegal campaign finance activity investigation

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### Instructions:

Per attached E mails, 10/11/05.

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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>
/?	jkuesel 01/05/2006	jdye 01/09/2006		_____			State
/1			pgreensl 01/09/2006	_____	sbasford 01/09/2006		State
/2	jkuesel 01/13/2006	kfollett 01/13/2006	pgreensl 01/13/2006	_____	lnorthro 01/13/2006	lnorthro 02/06/2006	

FE Sent For:

<END>

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/2	jkuesel 01/13/2006	kfollett 01/13/2006	pgreensl 01/13/2006	_____	lnorthro 01/13/2006		

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DRAFT on 2

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/1		12/cf 1/13	pgreensl 01/09/2006	_____	sbasford 01/09/2006		
/2	jkuesel 1/13/06		1/13 ps	1/13 ps			

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1/2/11	jkuesel 1/5/06	1/9/06 JK	1/9 JK	1/9 JK			

FE Sent For:

<END>

## **Kuesel, Jeffery**

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**To:** Trost, Craig  
**Subject:** RE: Bill Drafting Request

Craig,  
Thanks for the clarification. I will enter your request.

### ***Jeffery Kuesel***

*Managing Attorney  
Wisconsin Legislative Reference Bureau  
P.O.Box 2037  
Madison WI 53701-2037  
(608) 266-6778  
jeffery.kuesel@legis.state.wi.us*

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**From:** Trost, Craig  
**Sent:** Tuesday, October 11, 2005 3:38 PM  
**To:** Kuesel, Jeffery  
**Subject:** RE: Bill Drafting Request

There would be no other sources of funding under this bill. However, under the state's regular budget process, additional funds could be allocated.

Craig Trost  
Office of State Rep. Mark Pocan  
State Capitol, Room 322W  
Madison, WI 53708  
ph: 608.266.8570  
fax: 608.282.3678

---

**From:** Kuesel, Jeffery  
**Sent:** Tuesday, October 11, 2005 3:30 PM  
**To:** Trost, Craig  
**Subject:** RE: Bill Drafting Request

Craig,  
Would there be any other source of revenue for the fund besides the contributions forfeited by candidates?

### ***Jeffery Kuesel***

*Managing Attorney  
Wisconsin Legislative Reference Bureau  
P.O.Box 2037  
Madison WI 53701-2037  
(608) 266-6778  
jeffery.kuesel@legis.state.wi.us*

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**From:** Trost, Craig  
**Sent:** Tuesday, October 11, 2005 10:35 AM  
**To:** Kuesel, Jeffery  
**Subject:** Bill Drafting Request

Current law allows campaign committees to return donations to their source, give them to a non-profit organization or contribute them to the Common School Fund. In addition to current law, Rep. Pocan would like a bill drafted to expand current campaign finance law to create an "Illegal Activity Investigation Fund" to serve as a line item in the State Elections Board's budget, which would provide the SEB the financial resources to investigate illegal campaign activity. Furthermore,

Rep. Pocan would like to allow candidates to make contributions to the "Illegal Activity Investigation Fund" if they discover they have potentially illegal or tainted money in their campaign account.

Please feel free to contact me if you have any questions about this request.

Sincerely,

Craig Trost  
Office of State Rep. Mark Pocan  
State Capitol, Room 322W  
Madison, WI 53708  
ph: 608.266.8570  
fax: 608.282.3678



2005

Date (time) needed

MON 1/9

LRB - 3836, 1

BILL

JTK:jd:

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . . of the

statutes; relating to: investigation of illegal campaign finance activity, creating an illegal activity investigation fund and making an appropriation

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: . . . . . create → anal: → title: → head

For the subheading, execute: . . . . . create → anal: → title: → sub

For the sub-subheading, execute: . . . . . create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: . . . . . create → anal: → text

attached

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

SECTION #.



2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3836/lins2  
JTK.....

INS ANALYSIS

Currently, violations of the campaign finance law may be investigated and prosecuted as civil offenses by the Elections Board or by the district attorney for the county where a violation is alleged to occur. District attorneys may also prosecute criminal violations.

This bill creates a segregated state fund called the Illegal Activity Investigation Fund, which is financed by unrestricted gifts made to the fund by political committees and groups and other persons. Under the bill, moneys in the fund are appropriated to the Elections Board for the purpose of investigating suspected violations of the campaign finance law. this

Currently, with certain exceptions, a registrant under the campaign finance law may only use moneys that are solicited for political purposes for a political purpose. However, contributions that are received and accepted contrary to law and residual moneys on hand when a registrant discontinues campaign finance activity may be donated to the common school fund or to a charitable organization.

This bill permits any campaign finance registrant to donate money to the illegal activity investigation fund.

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

(end ins analysis)

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3836/lins  
JTK.....

**SECTION 1.** 8.35 (4) (a) 1. a. of the statutes is amended to read:

8.35 (4) (a) 1. a. Donated to the former candidate's local or state political party if the former candidate was a partisan candidate or donated to ~~the~~ a charitable organization or the illegal activity investigation fund, as directed by the former candidate's choice, ~~or to the charitable organization chosen candidate~~, or by the former candidate's next of kin if the former candidate is deceased, or if no choice is made returned to the donors on a proportional basis; or

NOTE: NOTE: Subpar. a. was amended eff. 7-1-03 by 2001 Wis. Act 109 as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

**SECTION 2.** 8.35 (4) (a) 1. a. of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

8.35 (4) (a) 1. a. If the former candidate was a partisan candidate, donated to the former candidate's local or state political party, donated to a charitable organization or transferred to the board for deposit in the Wisconsin election campaign fund or the illegal activity investigation fund, as instructed by the former candidate or, if the candidate left no instruction, by the former candidate's next of kin; or

**SECTION 3.** 8.35 (4) (a) 1. b. of the statutes is amended to read:

8.35 (4) (a) 1. b. If the former candidate was a nonpartisan candidate, donated to ~~the~~ a charitable organization or to the illegal activity investigation fund, as directed by the former candidate's choice ~~or the charitable organization chosen candidate~~ or by the former candidate's next of kin if the former candidate is deceased;

OR

NOTE: NOTE: Subpar. b. was amended eff. 7-1-03 by 2001 Wis. Act 109 as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

**SECTION 4.** 8.35 (4) (a) 1. b. (intro.) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

8.35 (4) (a) 1. b. (intro.) If the former candidate was a nonpartisan candidate, donated to a charitable organization or transferred to the board for deposit in the Wisconsin election campaign fund or the illegal activity investigation fund, as instructed by the former candidate or, if the candidate left no instruction, by the former candidate's next of kin; or

**History:** 1973 c. 334; 1975 c. 93; 1977 c. 107, 340; 1979 c. 110 s. 60 (11); 1979 c. 311; 1983 a. 484; 1985 a. 131 s. 3; 1985 a. 303 s. 88; 1985 a. 304; 1987 a. 391; 1993 a. 184; 1995 a. 225; 1999 a. 182; 2001 a. 109.

**SECTION 5.** 11.06 (1) (e) of the statutes is amended to read:

11.06 (1) (e) An itemized statement of contributions over \$20 from a single source donated to a charitable organization or, to the common school fund or to the illegal activity investigation fund, with the full name and mailing address of the donee.

**NOTE: NOTE:** Par. (e) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in *Wisconsin Realtors Assoc. v. Ponto*, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

**SECTION 6.** 11.06 (1) (e) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

11.06 (1) (e) An itemized statement of contributions over \$20 from a single source donated to a charitable organization or to the common school fund, with the full name and mailing address of the donee, and a statement of contributions over \$20 transferred to the board for deposit in the Wisconsin election campaign fund or the illegal activity investigation fund.

**History:** 1973 c. 334; 1975 c. 93 ss. 47 to 53, 119 (2); 1975 c. 199; 1979 c. 263, 328; 1985 a. 303; 1987 a. 370; 1989 a. 192; 1995 a. 16 s. 2; 2001 a. 109.

**SECTION 7.** 11.07 (5) of the statutes is amended to read:

11.07 (5) Any campaign treasurer or individual who knowingly receives a contribution made by an unregistered nonresident in violation of this section may

not use or expend such contribution but shall immediately return it to the source or at the option of the campaign treasurer or individual, donate the contribution to a charitable organization ~~or~~, to the common school fund, or to the illegal activity investigation fund.

NOTE: NOTE: Sub. (5) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

**SECTION 8.** 11.07 (5) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

11.07 (5) Any campaign treasurer or individual who knowingly receives a contribution made by an unregistered nonresident in violation of this section may not use or expend such contribution but shall immediately return it to the source or at the option of the campaign treasurer or individual, donate the contribution to a charitable organization or to the common school fund or transfer the contribution to the board for deposit in the Wisconsin election campaign fund or the illegal activity investigation fund.

History: 1973 c. 334; 1975 c. 93, 199; 1991 a. 316; 2001 ~~103~~, 109.

**SECTION 9.** 11.12 (2) of the statutes is amended to read:

11.12 (2) Any anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. The contribution shall be donated to the common school fund or the illegal activity investigation fund or to any charitable organization at the option of the treasurer.

NOTE: NOTE: Sub. (2) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

**SECTION 10.** 11.12 (2) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

11.12 (2) Any anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. The contribution shall be donated to the common school fund or to any charitable organization or transferred to the board for deposit in the Wisconsin election campaign fund or the illegal activity investigation fund, at the option of the treasurer.

History: 1973 c. 334; 1975 c. 93 ss. 59, 60, 119 (2); 1975 c. 199; 1979 c. 328 ss. 53, 69 to 71, 146; 1985 a. 303; 1987 a. 370; 2001 a. 109.

**SECTION 11.** 11.16 (2) of the statutes is amended to read:

11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. Every contribution of money exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized credit card receipt bearing on the face the name of the remitter. No treasurer may accept a contribution made in violation of this subsection. The treasurer shall promptly return the contribution, or donate it to the common school fund or the illegal activity investigation fund, or to a charitable organization in the event that the donor cannot be identified.

NOTE: NOTE: Sub. (2) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

**SECTION 12.** 11.16 (2) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. Every contribution of money exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized credit card receipt bearing on the face the name of the remitter. No treasurer may accept a contribution made in violation of this subsection. The treasurer shall promptly return the contribution, donate the contribution to the common school fund or to a charitable organization, or transfer the contribution to the board for deposit

in the Wisconsin election campaign fund or the illegal activity investigation fund in the event that the donor cannot be identified.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328; 1985 as 303; 2001 a. 109.

**SECTION 13.** 11.19 (1) of the statutes is amended to read:

11.19 (1) Whenever any registrant disbands or determines that obligations will no longer be incurred, and contributions will no longer be received nor disbursements made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant shall file a termination report with the appropriate filing officer. Such report shall indicate a cash balance on hand of zero at the end of the reporting period and shall indicate the disposition of residual funds. Residual funds may be used for any political purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, or donated to a charitable organization or, the common school fund or the illegal activity investigation fund. The report shall be filed and certified as were previous reports, and shall contain the information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall pay the fee imposed under that subsection with a termination report filed under this subsection. If a termination report or suspension report under sub. (2) is not filed, the registrant shall continue to file periodic reports with the appropriate filing officer, no later than the dates specified in s. 11.20. This subsection does not apply to any registrant making an indication under s. 11.05 (2r).

NOTE: NOTE: Section 11.19 (title) and (1) are amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

**SECTION 14.** 11.19 (1) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

11.19 (1) Whenever any registrant disbands or determines that obligations will no longer be incurred, and contributions will no longer be received nor disbursements

made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant shall file a termination report with the appropriate filing officer. Such report shall indicate a cash balance on hand of zero at the end of the reporting period and shall indicate the disposition of residual funds. Residual funds may be used for any political purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, transferred to the board for deposit in the Wisconsin election campaign fund or donated to a charitable organization, the common school fund, or the illegal activity investigation fund. The report shall be filed and certified as were previous reports, and shall contain the information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall pay the fee imposed under that subsection with a termination report filed under this subsection. If a termination report or suspension report under sub. (2) is not filed, the registrant shall continue to file periodic reports with the appropriate filing officer, no later than the dates specified in s. 11.20 and, if the registrant files reports under s. 11.21 (16), no later than the times specified in s. 11.21 (16). This subsection does not apply to any registrant making an indication under s. 11.06 (2m).

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1985 a. 303; 1997 a. 27; 2001 a. 109.

**SECTION 15.** 11.26 (1t) of the statutes, as created by 2001 Wisconsin Act 109, is repealed and recreated to read:

11.26 (1t) The limitations under sub. (1m) apply to any candidate for legislative office who files an affidavit under s. 11.31 (2m) (a) but who the board determines is ineligible to receive a grant from the Wisconsin election campaign fund, who withdraws his or her application for a grant under s. 11.50 (2) (h), or to whom s. 11.50 (2) (i) applies, unless the candidate subsequently files an affidavit under s. 11.31 (2m) (b). Any such candidate who has received a contribution that exceeds the amount



specified for the office the candidate seeks under sub. (1m) before the date on which a limitation under sub. (1m) applies to the candidate shall return the excess amount of the contribution to the contributor, donate it to the common school fund or to any charitable organization, or transfer it to the board for deposit in the Wisconsin election campaign fund or the illegal activity investigation fund. If a candidate for legislative office files an affidavit under s. 11.31 (2m) (b), the limitations under sub. (1) apply to that candidate beginning on the date that the affidavit is filed.

NOTE: NOTE: Sub. (1t) was created eff. 7-1-03 by 2001 Wis. Act 109. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

History: 1973 c. 334; 1975 c. 93 ss. 89 to 95; 119 (1); 1975 c. 200; 1977 c. 107, 187; 1977 c. 427 s. 132; 1979 c. 263, 328; 1979 c. 355 s. 32; 1983 a. 183, 186; 1985 a. 303 ss. 44 to 55m, 86; 1987 a. 27, 370; 1989 a. 31, 492; 1995 a. 27 s. 9145 (1); 1995 a. 219, 225; 1999 a. 32; 2001 a. 109.

**SECTION 16.** 11.26 (2t) of the statutes, as created by 2001 Wisconsin Act 109,

is repealed and recreated to read:

11.26 (2t) The limitations under sub. (2m) apply to any candidate for legislative office who files an affidavit under s. 11.31 (2m) (a) but who the board determines is ineligible to receive a grant from the Wisconsin election campaign fund, who withdraws his or her application for a grant under s. 11.50 (2) (h), or to whom s. 11.50 (2) (i) applies, unless the candidate subsequently files an affidavit under s. 11.31 (2m) (b). Any such candidate who has received a contribution that exceeds the amount specified for the office the candidate seeks under sub. (2m) before the date on which a limitation under sub. (2m) applies to the candidate shall return the excess amount of the contribution to the contributor, donate it to the common school fund or to any charitable organization, or transfer it to the board for deposit in the Wisconsin election campaign fund or the illegal activity investigation fund. If a candidate for legislative office files an affidavit under s. 11.31 (2m) (b), the limitations under sub. (2) apply to that candidate beginning on the date that the affidavit is filed.

NOTE: NOTE: Sub. (2t) was created eff. 7-1-03 by 2001 Wis. Act 109. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District

of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

History: 1973 c. 334; 1975 c. 93 ss. 89 to 95; 119 (1); 1975 c. 200; 1977 c. 107, 187; 1977 c. 427 s. 132; 1979 c. 263, 328; 1979 c. 355 s. 32; 1983 a. 183, 186; 1985 a. 303 ss. 44 to 55m, 86; 1987 a. 27, 370; 1989 a. 30, 492; 1995 a. 27 s. 9145 (1); 1995 a. 219, 225; 1999 a. 32; 2001 a. 109.

**SECTION 17.** 11.38 (6) of the statutes is amended to read:

11.38 (6) Any individual or campaign treasurer who receives funds in violation of this section shall promptly return such funds to the contributor or donate the funds to the common school fund or the illegal activity investigation fund or a charitable organization, at the treasurer's option.

NOTE: NOTE: Sub. (6) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

**SECTION 18.** 11.38 (6) of the statutes, as affected by 2001 Wisconsin Act 109, is repealed and recreated to read:

11.38 (6) Any individual or campaign treasurer who receives funds in violation of this section shall promptly return such funds to the contributor, donate the funds to the common school fund or a charitable organization or transfer the funds to the board for deposit in the Wisconsin election campaign fund or the illegal activity investigation fund, at the treasurer's option.

History: 1973 c. 334; 1975 c. 93; 1977 c. 427; 1979 c. 328; 1985 a. 303 ss. 71, 72, 86; 1987 a. 370; 1991 a. 316; 2001 a. 109.

**SECTION 19.** 11.65 of the statutes is created to read:

**11.65 Donations to illegal activity investigation fund.** Any committee, group, or other person may make an unrestricted donation to the illegal activity investigation fund by gift or bequest.

**SECTION 20.** 20.510 (1) (qm) of the statutes is created to read:

20.510 (1) (qm) *Investigation of illegal campaign finance activity.* From the illegal activity investigation fund, a sum sufficient to investigate suspected illegal campaign finance activity.

**SECTION 21.** 25.17 (1) (hs) of the statutes is created to read:

\* 25.17 (1) (hs) Illegal activity investigating fund (s. 25.426);

<sup>x</sup>  
**SECTION 22.** 25.426 of the statutes is created to read:

✓  
**25.426 Illegal activity investigation fund.** There is established a separate  
✓  
nonlapsible trust fund to be designated as the illegal activity investigation fund,  
✓  
consisting of all moneys donated to the fund.

(END)

✓  
MS  
9A

-3836/1

LRB-2364/lins  
JTK.....

INSERT  
9A

#  
**SECTION 35. Nonstatutory provisions.**

(1) Notwithstanding section 990.001 (1) of the statutes, if a court finds that all or any portion of section ~~11.06 (4) (b) or (5), 11.19 (1), 11.20 (1) or (7), 11.21 (16), 11.38 (8) (b), 11.50 (2) (g) or (9) (c) or 11.61 (1) (a)~~ <sup>8.35(4)(a) 1. a. and b. (intro), 11.06(1)(e), 11.07(5), 11.12(2), 11.16(2), 11.19(1), 11.26(1) or (2) or 11.38(6)</sup> of the statutes, as repealed and recreated by this act, or any part of the laws specified in 2001 Wisconsin Act 109, section 9115 (2y), is unconstitutional, then the repeal and recreation of sections ~~11.06 (4) (b) and (5), 11.19 (1), 11.20 (1) and (7), 11.21 (16), 11.38 (8) (b), 11.50 (2) (g) and (9) (c) and 11.61 (1) (a)~~ <sup>8.35(4)(a) 1. a. and b., 11.06(1)(e), 11.07(5), 11.12(2), 11.16(2), 11.19(1), 11.26(1) and (2) and 11.38(6)</sup> of the statutes by this act is void in its entirety.

(end ins 9A)



DNOTE  
State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-3836/1

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Fai 1/13  
**2005 BILL**

Regen

1     **AN ACT to amend** 8.35 (4) (a) 1. a., 8.35 (4) (a) 1. b., 11.06 (1) (e), 11.07 (5), 11.12  
2             (2), 11.16 (2), 11.19 (1) and 11.38 (6); **to repeal and recreate** 8.35 (4) (a) 1. a.,  
3             8.35 (4) (a) 1. b., 11.06 (1) (e), 11.07 (5), 11.12 (2), 11.16 (2), 11.19 (1), 11.26 (1t),  
4             11.26 (2t) and 11.38 (6); and **to create** 11.65, 20.510 (1) (qm), 25.17 (1) (hs) and  
5             25.426 of the statutes; **relating to:** investigation of illegal campaign finance  
6             activity, creating an illegal activity investigation fund and making an  
7             appropriation.

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***Analysis by the Legislative Reference Bureau***

Currently, violations of the campaign finance law may be investigated and prosecuted as civil offenses by the Elections Board or by the district attorney for the county where a violation is alleged to occur. District attorneys may also prosecute criminal violations.

This bill creates a segregated state fund called the "Illegal Activity Investigation Fund," which is financed by unrestricted gifts made to the fund by political committees and groups and other persons. Under the bill, moneys in this fund are appropriated to the Elections Board for the purpose of investigating suspected violations of the campaign finance law.

Currently, with certain exceptions, a registrant under the campaign finance law may only use moneys that are solicited for political purposes. However,

**BILL**

contributions that are received and accepted contrary to law and residual moneys on hand when a registrant discontinues campaign finance activity may be donated to the common school fund or to a charitable organization.

This bill permits any campaign finance registrant to donate money to the illegal activity investigation fund.

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

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

1           **SECTION 1.** 8.35 (4) (a) 1. a. of the statutes is amended to read:

2           8.35 (4) (a) 1. a. Donated to the former candidate's local or state political party  
3 if the former candidate was a partisan candidate or donated to ~~the a~~ a charitable  
4 organization ~~of or the illegal activity investigation fund, as directed by the former~~  
5 ~~candidate's choice, or to the charitable organization chosen~~ candidate, or by the  
6 former candidate's next of kin if the former candidate is deceased, or if no choice is  
7 made returned to the donors on a proportional basis; or

8           **SECTION 2.** 8.35 (4) (a) 1. a. of the statutes, as affected by 2001 Wisconsin Act  
9 109, is repealed and recreated to read:

10           8.35 (4) (a) 1. a. If the former candidate was a partisan candidate, donated to  
11 the former candidate's local or state political party, donated to a charitable  
12 organization or transferred to the board for deposit in the Wisconsin election  
13 campaign fund or the illegal activity investigation fund, as instructed by the former  
14 candidate or, if the candidate left no instruction, by the former candidate's next of  
15 kin; or

16           **SECTION 3.** 8.35 (4) (a) 1. b. of the statutes is amended to read:

17           8.35 (4) (a) 1. b. If the former candidate was a nonpartisan candidate, donated  
18 to the a charitable organization ~~of or to the illegal activity investigation fund, as~~

**BILL**

1 ~~directed by the former candidate's choice or the charitable organization chosen~~  
2 ~~candidate or by the former candidate's next of kin if the former candidate is deceased;~~  
3 or

4 **SECTION 4.** 8.35 (4) (a) 1. b. of the statutes, as affected by 2001 Wisconsin Act  
5 109, is repealed and recreated to read:

6 8.35 (4) (a) 1. b. If the former candidate was a nonpartisan candidate, donated  
7 to a charitable organization or transferred to the board for deposit in the Wisconsin  
8 election campaign fund or the illegal activity investigation fund, as instructed by the  
9 former candidate or, if the candidate left no instruction, by the former candidate's  
10 next of kin; or

11 **SECTION 5.** 11.06 (1) (e) of the statutes is amended to read:

12 11.06 (1) (e) An itemized statement of contributions over \$20 from a single  
13 source donated to a charitable organization ~~or~~, to the common school fund, or to the  
14 illegal activity investigation fund, with the full name and mailing address of the  
15 donee.

16 **SECTION 6.** 11.06 (1) (e) of the statutes, as affected by 2001 Wisconsin Act 109,  
17 is repealed and recreated to read:

18 11.06 (1) (e) An itemized statement of contributions over \$20 from a single  
19 source donated to a charitable organization or to the common school fund, with the  
20 full name and mailing address of the donee, and a statement of contributions over  
21 \$20 transferred to the board for deposit in the Wisconsin election campaign fund or  
22 the illegal activity investigation fund.

23 **SECTION 7.** 11.07 (5) of the statutes is amended to read:

24 11.07 (5) Any campaign treasurer or individual who knowingly receives a  
25 contribution made by an unregistered nonresident in violation of this section may

**BILL**

1 not use or expend such contribution but shall immediately return it to the source or  
2 at the option of the campaign treasurer or individual, donate the contribution to a  
3 charitable organization ~~or~~, to the common school fund, or to the illegal activity  
4 investigation fund.

5 **SECTION 8.** 11.07 (5) of the statutes, as affected by 2001 Wisconsin Act 109, is  
6 repealed and recreated to read:

7 11.07 (5) Any campaign treasurer or individual who knowingly receives a  
8 contribution made by an unregistered nonresident in violation of this section may  
9 not use or expend such contribution but shall immediately return it to the source or  
10 at the option of the campaign treasurer or individual, donate the contribution to a  
11 charitable organization or to the common school fund or transfer the contribution to  
12 the board for deposit in the Wisconsin election campaign fund or the illegal activity  
13 investigation fund.

14 **SECTION 9.** 11.12 (2) of the statutes is amended to read:

15 11.12 (2) Any anonymous contribution exceeding \$10 received by a campaign  
16 or committee treasurer or by an individual under s. 11.06 (7) may not be used or  
17 expended. The contribution shall be donated to the common school fund or the illegal  
18 activity investigation fund or to any charitable organization at the option of the  
19 treasurer.

20 **SECTION 10.** 11.12 (2) of the statutes, as affected by 2001 Wisconsin Act 109,  
21 is repealed and recreated to read:

22 11.12 (2) Any anonymous contribution exceeding \$10 received by a campaign  
23 or committee treasurer or by an individual under s. 11.06 (7) may not be used or  
24 expended. The contribution shall be donated to the common school fund or to any  
25 charitable organization or transferred to the board for deposit in the Wisconsin



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1 election campaign fund or the illegal activity investigation fund, at the option of the  
2 treasurer.

3 **SECTION 11.** 11.16 (2) of the statutes is amended to read:

4 11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. Every contribution of money  
5 exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized  
6 credit card receipt bearing on the face the name of the remitter. No treasurer may  
7 accept a contribution made in violation of this subsection. The treasurer shall  
8 promptly return the contribution, or donate it to the common school fund or the  
9 illegal activity investigation fund, or to a charitable organization in the event that  
10 the donor cannot be identified.

11 **SECTION 12.** 11.16 (2) of the statutes, as affected by 2001 Wisconsin Act 109,  
12 is repealed and recreated to read:

13 11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. Every contribution of money  
14 exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized  
15 credit card receipt bearing on the face the name of the remitter. No treasurer may  
16 accept a contribution made in violation of this subsection. The treasurer shall  
17 promptly return the contribution, donate the contribution to the common school fund  
18 or to a charitable organization, or transfer the contribution to the board for deposit  
19 in the Wisconsin election campaign fund or the illegal activity investigation fund in  
20 the event that the donor cannot be identified.

21 **SECTION 13.** 11.19 (1) of the statutes is amended to read:

22 11.19 (1) Whenever any registrant disbands or determines that obligations will  
23 no longer be incurred, and contributions will no longer be received nor disbursements  
24 made during a calendar year, and the registrant has no outstanding incurred  
25 obligations, the registrant shall file a termination report with the appropriate filing

**BILL****SECTION 13**

1 officer. Such report shall indicate a cash balance on hand of zero at the end of the  
2 reporting period and shall indicate the disposition of residual funds. Residual funds  
3 may be used for any political purpose not prohibited by law, returned to the donors  
4 in an amount not exceeding the original contribution, or donated to a charitable  
5 organization ~~or~~, the common school fund, or the illegal activity investigation fund.  
6 The report shall be filed and certified as were previous reports, and shall contain the  
7 information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall  
8 pay the fee imposed under that subsection with a termination report filed under this  
9 subsection. If a termination report or suspension report under sub. (2) is not filed,  
10 the registrant shall continue to file periodic reports with the appropriate filing  
11 officer, no later than the dates specified in s. 11.20. This subsection does not apply  
12 to any registrant making an indication under s. 11.05 (2r).

13 **SECTION 14.** 11.19 (1) of the statutes, as affected by 2001 Wisconsin Act 109,  
14 is repealed and recreated to read:

15 11.19 (1) Whenever any registrant disbands or determines that obligations will  
16 no longer be incurred, and contributions will no longer be received nor disbursements  
17 made during a calendar year, and the registrant has no outstanding incurred  
18 obligations, the registrant shall file a termination report with the appropriate filing  
19 officer. Such report shall indicate a cash balance on hand of zero at the end of the  
20 reporting period and shall indicate the disposition of residual funds. Residual funds  
21 may be used for any political purpose not prohibited by law, returned to the donors  
22 in an amount not exceeding the original contribution, transferred to the board for  
23 deposit in the Wisconsin election campaign fund or donated to a charitable  
24 organization, the common school fund, or the illegal activity investigation fund. The  
25 report shall be filed and certified as were previous reports, and shall contain the

**BILL**

1 information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall  
2 pay the fee imposed under that subsection with a termination report filed under this  
3 subsection. If a termination report or suspension report under sub. (2) is not filed,  
4 the registrant shall continue to file periodic reports with the appropriate filing  
5 officer, no later than the dates specified in s. 11.20 and, if the registrant files reports  
6 under s. 11.21 (16), no later than the times specified in s. 11.21 (16). This subsection  
7 does not apply to any registrant making an indication under s. 11.06 (2m).

8 **SECTION 15.** 11.26 (1t) of the statutes, as created by 2001 Wisconsin Act 109,  
9 is repealed and recreated to read:

10 **11.26 (1t)** The limitations under sub. (1m) apply to any candidate for legislative  
11 office who files an affidavit under s. 11.31 (2m) (a) but who the board determines is  
12 ineligible to receive a grant from the Wisconsin election campaign fund, who  
13 withdraws his or her application for a grant under s. 11.50 (2) (h), or to whom s. 11.50  
14 (2) (i) applies, unless the candidate subsequently files an affidavit under s. 11.31 (2m)  
15 (b). Any such candidate who has received a contribution that exceeds the amount  
16 specified for the office the candidate seeks under sub. (1m) before the date on which  
17 a limitation under sub. (1m) applies to the candidate shall return the excess amount  
18 of the contribution to the contributor, donate it to the common school fund or to any  
19 charitable organization, or transfer it to the board for deposit in the Wisconsin  
20 election campaign fund or the illegal activity investigation fund. If a candidate for  
21 legislative office files an affidavit under s. 11.31 (2m) (b), the limitations under sub.  
22 (1) apply to that candidate beginning on the date that the affidavit is filed.

23 **SECTION 16.** 11.26 (2t) of the statutes, as created by 2001 Wisconsin Act 109,  
24 is repealed and recreated to read:

Dr. S.  
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1           11.26 (2t) The limitations under sub. (2m) apply to any candidate for legislative  
2 office who files an affidavit under s. 11.31 (2m) (a) but who the board determines is  
3 ineligible to receive a grant from the Wisconsin election campaign fund, who  
4 withdraws his or her application for a grant under s. 11.50 (2) (h), or to whom s. 11.50  
5 (2) (i) applies, unless the candidate subsequently files an affidavit under s. 11.31 (2m)  
6 (b). Any such candidate who has received a contribution that exceeds the amount  
7 specified for the office the candidate seeks under sub. (2m) before the date on which  
8 a limitation under sub. (2m) applies to the candidate shall return the excess amount  
9 of the contribution to the contributor, donate it to the common school fund or to any  
10 charitable organization, or transfer it to the board for deposit in the Wisconsin  
11 election campaign fund or the illegal activity investigation fund. If a candidate for  
12 legislative office files an affidavit under s. 11.31 (2m) (b), the limitations under sub.  
13 (2) apply to that candidate beginning on the date that the affidavit is filed.

14           **SECTION 17.** 11.38 (6) of the statutes is amended to read:

15           11.38 (6) Any individual or campaign treasurer who receives funds in violation  
16 of this section shall promptly return such funds to the contributor or donate the funds  
17 to the common school fund or the illegal activity investigation fund or a charitable  
18 organization, at the treasurer's option.

19           **SECTION 18.** 11.38 (6) of the statutes, as affected by 2001 Wisconsin Act 109,  
20 is repealed and recreated to read:

21           11.38 (6) Any individual or campaign treasurer who receives funds in violation  
22 of this section shall promptly return such funds to the contributor, donate the funds  
23 to the common school fund or a charitable organization or transfer the funds to the  
24 board for deposit in the Wisconsin election campaign fund or the illegal activity  
25 investigation fund, at the treasurer's option.

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1           **SECTION 19.** 11.65 of the statutes is created to read:

2           **11.65 Donations to illegal activity investigation fund.** Any committee,  
3 group, or other person may make an unrestricted donation to the illegal activity  
4 investigation fund by gift or bequest.

5           **SECTION 20.** 20.510 (1) (qm) of the statutes is created to read:

6           20.510 (1) (qm) *Investigation of illegal campaign finance activity.* From the  
7 illegal activity investigation fund, a sum sufficient to investigate suspected illegal  
8 campaign finance activity.

9           **SECTION 21.** 25.17 (1) (hs) of the statutes is created to read:

10           25.17 (1) (hs) Illegal activity investigation fund (s. 25.426);

11           **SECTION 22.** 25.426 of the statutes is created to read:

12           **25.426 Illegal activity investigation fund.** There is established a separate  
13 nonlapsible trust fund to be designated as the illegal activity investigation fund,  
14 consisting of all moneys donated to the fund.

15           **SECTION 23. Nonstatutory provisions.**

16           (1) Notwithstanding section 990.001 (1) of the statutes, if a court finds that all  
17 or any portion of section 8.35 (4) (a) 1. a. and b., 11.06 (1) (e), 11.07 (5), 11.12 (2), 11.16  
18 (2), 11.19 (1), 11.26 (1t) or (2t) or 11.38 (6) of the statutes, as repealed and recreated  
19 by this act, or any part of the laws specified in 2001 Wisconsin Act 109, section 9115  
20 (2y), is unconstitutional, then the repeal and recreation of sections 8.35 (4) (a) 1. a.  
21 and b., 11.06 (1) (e), 11.07 (5), 11.12 (2), 11.16 (2), 11.19 (1), 11.26 (1t) and (2t) and  
22 11.38 (6) of the statutes by this act is void in its entirety.

23

(END)

D-Note

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Section #. 11.25 (2) (b) of the statutes is amended to read:

11.25 (2) (b) Notwithstanding par. (a), a registrant may accept contributions and make disbursements from a campaign depository account for the purpose of making expenditures in connection with a campaign for national office; for payment of civil penalties incurred by the registrant under this chapter but not under any other chapter; <sup>the purpose of</sup> ~~or for payment of the expenses of nonpartisan campaigns to increase voter registration or participation.~~ <sub>for making a donation to the illegal activity</sub> ~~Notwithstanding par. (a), a personal campaign committee or support committee may accept contributions and make disbursements from a campaign depository account for payment of inaugural expenses of an individual who is elected to state or local office. If such expenses are paid from contributions made to the campaign depository account, they are reportable under s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s. 11.06 (1). If contributions from the campaign depository account are used for such expenses, they are subject to s. 11.26.~~ <sub>investigation fund;</sub>

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1981 c. 20; 1983 a. 27, 183; 1985 a. 303 ss. 43s, 86; 1987 a. 370; 1993 a. 213; 2003 a. 39.

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

LRB-3836/2dn  
JTK...*kjf*

*Date*

Representative Pocan:

This redraft inserts a cross<sup>↓</sup>reference in s. 11.25 (2) (b), stats.<sup>✓</sup>

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

LRB-3836/2dn  
JTK:kjf:pg

January 13, 2006

Representative Pocan:

This redraft inserts a cross-reference in s. 11.25 (2) (b), stats.

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## Northrop, Lori

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**From:** Trost, Craig  
**Sent:** Monday, February 06, 2006 9:38 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-3836/2 Topic: Illegal campaign finance activity investigation

It has been requested by <Trost, Craig> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-3836/2 Topic: Illegal campaign finance activity investigation