

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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January 8, 2001

Representative Pocan:

1. This draft is based upon the report of the Heffernan Commission. It includes only the portions of the report that pertain to restructuring of this state's public financing system, including the return of unexpended campaign moneys by candidates who receive grants. It does not include the proposed changes to contribution limitations, new contribution limitations, limitations on independent and issue advocacy expenditures, and electronic filing requirements. Subsequent to the drafting of the Heffernan Commission report, the legislature imposed an electronic filing requirement upon certain registrants. See s. 11.21 (16), stats. This statute is not identical to the requirement that was proposed in the report, but takes a significant step in that direction. In the report, the Heffernan Commission envisioned GPR funding equivalent to \$5 per taxpayer per year. Because your intent was to provide total public financing of state elections (except for qualifying and other minor contributions required to launch a candidacy), in this draft we provided for sum sufficient funding, which may result in expenditures of more or less than \$5 per taxpayer per year. Please let us know if you would like to treat any of these issues differently.

2. Proposed s. 11.51 (12) provides public grants to qualifying candidates to match certain disbursements made by opposing candidates who do not accept public grants. It could be asserted that this provision burdens the freedom of speech of opposing candidates in violation of the First Amendment. Although relevant case law has developed regarding this issue in the federal courts of appeal, there is no consensus among these courts on this issue. Due to the unsettled nature of the law in this area, it is not possible to predict how a court would rule if proposed s. 11.51 (12) were challenged.

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

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