



(DNR)
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1100/23
JTK&RJM:cs:rs
↑
slays

WANTED by NE 3/20
2001 BILL

1 AN ACT *to repeal* 7.08 (2) (c) and (cm), 7.70 (3) (e) 1., 8.16 (5), 11.21 (15), 11.26
2 (9) (c), 11.26 (10) and (13), 11.31 (2) and (2m), 11.31 (3), 11.31 (3m), 11.31 (6),
3 11.50, 14.58 (20), 20.855 (4) (b), 25.17 (1) (ys) and 71.10 (3); *to renumber and*
4 *amend* 11.12 (6); *to amend* 5.02 (18), 5.62 (1) (a), 5.62 (3), 5.62 (5), 8.16 (1), 8.35
5 (4) (b), 10.02 (3) (b) 2m., 10.06 (1) (e), 10.06 (1) (i), 11.06 (1) (a), 11.06 (1) (g), 11.06
6 (1) (jm), 11.16 (5), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.26 (17) (a), 11.31
7 (title), 11.31 (1) (intro.), 11.31 (4), 11.31 (7) (b), 11.31 (7) (c), 11.31 (8) and 11.31
8 (10); *to repeal and recreate* 20.510 (1) (q) and 25.42; and *to create* 11.12 (6)
9 (b), 11.31 (9), 11.51, 20.855 (4) (ba) and 25.17 (1) (aw) of the statutes; **relating**
10 **to:** public financing of elections for certain state offices, providing an exemption
11 from emergency rule procedures, granting rule-making authority, providing a
penalty and making appropriations.

12

Analysis by the Legislative Reference Bureau

Currently, a candidate for state office other than court of appeals judge, circuit judge, or district attorney may qualify to receive a grant from the Wisconsin election

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campaign fund for use in an election campaign only. No funding is provided for primary campaigns. In order to qualify for a grant, a candidate must qualify to have his or her name appear on the general or spring election ballot and must have an opponent who qualifies to have his or her name appear on that ballot. In addition, a candidate for a partisan office at the general election must receive at least six percent of the total vote cast on all ballots at the September primary election, and a candidate for a partisan office at a special election must either represent a political party whose candidate for the office that the candidate seeks received at least six percent of the total vote cast for that office at the most recent general election at which the office was contested or must receive at least six percent of the total vote cast for that office at the special election.

Currently, the maximum amount of a grant that a candidate may receive is 45% of the disbursement (spending) level or limit for the office that the candidate seeks. This amount is not subject to any cost of living adjustment. In addition, this amount is reduced by the total amount of contributions received by a candidate from committees other than political party or legislative campaign committees and this amount may not be fully funded in a particular year if there are not sufficient moneys in the Wisconsin election campaign fund to provide full financing for all qualifying candidates. Grants may only be used to purchase services from a communications medium, printing, graphic arts, or advertising services, office supplies, or postage. A candidate must agree to abide by disbursement and self-contribution limits in order to receive a grant, but this agreement does not apply if the candidate has an opponent who could have qualified for a grant but declines to do so and declines to file an affidavit of voluntary compliance with disbursement and self-contribution limits. Grant moneys that are not spent by a candidate after the date of an election must be returned by the candidate to the state.

This bill replaces the Wisconsin election campaign fund with a new fund called the clean elections fund. Under the bill, a candidate for the office of governor, state senator, or representative to the assembly may qualify to receive a grant from the clean elections fund. Separate grants are provided for primary and election campaigns. Candidates for other state offices are not eligible to receive grants. In order to qualify for a grant, a candidate must qualify to have his or her name appear on the ballot at a spring, September, or special primary or a spring, general, or special election for which the grant money will be used ~~and must have an opponent in that primary or election.~~ In addition, ~~in order to qualify for a grant,~~ a candidate must raise and deposit with the state treasurer a specified number of qualifying contributions in the amount of \$5 each. Each qualifying contribution must be received from an elector of this state and, in the case of a candidate for legislative office, an elector of the district in which the candidate seeks office, and the name and address of the contributor must be reported to the state elections board. The number of qualifying contributions ranges from 2,500 to 50, depending upon the office sought by the candidate.

Under the bill, the maximum amount of a grant that a candidate may receive ranges from \$500,000 in the primary and \$1,000,000 in the election to \$18,000 in the primary and \$36,000 in the election, depending upon the office sought by the

In order to qualify for a grant at a general or special election, a candidate must also receive at least 5% of the total vote cast on all ballots for the office that the candidate seeks at the September primary or at the special primary, if a special primary is held.

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A candidate must deposit with the board any unencumbered seed money contributions held by the candidate on the day the candidate receives notification of qualification for a grant.

The total seed money contributions accepted by a candidate from one contributor, including contributions made by a candidate to his or her own campaign, may not exceed

These amounts are subject to a biennial cost-of-living adjustment. In order to receive a grant, a candidate must affirm that he or she has not accepted and agrees not to accept a contribution from any source other than qualifying contributions or seed money contributions, which may be accepted by a candidate before the candidate qualifies to receive a grant in amounts of \$100 or less, ranging in total amount from \$50,000 to \$500, depending upon the office sought by the candidate. ~~If any obligation is incurred or any disbursement is made by an individual or committee to advocate the defeat of a candidate who accepts a grant or the election of his or her opponent independently of any candidate who is supported or opposed, the candidate who accepts a grant qualifies to receive an additional grant equal to the amount of the obligations independently incurred and disbursements independently made. If a candidate who accepts a grant is opposed by a candidate who does not accept a grant or who violates his or her agreement, any complying candidate for the same office who accepts a grant qualifies to receive an additional grant equal to the amount by which disbursements by the other candidate exceed the original amount of the grant received by that candidate. The sum of all additional grants made to a single candidate may not exceed 2.5 times the original amount of a candidate's grant. The bill permits grants to be spent for any lawful purpose. To facilitate matching of independent disbursements made and obligations incurred in opposition to a candidate or in support of a candidate's opponent, the bill revises current requirements for individuals and committees making such disbursements to report disbursements exceeding \$20 cumulatively if they are made within 15 days of an election to require, instead, reporting of all independent disbursements and obligations to make such disbursements in support of or in opposition to a candidate for the office of governor, state senator or representative to the assembly if the disbursements are made or obligations incurred within 30 days of an election.~~

IRS 3A

The total seed money contributions accepted by a candidate from all contributors range from

independent expenditures and outstanding obligations made in opposition to or in support of his or her opponent

campaign may not exceed

IRS 3A

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The bill also deletes the disbursement and self-contribution limitations currently applicable to candidates who accept grants from the Wisconsin election campaign fund, as well as the affidavit of voluntary compliance with those limitations. Under the bill, grant moneys that are not spent by a candidate on the day after an election must be returned by the candidate to the state, except that a candidate for the office of representative to the assembly may retain an amount equal to five percent of the grant received by the candidate, a candidate for the office of state senator may retain an amount equal to three percent of the grant received by the candidate, and a candidate for the office of governor may retain an amount equal to one percent of the grant received by that candidate.

The bill provides that if a candidate does not adhere to the agreement required to obtain a grant, the candidate is subject to a forfeiture (civil penalty) equivalent to the amount of the grant that the candidate received, and in addition may be fined not more than three times the amount of any contributions received by the candidate excluding the amount of any grant and any qualifying or seed money contributions that are permitted to be received under the bill.

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

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

SECTION 1. 5.02 (18) of the statutes is amended to read:

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

SECTION 2. 5.62 (1) (a) of the statutes is amended to read:

5.62 (1) (a) At September primaries, the following ballot shall be provided for the nomination of candidates of recognized political parties for national, state and county offices and independent candidates for state office in each ward, in the same

form as prescribed by the board under s. 7.08 (1) (a), except as authorized in s. 5.655.

The ballots shall be made up of the several party tickets with each party entitled to participate in the primary under par. (b) or sub. (2) having its own ballot, except as

authorized in s. 5.655. The independent candidates for state office other than district attorney shall have a separate ballot for all such candidates as under s. 5.64 (1) (e),

except as authorized in s. 5.655. The ballots shall be secured together at the bottom.

The party ballot of the party receiving the most votes for president or governor at the last general election shall be on top with the other parties arranged in descending order based on their vote for president or governor at the last general election. The ballots of parties qualifying under sub. (2) shall be placed after the parties qualifying under par. (b), in the same order in which the parties filed petitions with the board.

Any ballot required under par. (b) 2. shall be placed next in order. The ballot listing

the offices of governor, state senators and representative to the assembly

receive grants from the clean elections

restore

the office of governor, state senators and representative to the assembly

restore

restore

28/11/01

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1 ~~the independent candidates shall be placed at the bottom.~~ At polling places where
 2 voting machines are used, each party ~~and the independent candidates~~ shall be
 3 represented in one or more separate columns or rows on the ballot. At polling places
 4 where an electronic voting system is used other than an electronic voting machine,
 5 ~~each party and the independent candidates~~ may be represented in separate columns
 6 or rows on the ballot.

7 **SECTION 3.** 5.62 (3) of the statutes is amended to read:

8 5.62 (3) The board shall designate the official primary ballot arrangement for
 9 statewide offices and district attorney within each prosecutorial district by using the
 10 same procedure as provided in s. 5.60 (1) (b). On each ballot and on each separate
 11 column or row on the ballot, the candidates for office shall be listed together with the
 12 offices which they seek in the following order whenever these offices appear on the
 13 September primary ballot: governor, lieutenant governor, attorney general,
 14 secretary of state, state treasurer, U.S. senator, U.S. representative in congress,
 15 state senator, representative to the assembly, district attorney and the county offices.

16 ~~Below the names of the independent candidates shall appear the party or principle~~
 17 ~~of the candidates, if any, in 5 words or less, as shown on their nomination papers.~~

18 **SECTION 4.** 5.62 (5) of the statutes is amended to read:

19 5.62 (5) At the September primary, an elector may vote for the candidates of
 20 only one party, ~~or the elector may vote for any of the independent candidates for state~~
 21 ~~office listed,~~ but the elector may not vote for more than one candidate for a single
 22 office. A space shall be provided on the ballot for an elector to write in the name of
 23 his or her choice as a party candidate for any office, including a party candidate of
 24 a recognized political party whose name appears on the ballot, column or row
 25 ~~designated for independent candidates, as provided in that does not qualify for a~~

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the offices of
governor,
state senators,
or representative
to the assembly

for the offices of governor, state senators and representative to the assembly

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1 ~~separate ballot, or column or row on the ballot, under sub. (1) (b) 2. or (2) (b) but no~~
2 ~~space shall be provided to write in the names of independent candidates.~~

restore

3 SECTION 5. 7.08 (2) (c) and (cm) of the statutes are repealed.

4 SECTION 6. 7.70 (3) (e) 1. of the statutes is repealed.

JWS
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5 SECTION 7. 8.16 (1) of the statutes is amended to read:

6 8.16 (1) Except as provided in sub. (2), the person who receives the greatest
7 number of votes for an office on a party ballot at any partisan primary, regardless of
8 whether the person's name appears on the ballot, shall be the party's candidate for
9 the office, and the person's name shall so appear on the official ballot at the next
10 election. All independent candidates shall appear on the general election ballot
11 ~~regardless of the number of votes received by such candidates at the September~~
12 ~~primary.~~

restore

or on any special election ballot
or at any special

13 SECTION 8. 8.16 (5) of the statutes is repealed.

14 SECTION 9. 8.35 (4) (b) of the statutes is amended to read:

JWS
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16 8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys
17 received by a candidate from the ~~Wisconsin election campaign~~ clean elections fund
18 shall be immediately transferred to any candidate who is appointed to replace such
19 candidate, upon filing of a proper application therefor under s. 11.50 (2). If there is
20 no candidate appointed or if no proper application is filed within 7 days of the date
21 on which the vacancy occurs, such moneys shall revert to the state as provided in s.
22 11.50 (8).

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23 SECTION 10. 10.02 (3) (b) 2m. of the statutes is amended to read:

24 10.02 (3) (b) 2m. At the September primary, the elector shall select the party
25 ballot of his or her choice ~~or the ballot containing the names of the independent~~
~~candidates for state office, and make a cross (x) next to or depress the lever or button~~

JWS
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23

restore

the office of governor, state senator &
and representative to the
assembly

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the office of governor, state senator, nor representatives in assembly

a grant from the clean elections

SECTION 10

1 next to the candidate's name for each office for whom the elector intends to vote or
 2 insert or write in the name of the elector's choice for a party candidate, if any. In order
 3 to qualify for participation in the Wisconsin election campaign fund, a candidate for
 4 state office at the September primary, other than a candidate for district attorney,
 5 must receive at least 6% of all votes cast on all ballots for the office for which he or
 6 she is a candidate, in addition to other requirements.

return

5%

return 11.51

SECTION 11. 10.06 (1) (e) of the statutes is amended to read:

10.06 (1) (e) As soon as possible following the state canvass of the spring
 primary vote, but no later than the first Tuesday in March, the board shall send a
 type B notice certifying to each county clerk the list of candidates for the spring
 election. When no primary is held, this notice shall be sent under par. (c). The board
 shall also in any case send a certified list of candidates under s. 11.50 to the state
 treasurer pursuant to s. 7.08 (2) (e). When there is a referendum, the board shall send
 type A and C notices certifying each question to the county clerks as soon as possible,
 but no later than the first Tuesday in March.

*Original Special Primary
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SECTION 12. 10.06 (1) (i) of the statutes is amended to read:

10.06 (1) (i) As soon as possible after the state canvass, but no later than the
 4th Tuesday in September, the board shall send a type B notice certifying the list of
 candidates and type A and C notices certifying each question for any referendum to
 each county clerk for the general election and a certified list of candidates under s.
 11.50 to the state treasurer pursuant to s. 7.08 (2) (e).

SECTION 13. 11.06 (1) (a) of the statutes is amended to read:

11.06 (1) (a) Except as required under s. 11.51 (2), an itemized statement
 giving the date, full name and street address of each contributor who has made a
 contribution in excess of \$20, or whose contribution if \$20 or less aggregates more

11.51

*11.51
7-24*

(treasure)

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1 than \$20 for the calendar year, together with the amount of the contribution and the
2 cumulative total contributions made by that contributor for the calendar year.

3 SECTION 14. 11.06 (1) (g) of the statutes is amended to read:

4 11.06 (1) (g) ~~An~~ Except as required under s. 11.51 (9), an itemized statement
5 of every disbursement exceeding \$20 in amount or value, together with the name and
6 address of the person to whom the disbursement was made, and the date and specific
7 purpose for which the disbursement was made.

8 SECTION 15. 11.06 (1) (jm) of the statutes is amended to read:

9 11.06 (1) (jm) A copy of any separate schedule prepared or received pursuant
10 to an escrow agreement under s. 11.16 (5). ~~A candidate or personal campaign~~
11 ~~committee receiving contributions under such an agreement and attaching a~~
12 ~~separate schedule under this paragraph may indicate the percentage of the total~~
13 ~~contributions received, disbursements made and exclusions claimed under s. 11.31~~
14 ~~(6) without itemization, except that amounts received from any contributor pursuant~~
15 ~~to the agreement who makes any separate contribution to the candidate or personal~~
16 ~~campaign committee during the calendar year of receipt as indicated in the schedule~~
17 ~~shall be aggregated and itemized if required under par. (a) or (b).~~

18 SECTION 16. 11.12 (6) of the statutes is renumbered 11.12 (6) (a) and amended
19 to read:

20 11.12 (6) (a) ~~If~~ restore ~~Except as provided in par. (b), if~~ any disbursement of more than
21 \$20 cumulatively is made to advocate the election or defeat of a clearly identified
22 candidate by an individual or committee later than 15 days prior to a primary or
23 election in which the candidate's name appears on the ballot without cooperation or
24 consultation with a candidate or agent or authorized committee of a candidate who
25 is supported or opposed, and not in concert with or at the request or suggestion of

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1 such a candidate, agent, or committee, the individual or treasurer of the committee
 2 shall, within 24 hours of making the disbursement, inform the appropriate filing
 3 officer of the information required under s. 11.06 (1) in such manner as the board may
 4 prescribe. The information shall also be included in the next regular report of the
 5 individual or committee under s. 11.20. For purposes of this paragraph,
 6 disbursements cumulate beginning with the day after the last date covered on the
 7 preprimary or preelection report and ending with the day before the primary or
 8 election. Upon receipt of a report under this paragraph, the filing officer shall, within
 9 24 hours of receipt, mail a copy of the report to all candidates for any office in support

10 of or opposition to one of whom a disbursement identified in the report is made, ^{no 9} *with this*
~~paragraph does not apply to any disbursement that is required to be~~

11 **SECTION 17. 11.12 (6) (b) of the statutes is created to read:**

12 ~~11.12 (6) (b) If any disbursement is made or obligation incurred to advocate the~~
~~election or defeat of a clearly identified candidate for the office of governor, state~~
~~senator, or representative to the assembly by an individual or committee later than~~
~~60 days prior to a primary or election in which the candidate's name appears on the~~
~~ballot without cooperation or consultation with a candidate or agent or authorized~~
~~committee of a candidate who is supported or opposed, and not in concert with or at~~
~~the request or suggestion of such a candidate, agent, or committee, the individual or~~
~~treasurer of the committee shall, within 24 hours of making the disbursement or~~
~~incurring the obligation, inform the appropriate filing officer of the information~~
~~required under s. 11.06 (1) in such manner as the board may prescribe. The~~
~~information shall also be included in the next regular report of the individual or~~
~~committee under s. 11.20. For purposes of this paragraph, disbursements cumulate~~
~~beginning with the day after the last date covered on the preprimary or preelection~~
~~report and ending with the day before the primary or election. Upon receipt of a~~

13 *person makes an independent expenditure or incurs*
 14 *an obligation to make an independent expenditure*
 15 *reported as an independent expenditure*
 16 *under Par. (b).*

17 *whose name is referenced in the communication financial*
 18 *report*
 19 *to make the independent expenditure, report to*
 20 *the person*
 21 *the appropriate filing officer of the information*
 22 *required under s. 11.06 (1) in such manner as the board may prescribe. The*
 23 *information shall also be included in the next regular report of the individual or*
 24 *committee under s. 11.20. For purposes of this paragraph, disbursements cumulate*
 25 *beginning with the day after the last date covered on the preprimary or preelection*
report and ending with the day before the primary or election. Upon receipt of a

INS 9-21

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1 report under this paragraph, the ^{board} filing officer shall, within 24 hours of receipt, mail
2 a copy of the report to all candidates for any office in support of or opposition to one
3 of whom ^{an independent expenditure} a disbursement or obligation identified in the report is made.

4 SECTION 18. 11.16 (5) of the statutes is amended to read:

5 11.16 (5) ESCROW AGREEMENTS. Any personal campaign committee, political
6 party committee or legislative campaign committee may, pursuant to a written
7 escrow agreement with more than one candidate, solicit contributions for and
8 conduct a joint fund raising effort or program on behalf of more than one named
9 candidate. The agreement shall specify the percentage of the proceeds to be
10 distributed to each candidate by the committee conducting the effort or program.

11 The committee shall include this information in all solicitations for the effort or
12 program. All contributions received and disbursements made by the committee in
13 connection with the effort or program shall be received and disbursed through a
14 separate depository account under s. 11.14 (1) that is identified in the agreement.

15 For purposes of s. 11.06 (1), the committee conducting the effort or program shall
16 prepare a schedule in the form prescribed by the board supplying all required
17 information under s. 11.06 (1) ~~and items qualifying for exclusion under s. 11.31 (6)~~
18 for the effort or program, and shall transmit a copy of the schedule to each candidate
19 who receives any of the proceeds within the period prescribed in s. 11.06 (4) (c).

20 SECTION 19. 11.21 (15) of the statutes is repealed.

21 SECTION 20. 11.26 (2) (a) of the statutes is amended to read:

22 11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,
23 state treasurer, attorney general, state superintendent or justice, 4% of the value of
24 the disbursement level specified in the schedule under s. 11.31 (1), as adjusted under
25 s. 11.31 (9).

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1 **SECTION 21.** 11.26 (9) (a) of the statutes is amended to read:

2 11.26 (9) (a) No individual who is a candidate for state or local office may receive
3 and accept more than 65% of the value of the total disbursement level determined
4 under s. 11.31 (1), as adjusted under s. 11.31 (9), for the office for which he or she is
5 a candidate during any primary and election campaign combined from all
6 committees subject to a filing requirement, including political party and legislative
7 campaign committees.

8 **SECTION 22.** 11.26 (9) (b) of the statutes is amended to read:

9 11.26 (9) (b) No individual who is a candidate for state or local office may receive
10 and accept more than 45% of the value of the total disbursement level determined
11 under s. 11.31 (1), as adjusted under s. 11.31 (9), for the office for which he or she is
12 a candidate during any primary and election campaign combined from all
13 committees other than political party and legislative campaign committees subject
14 to a filing requirement.

15 **SECTION 23.** 11.26 (9) (c) of the statutes is repealed.

16 **SECTION 24.** 11.26 (10) and (13) of the statutes are repealed.

17 **SECTION 25.** 11.26 (17) (a) of the statutes is amended to read:

18 11.26 (17) (a) For purposes of application of the limitations imposed in subs.
19 (1), (2), and (9) ~~and (10)~~, the "campaign" of a candidate begins and ends at the times
20 specified in this subsection.

21 **SECTION 26.** 11.31 (title) of the statutes is amended to read:

22 **11.31 (title) Disbursement levels and limitations; calculation.**

23 **SECTION 27.** 11.31 (1) (intro.) of the statutes is amended to read:

24 11.31 (1) SCHEDULE. (intro.) The following levels of disbursements are
25 established with reference to the candidates listed below. ~~Except as provided in sub.~~

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1 ~~(2), such~~ The levels are subject to adjustment under sub. (9). The levels do not
2 operate to restrict the total amount of disbursements which are made or authorized
3 to be made by any candidate in any primary or other election.

4 **SECTION 28.** 11.31[✓] (2) and (2m) of the statutes are repealed.

5 **SECTION 29.** 11.31[✓] (3) of the statutes is repealed.

6 **SECTION 30.** 11.31[✓] (3m) of the statutes is repealed.

7 **SECTION 31.** 11.31[✓] (4) of the statutes is amended to read:

8 11.31 (4) ALLOCATION. ~~Except as provided in sub. (3m), whenever~~ Whenever a
9 separate disbursement level is specified for a primary and election under sub. (1), a
10 candidate who disburses less than the authorized level in the primary may not
11 reallocate the balance to increase the level in the election. Whenever a separate
12 disbursement level is not specified for a primary and election under sub. (1), a
13 candidate may allocate disbursements between the primary and election campaign
14 within the total level of disbursements specified in sub. (1) in any proportion desired,
15 and may carry over unexpended contributions from a primary campaign to an
16 election campaign.

17 **SECTION 32.** 11.31[✓] (6) of the statutes is repealed.

18 **SECTION 33.** 11.31[✓] (7) (b) of the statutes is amended to read:

19 11.31 (7) (b) Disbursements which are made before a campaign period for goods
20 to be delivered or services to be rendered in connection with the campaign are
21 charged against the disbursement ~~limitation~~ level for that campaign.

22 **SECTION 34.** 11.31[✓] (7) (c) of the statutes is amended to read:

23 11.31 (7) (c) Disbursements which are made after a campaign to retire a debt
24 incurred in relation to a campaign are charged against the disbursement ~~limitation~~
25 level for that campaign.

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1 **SECTION 35.** 11.31 (8) of the statutes is amended to read:

2 11.31 (8) CERTAIN CONTRIBUTIONS EXCLUDED. The limitations imposed levels
3 specified under this section do not apply to a gift of anything of value constituting
4 a contribution made directly to a registrant by another, but the limitations levels
5 shall apply to such gift when it is received and accepted by the recipient or, if received
6 in the form of money, when disbursed.

7 **SECTION 36.** 11.31 (9) of the statutes is created to read:

8 11.31 (9) ADJUSTMENT OF DISBURSEMENT LEVELS. (a) In this subsection,
9 "consumer price index" means the average of the consumer price index over each
10 12-month period, all items, U.S. city average, as determined by the bureau of labor
11 statistics of the U.S. department of labor.

12 (b) The dollar amounts of all disbursement levels specified in sub. (1) shall be
13 subject to a cost-of-living adjustment to be determined by rule of the board in
14 accordance with this paragraph. To determine the adjustment, the board shall
15 calculate the percentage difference between the consumer price index for the
16 12-month period ending on December 31 of each odd-numbered year and the
17 consumer price index for calendar year 2003. For each biennium, the board shall
18 adjust the disbursement levels specified under sub. (1) by that percentage to the
19 extent required to reflect any difference, rounded to the nearest multiple of \$25 in
20 the case of amounts of \$1 or more, which amounts shall be in effect until a subsequent
21 rule is promulgated under this subsection. Notwithstanding s. 227.24 (1) (a), (2) (b),
22 and (3), determinations under this paragraph may be promulgated as an emergency
23 rule under s. 227.24 without providing evidence that the emergency rule is necessary
24 for the public peace, health, safety, or welfare, and without a finding of emergency.

25 **SECTION 37.** 11.31 (10) of the statutes is amended to read:

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1 11.31 (10) SURPLUS MATERIALS EXCLUDED. Disbursements constituting surplus
2 materials acquired in connection with a previous campaign of a candidate are not
3 subject to limitation by included in the levels specified in this section, if the materials
4 were previously reported as a disbursement by that candidate.

5 **SECTION 38.** 11.50 of the statutes is repealed.

6 **SECTION 39.** 11.51 of the statutes is created to read:

7 **11.51 Clean elections fund grants.** (1) Any candidate for the office of
8 governor, state senator, or representative to the assembly may qualify to receive a
9 grant from the clean elections fund by fulfilling the requirements of this section.

10 (2) ^(a) In order to qualify to receive a grant from the clean elections fund, a
11 candidate ~~must have an opponent who has qualified to have his or her name certified~~
12 ~~for placement on the ballot at the election for which the grant is to be applied. In~~
13 ~~addition, the candidate shall obtain and deposit with the state treasurer the number~~
14 ~~of qualifying contributions specified in this subsection, in the amount of \$5 each, each~~
15 ~~of which shall be received from an elector of this state and, in the case of a candidate~~
16 ~~for legislative office, an elector of the district in which the candidate seeks office. The~~
17 ~~name and address of each elector making a qualifying contribution shall be identified~~
18 ~~in a report filed with the board as provided in s. 11.06 (1) (a). The number of required~~
19 ~~qualifying contributions for a candidate for state office is:~~

- 20 (1) Governor, 2,500.
- 21 (2) State senator, 150.
- 22 (3) Representative to the assembly, 50.

Br 3 22
14 23

23 (4) ~~Prior to notification that a candidate has qualified to receive a grant from~~
24 ~~the clean elections fund under sub. (7), a candidate may accept seed money~~
25 ~~from individuals. The total seed money contributions accepted by a candidate~~
~~contributions from an individual in the amount of \$100 or less, but the total of such~~

one contributor, including any seed money contributions made by a candidate to his or her own campaign, may not exceed

BILL

The total seed money

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contributions accepted by a candidate during the candidate's campaign, as defined in s. 11.26 (17), may not exceed, in the aggregate, the following amount for the office sought by candidate:

(a) Governor, \$50,000.

(b) State senator, \$1,500.

(c) Representative to the assembly, \$500.

Ans 15-6

(6) No candidate who accepts a grant from the clean elections fund may accept any seed money contributions under sub. (3) after receiving notification of qualification for a grant under sub. (7).

(7) In order to qualify to receive a grant from the clean elections fund, a candidate shall file an application with the board, no later than a time specified by the board by rule, in which the candidate shall affirm that he or she has not accepted and agrees not to accept a contribution from any source other than a contribution required under sub. (2), a contribution authorized under sub. (3), and the candidate's grant from the clean elections fund during the campaign of the candidate, as defined in s. 11.31 (7). The board shall notify each candidate who qualifies to receive a grant from the clean elections fund as promptly as possible following qualification.

(8) (a) The board shall distribute primary election grants from the clean elections fund to each candidate who qualifies to receive a grant under this section as soon as possible preceding the date that the primary election is held for the office which the candidate seeks or the date on which the primary election would be held if a primary election were required to be held.

(b) The board shall distribute grants for the general or for a special election from the clean elections fund to each candidate who qualifies to receive a grant under this section as soon as possible after the date of the primary election for the office

FNS 10-16

BILL

1 sought by the candidate, or the date on which the primary election would be held if
2 a primary election were required to be held, except that, in the case of a candidate
3 of a recognized political party for a partisan office, the board shall distribute a grant
4 to a candidate for an office for which a primary election was held only if the candidate
5 was nominated at that election.

6 (9) A candidate who receives a grant from the clean elections fund shall file
7 with the board reports of all disbursements made in the manner provided under s.
8 11.06 (1) (g), without regard to the amounts thereof.

9 (10) ^(a) Except as provided in ^{par. (b) and subs. (11) to (13)} ~~sub. (12)~~, a candidate who qualifies to receive a grant
10 from the clean elections fund under this section shall receive a grant in the following
11 amount for the election specified, less the aggregate amount of contributions
12 accepted by the candidate under sub. ³ ~~(5)~~:

Office	Primary Election	General, or Special Election
15 1. (10) Governor	\$500,000	\$1,000,000
16 2. (11) State senator	36,000	72,000
17 3. (12) Representative to the assembly	18,000	36,000

FNS/6-16

FNS 17/6-17

18 ~~(12) (11)~~ If any ^{independent expenditure} obligation is incurred ^{or any obligation to} by an individual ^{make}
19 ^{any person in opposition to} or committee to advocate the defeat of a candidate who receives a grant from the ^{an}
20 clean elections fund or ^{in support of} to advocate the election of an opponent of such a candidate ^{independent}
21 whose name is certified to appear on the same ballot, and the obligation is incurred ^{expenditure}
22 ~~or the disbursement is made without cooperation or consultation with any candidate~~ ^{is}
23 ~~who is supported or opposed or such a candidate's agent or authorized committee,~~ ^{incurred}
24 ~~and not in concert with, or at the request or suggestion of, any such candidate, agent,~~
25 ~~or authorized committee,~~ then the candidate who receives a grant shall receive an

BILL

1 additional grant in the total amount of the obligations incurred and the
 2 ~~disbursements~~ ^{independent expenditures} made that were not previously reported as obligations, as reported
 3 to the appropriate filing officer under s. 11.12 (6) ^{(b) ✓}, less any amounts for the same
 4 purposes that were previously reported, but not to exceed, in combination with any
 5 additional grant payable to that candidate under sub. (13), 2.5 times the amount
 6 payable to the candidate under sub. (10) ^{as adjusted under sub. (11) ←}

7 (b) ⁽¹³⁾ ~~(12)~~ If a candidate who receives a grant from the clean elections fund is opposed
 8 on a primary or election ballot by another candidate who does not receive a grant or
 9 by another candidate who the board determines has violated his or her agreement
 10 under sub. (7), the candidate who receives a grant shall receive an additional grant
 11 in the amount by which the disbursements made by the other candidate exceed the
 12 amount of the grant payable for the office sought by the candidate in that election
 13 under sub. (10) ^{as adjusted under sub. (11) ←}, but not to exceed, in combination with any additional grant payable
 14 to that candidate under sub. (11) ¹², 2.5 times the amount payable to the candidate
 15 under sub. (10) ^{as adjusted under sub. (11) ←}. If a candidate who receives a grant from the clean elections fund is
 16 opposed on a primary or election ballot by more than one candidate who does not
 17 receive a grant or who the board determines has violated his or her agreement under
 18 sub. (7), the amount of the grant payable under this subsection is the largest amount
 19 that would be payable by reason of any candidate's opposition.

20 (14) ⁽¹³⁾ If a candidate who makes an agreement under sub. (7) does not adhere to
 21 the agreement, the candidate shall forfeit an amount equivalent to any grant from
 22 the clean elections fund that is provided to the candidate and the candidate may be
 23 fined not more than 3 times the amount of any contributions received by the
 24 candidate in his or her campaign, as defined in s. 11.26 (17), exclusive of the amount
 25 of any grant or any contributions deposited under sub. (2) or received under sub. (5) ³.

BILL

SECTION 39

1 (15) (14) No later than December 1 of each even-numbered year, a candidate who
 2 received a grant from the clean elections fund in that year or the preceding year shall
 3 return to the state treasurer the amount of any grant remaining in the candidate's
 4 campaign depository account, except that a candidate may retain an amount equal
 5 to not more than the following specified percentage of the grant for the office sought
 6 by the candidate:

- 7 (a) Governor, 1%
- 8 (b) State senator, 3%.
- 9 (c) Representative to the assembly, 5%.

10 (16) (15) The board may promulgate rules required to implement this section.

11 ~~SECTION 40. 14.58 (20) of the statutes is repealed.~~

12 18-11 SECTION 41. 20.510 (1) (q) of the statutes is repealed and recreated to read:

13 20.510 (1) (q) *Clean elections fund grants* ~~payments~~. From the clean elections fund,
 14 a sum sufficient to make the *grants* ~~payments~~ to candidates required under s. 11.51.

15 SECTION 42. 20.855 (4) (b) of the statutes is repealed.

16 SECTION 43. 20.855 (4) (ba) of the statutes is created to read:

17 20.855 (4) (ba) *Clean elections fund supplement*. A sum sufficient equal to the
 18 amounts required to make the ~~payments~~ *grants* to candidates required under s. 11.51, to be
 19 transferred to the clean elections fund.

20 SECTION 44. 25.17 (1) (aw) of the statutes is created to read:

21 25.17 (1) (aw) Clean elections fund (s. 25.42);

22 SECTION 45. 25.17 (1) (ys) of the statutes is repealed.

23 SECTION 46. 25.42 of the statutes is repealed and recreated to read:

24 25.42 **Clean elections fund**. All moneys deposited with the state treasurer
 25 under s. 11.51 (2) *and (5)* or returned to the state treasurer under s. 11.51 (1) and all moneys

BILL

1 transferred to the clean elections fund under s. 20.855 (4) (ba) constitute the clean
2 elections fund.

3 **SECTION 47.** 71.10[✓] (3) of the statutes is repealed.

4 **SECTION 48. Initial applicability.**

5 (1) The treatment of section ~~11.31~~^{§ 11.31} (9) ^{and 11.51(11) ✓} of the statutes first applies to adjustments
6 for the biennium beginning on January 1, 2004.

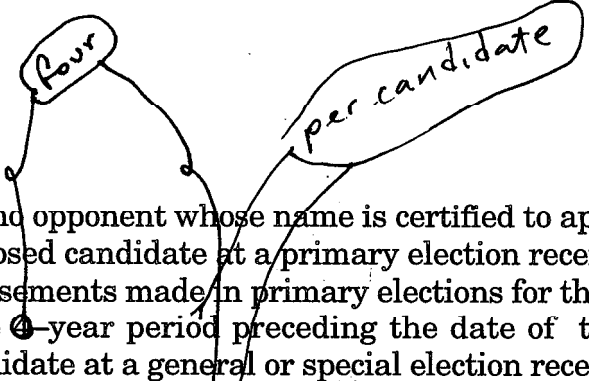
7 (END)

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INSERT 3A:

NOA



, except if a candidate has no opponent whose name is certified to appear on the ballot. Under the bill, an unopposed candidate at a primary election receives a grant equal to the average total disbursements made in primary elections for the office that the candidate seeks during the 4-year period preceding the date of the primary election, and an unopposed candidate at a general or special election receives a grant equal to the average total disbursements made in general and special elections for the office that the candidate seeks during the 4-year period preceding the date of the general or special election, except that a candidate for the office of governor receives a grant of \$12,500 for a primary election and \$12,500 for a general or special election.
Grant

INSERT 3B:

NOTE

If any person makes an expenditure independently of a candidate or incurs an obligation to make such an expenditure for the purpose of making a mass communication containing a reference to a candidate for the office of governor, state senator, or representative to the assembly within 60 days preceding a primary or election for that office, the person must report that expenditure or obligation to the board. Upon receipt of the report by the board

INSERT 6-4:

X

SECTION 1. 7.08 (2) (c) and (cm) of the statutes are amended to read:

plain space

7.08 (2) (c) As soon as possible after the canvass of the ~~spring and~~ September primary votes vote, but no later than the first Tuesday in March and the 4th Tuesday in September, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.50 (2) 11.51 (7) and whom the board determines to be eligible to receive ^{strike these} ~~payments~~ grants from the Wisconsin election campaign clean elections fund. The list shall contain each candidate's name, the mailing address indicated upon the candidate's registration form, the office for which

the individual is a candidate and the party or principle which he or she represents, if any.

History: 1971 c. 242; 1973 c. 334 s. 6, 57; 1975 c. 85, 93, 94, 199; 1977 c. 29, 107, 394, 427; 1979 c. 89, 177, 260, 311; 1981 c. 377; 1983 a. 51, 484; 1985 a. 120, 304; 1989 a. 192; 1993 a. 140; 1995 a. 16 s. 2; 1997 a. 27; 1999 a. 49, 182; s. 13.93 (2) (c).

(cm) As soon as possible after the canvass of a special primary, or the date that the primary would be held, if required, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. ~~11.50~~(2) 11.51 (7) and whom the board determines to be eligible to receive a grant from the ~~Wisconsin election campaign~~ clean elections fund prior to the election. The board shall also transmit a similar list of candidates, if any, who have filed applications under s. ~~11.50~~ (2) ^{strike thru!} and whom the board determines to be eligible to receive a grant under s. ~~11.50~~ (1) (a) 2. after the special election. The list shall contain each candidate's name, the mailing address indicated upon the candidate's registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

History: 1971 c. 242; 1973 c. 334 s. 6, 57; 1975 c. 85, 93, 94, 199; 1977 c. 29, 107, 394, 427; 1979 c. 89, 177, 260, 311; 1981 c. 377; 1983 a. 51, 484; 1985 a. 120, 304; 1989 a. 192; 1993 a. 140; 1995 a. 16 s. 2; 1997 a. 27; 1999 a. 49, 182; s. 13.93 (2) (c).

SECTION 2. 7.70 (3) (e) 1. of the statutes is amended to read:

7.70 (3) (e) 1. After each September primary and special primary for the office of governor, state senator, or representative to the assembly, the name of each candidate not defeated in the primary who receives at least 6% of the total vote cast for all candidates on all ballots at the primary for each ~~separate state office except district attorney~~ the office of governor, state senator, or representative to the assembly, and the percentage of the total vote received by that candidate. Such percentage shall be calculated within each district in the case of legislative candidates.

History: 1971 c. 304 s. 29 (2); 1973 c. 334 ss. 15, 57; 1975 c. 93, 199; 1977 c. 107, 187, 427, 449; 1979 c. 221, 260, 328; 1983 a. 484; 1985 a. 89, 304; 1987 a. 391; 1989 a. 31, 192; 1995 a. 16 s. 2; 1997 a. 27; 1999 a. 150 s. 672; 1999 a. 182.

INSERT 6-13:

X

SECTION 3. 8.16 (5) of the statutes is amended to read:

8.16 (5) Any candidate for a ~~partisan state~~ the office except district attorney of governor, state senator, or ~~district attorney~~ ^{representative to the assembly} may also qualify for payments a grant under s. ~~11.50~~ 11.51 if the candidate meets the requirements specified in s. ~~11.50~~ 11.51; however, a candidate who qualifies under this section for placement on the official ballot at the general election or a special election shall appear on such ballot regardless of whether he or she qualifies for payments a grant under s. ~~11.50~~ 11.51.

History: 1975 c. 41, 93, 199; 1977 c. 107, 383, 427, 447; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31.

INSERT 6-21:

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SECTION 4. 8.50 (1) (d) of the statutes is amended to read:

8.50 (1) (d) When the election concerns a national or state office, the board shall transmit to each county clerk at least 22 days before the special primary a certified list of all persons for whom nomination papers have been filed in its office. If no primary is required, the list shall be transmitted at least 42 days prior to the day of the election. If a special primary for the office of state senator or representative to the assembly is held, the board shall send a certified list of candidates ^{who are eligible to receive grants} under s. 11.51 to the state treasurer pursuant to s. 7.08 (2) (cm). Immediately upon receipt of the certified list of candidates from the board, the county clerk shall prepare his or her ballots. For a county special election, the county clerk shall certify the candidates and prepare the ballots. If there is a primary, the county clerk shall publish one type B notice in a newspaper under ch. 10. When a primary is held, as soon as possible after the primary, the county clerk shall certify the candidates and prepare the

ballots for the following special election. The clerk shall publish one type B notice in a newspaper under ch. 10 for the election.

History: 1971 c. 1, 40; 1973 c. 334 ss. 22, 57; 1973 c. 336; 1975 c. 80, 93, 199, 369; 1977 c. 26, 107, 187, 340, 427, 445, 447, 449; 1979 c. 27, 32, 260, 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 359; 1993 a. 184; 1995 a. 16 s. 2; 1999 a. 182.

SECTION 5. 8.50 (3) (b) of the statutes is amended to read:

8.50 (3) (b) Except as otherwise provided in this section, the provisions for September primaries under s. 8.15 are applicable to all partisan primaries held under this section, and the provisions for spring primaries under s. 8.10 are applicable to all nonpartisan primaries held under this section. In a special partisan primary or election, the order of the parties on the ballot shall be the same as provided under s. 5.62 (1) or 5.64 (1) (b). Independent candidates for ~~state office~~ the office of governor, state senator, or representative to the assembly at a special partisan election shall ~~not~~ appear on the primary ballot. No primary is required for a nonpartisan election in which not more than 2 candidates for an office appear on the ballot or for a partisan election in which not more than one candidate for an office appears on the ballot of each recognized political party. In every special election except a special election for nonpartisan state office where no candidate is certified to appear on the ballot, a space for write-in votes shall be provided on the ballot, regardless of whether a special primary is held.

History: 1971 c. 1, 40; 1973 c. 334 ss. 22, 57; 1973 c. 336; 1975 c. 80, 93, 199, 369; 1977 c. 26, 107, 187, 340, 427, 445, 447, 449; 1979 c. 27, 32, 260, 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 359; 1993 a. 184; 1995 a. 16 s. 2; 1999 a. 182.

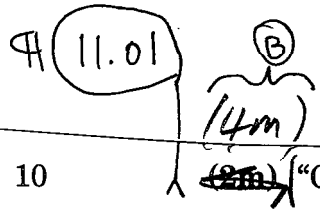
INSERT 9-21:

- ¶ 2. Each report under this ^{paragraph} ~~subsection~~ shall contain the following information:
 - ¶ a. The name of each candidate who is identified in each communication financed with the independent expenditure or obligation.

FWS 7-21-1

A SECTION #. QR ; (1.0) (4m) and (11m)

~~LRB-1551/8
JTK&RJM:wj:kjf
SECTION 17~~



10 ~~(2m)~~ "Communication" means a message transmitted by means of a printed
11 advertisement, billboard, handbill, sample ballot, radio or television advertisement,
12 telephone call, or any medium that may be utilized for the purpose of disseminating
13 or broadcasting a message, but not including a poll conducted solely for the purpose
14 of identifying or collecting data concerning the attitudes or preferences of electors.



MS 7-21:2

LRB-1551/3
JTK&RAM:wlj:kjf
SECTION 18

(B) 111m

Governor, state senator, or representative to the assembly

6 ~~(10)~~ "Independent expenditure" means an expenditure made for the purpose
 7 of making a communication that is made during the ~~60~~⁶⁰ day period preceding any
 8 ~~spring~~^{September or special} primary for the office of ~~justice~~^{general or special} and the date of the ~~spring~~^{spring} election, or if no
 9 ~~primary~~^{special} is held, during the 60-day period preceding ~~the~~^{a special} spring election, that
 10 contains a reference to a clearly identified candidate for the office of ~~justice~~^{Governor, state senator, or representative to the assembly} at that
 11 election; that is made without cooperation or consultation with such a candidate, or
 12 any authorized committee or agent of such a candidate; and that is not made in
 13 concert with, or at the request or suggestion of, such a candidate, or any authorized
 14 committee or agent of such a candidate.

election for the office of state senator or representative to the assembly

following that primary election

for one of those offices

<END INSERT 7-21>

— Read

In SIO-16

LRB-1551/5
JTK&RJM:wlj&km

NOR

grant payments

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If the candidate desires to receive ~~public financing~~ ^{grant} benefits by electronic transfer, the candidate shall include in his or her application sufficient information and authorization for the state treasurer to transfer payments to his or her campaign depository account.

BILL

JMS 16-17

1 SECTION 35. 11.31 (8) of the statutes is amended to read:

2 11.31 (8) CERTAIN CONTRIBUTIONS EXCLUDED. The ~~limitations imposed levels~~
3 specified under this section do not apply to a gift of anything of value constituting
4 a contribution made directly to a registrant by another, but the limitations levels
5 shall apply to such gift when it is received and accepted by the recipient or, if received
6 in the form of money, when disbursed.

7 ~~SECTION 36. 11.31 (9) of the statutes is created to read:~~

8 ~~11.31 (9) ADJUSTMENT OF DISBURSEMENT LEVELS.~~ (a) In this subsection,
9 "consumer price index" means the average of the consumer price index over each
10 12-month period, all items, U.S. city average, as determined by the bureau of labor
11 statistics of the U.S. department of labor.

12 (b) The dollar amounts of ^{the grants} ~~all disbursement levels~~ specified in sub. ~~(a)~~ shall be ^{(10)(a) and the} grants
13 subject to a cost-of-living adjustment to be determined by rule of the board in ^{specified} for
14 accordance with this paragraph. To determine the adjustment, the board shall ^{the} office
15 calculate the percentage difference between the consumer price index for the ^{of} the
16 12-month period ending on December 31 of each odd-numbered year and the ^{governor} (10)
17 consumer price index for calendar year 2003. For each biennium, the board shall ^(b)
18 adjust the ^{grant amounts} ~~disbursement levels~~ ^{in sub. (10)} specified ^(b) by that percentage to the
19 extent required to reflect any difference, rounded to the nearest multiple of \$25 in
20 the case of amounts of \$1 or more, which amounts shall be in effect until a subsequent
21 rule is promulgated under this subsection. Notwithstanding s. 227.24 (1) (a), (2) (b),
22 and (3), determinations under this paragraph may be promulgated as an emergency
23 rule under s. 227.24 without providing evidence that the emergency rule is necessary
24 for the public peace, health, safety, or welfare, and without a finding of emergency.

25 ~~SECTION 37. 11.31 (10) of the statutes is amended to read:~~

receive a grant of \$12,500 for a primary election and a grant of \$12,500 for a general or special election.

JWS
1-5-6

STBT → (4) A contributor who makes a qualifying contribution may also make a seed money contribution in the full amount authorized under sub. (3).

STBT → (5) A candidate shall remit to the ^{state treasurer} board all seed money contributions received by the candidate that are unencumbered on the day the candidate receives notification of qualification for a grant under sub. (7). The ^{state treasurer} board shall deposit all seed money contributions received under this subsection in the clean elections fund.



b. A statement as to whether the communication is intended to support or oppose that candidate.

c. The total amount or value of the independent expenditure or obligation and the cumulative independent expenditures made and obligations to make independent expenditures incurred by the person with respect to that election.

INSERT 14-22:

(b) In addition to the requirements imposed under par. (a), a candidate does not qualify to receive a grant for a general or special election unless the candidate receives at least 5% of the total vote cast for all candidates on all ballots for the same office at the September primary, or at a special primary if a special primary is held.

INSERT 15-6:

16-16
from filed reports on behalf of or those candidates

(b) If a candidate does not have an opponent who has qualified to have his or her name appear on the ballot at the election for which a grant is to be applied, the candidate shall receive a grant for a primary election equal to the average total disbursements made ^{per candidate} in primary election campaign periods, as determined by the board in accordance with s. 11.31 (5), for the office that the candidate seeks during the 4-year period preceding the date of the primary election, or a grant for a general or special election equal to the average total disbursements made ^{per candidate} in general and special election campaign periods, as determined by the board ^{from reports filed by or on behalf of those candidates in accordance with} s. 11.31 (5), for the office that the candidate seeks during the 4-year period preceding the date of the general or special election, except that a candidate for the office of governor shall

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1100/3ins2
JTK & RJM.....

INSERT 18-11:

SECTION 1. 14.58 (20) of the statutes is amended to read:

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

History: 1971 c. 164 s. 90; 1973 c. 333; 1975 c. 180, 189, 198, 421; 1977 c. 107; 1977 c. 196 s. 131; 1979 c. 34, 221; 1981 c. 20; 1983 a. 27; 1983 a. 36 s. 96 (2); 1983 a. 51; 1983 a. 189 s. 329 (21); 1983 a. 368, 408, 524, 538; 1985 a. 29; 1989 a. 31; 1991 a. 39, 189, 299, 316; 1995 a. 201.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1100/3dn

JTK & RJM

Representative Pocan: ✓

1. Under proposed s. 11.51 (5) of the /2 draft, seed money contributions were limited to a maximum of \$100. This draft clarifies this provision slightly and expressly states that this limitation applies to a candidate's contributions to his or her own campaign. ✓
2. Under the /2 draft, seed money and qualifying contributions were separately limited. However, for clarification purposes, this draft, in proposed s. 11.51 (4), provides that a contributor who makes a qualifying contribution may also make a seed money contribution in the full amount permitted under the draft. ✓
3. You are correct that the cost of living adjustment in the /2 draft applied only to disbursement levels. Under this draft, the adjustment is also applied to grant amounts. ✓
4. This draft permits grants to be received by unopposed candidates. You requested that the Maine model be followed, which you said was based on the average amount of expenditures for the immediately preceding ^(two) uncontested elections. The Maine statute, in section 16-951 A. 3. and D., provides for a grant of \$5 times the number of qualifying contributions received. This draft provides for grants for legislative candidates to be based upon total disbursements in uncontested elections for the same office during the 2-year period preceding the date of the election, but since there have been no uncontested elections for the office of governor, the draft uses the Maine model, which yields a grant of \$12,500 for an election for that office (2,500 qualifying contributions times \$5). made by candidates
5. You requested that independent candidates not be permitted to receive a grant for a general or special election unless they receive at least 5% of the total vote cast at the primary election preceding that election. In order to avoid an equal protection issue, this draft, in proposed s. 11.51 (2) (b), applies this requirement to all candidates, not just independent candidates. Because there is not always a special primary preceding a special election, the requirement applies in special elections only if a special primary is held. ✓

four

RJS
DIA

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

Read

NSDIA

~~LRB-1551/1dn
JTK&RJM:wlj:pg~~

Ⓟ #1) Currently, ch. 11., stats., generally requires disclosure of financial activity by individuals and committees seeking to influence the election or defeat of candidates for state or local office [see ss. 11.01 (6), (7), (11), and (16); 11.05, and 11.06, stats.], unless a disbursement is made or obligation incurred by an individual other than a candidate or by a committee that is not organized primarily for political purposes, the disbursement is not a contribution as defined in the law, and the disbursement is not made to expressly advocate the election or defeat of a clearly identified candidate [see s. 11.06 (2), stats.]. This language pretty closely tracks the holding of the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 656-664 (1976), which prescribes the boundaries of disclosure that may be constitutionally enforced (except as those requirements affect certain minor parties and independent candidates). Proposed ss. ~~11.501 (10) and 11.513~~, which require reporting by persons that make certain communications during certain periods containing a reference to a candidate for the office of Justice, appears to extend beyond the boundaries that the court permitted in 1976. As a result, its enforceability at the current time appears to rest upon a shift by the court in its stance on this issue. In this connection, see also *North Carolina Right to Life, Inc., v. Bartlett*, 168 F. 3d 705 (4th Cir. 1999), cert. denied, 120 S. Ct. 1156 (2000), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*.

Ⓟ

11.01 (4m) and (11m) and 11.12 (6) (b)

insert a space here

Governor,
State Senators
or representative
to the assembly

✓



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1100/3
JTK&RJM:cs:jf
stays

2001 BILL

TODAY
AM

D-NOTE

1 AN ACT *to repeal* 11.21 (15), 11.26 (9) (c), 11.26 (10) and (18), 11.31 (2) and (2m),
2 11.31 (3), 11.31 (3m), 11.31 (6), 11.50, 20.855 (4) (b), 25.17 (1) (ys) and 71.10 (3);
3 *to renumber and amend* 11.12 (6); *to amend* 5.02 (18), 5.62 (1) (a), 5.62 (3),
4 5.62 (5), 7.08 (2) (c) and (cm), 7.70 (3) (e) 1., 8.16 (1), 8.16 (5), 8.35 (4) (b), 8.50
5 (1) (d), 8.50 (3) (b), 10.02 (3) (b) 2m., 10.06 (1) (e), 10.06 (1) (i), 11.06 (1) (a), 11.06
6 (1) (g), 11.06 (1) (jm), 11.16 (5), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.26 (17)
7 (a), 11.31 (title), 11.31 (1) (intro.), 11.31 (4), 11.31 (7) (b), 11.31 (7) (c), 11.31 (8),
8 11.31 (10) and 14.58 (20); *to repeal and recreate* 20.510 (1) (q) and 25.42; and
9 *to create* 11.01 (4m) and (11m), 11.12 (6) (b), 11.31 (9), 11.51, 20.855 (4) (ba) and
10 25.17 (1) (aw) of the statutes; **relating to:** public financing of elections for
11 certain state offices, providing an exemption from emergency rule procedures,

BILL

1 granting rule-making authority, providing a penalty, and making
2 appropriations.

Analysis by the Legislative Reference Bureau

Currently, a candidate for state office other than court of appeals judge, circuit judge, or district attorney may qualify to receive a grant from the Wisconsin election campaign fund for use in an election campaign only. No funding is provided for primary campaigns. In order to qualify for a grant, a candidate must qualify to have his or her name appear on the general or spring election ballot and must have an opponent who qualifies to have his or her name appear on that ballot. In addition, a candidate for a partisan office at the general election must receive at least six percent of the total vote cast on all ballots at the September primary election, and a candidate for a partisan office at a special election must either represent a political party whose candidate for the office that the candidate seeks received at least six percent of the total vote cast for that office at the most recent general election at which the office was contested or must receive at least six percent of the total vote cast for that office at the special election.

Currently, the maximum amount of a grant that a candidate may receive is 45% of the disbursement (spending) level or limit for the office that the candidate seeks. This amount is not subject to any cost of living adjustment. In addition, this amount is reduced by the total amount of contributions received by a candidate from committees other than political party or legislative campaign committees and this amount may not be fully funded in a particular year if there are not sufficient moneys in the Wisconsin election campaign fund to provide full financing for all qualifying candidates. Grants may only be used to purchase services from a communications medium, printing, graphic arts, or advertising services, office supplies, or postage. A candidate must agree to abide by disbursement and self-contribution limits in order to receive a grant, but this agreement does not apply if the candidate has an opponent who could have qualified for a grant but declines to do so and declines to file an affidavit of voluntary compliance with disbursement and self-contribution limits. Grant moneys that are not spent by a candidate after the date of an election must be returned by the candidate to the state.

This bill replaces the Wisconsin election campaign fund with a new fund called the clean elections fund. Under the bill, a candidate for the office of governor, state senator, or representative to the assembly may qualify to receive a grant from the clean elections fund. Separate grants are provided for primary and election campaigns. Candidates for other state offices are not eligible to receive grants. In order to qualify for a grant, a candidate must qualify to have his or her name appear on the ballot at a spring, September, or special primary or a spring, general, or special election for which the grant money will be used. In order to qualify for a grant at a general or special election, a candidate must also receive at least 5% of the total vote cast on all ballots for the office that the candidate seeks at the September primary, or at the special primary, if a special primary is held. In addition, a candidate must

BILL

raise and deposit with the state treasurer a specified number of qualifying contributions in the amount of \$5 each. Each qualifying contribution must be received from an elector of this state and, in the case of a candidate for legislative office, an elector of the district in which the candidate seeks office, and the name and address of the contributor must be reported to the state elections board. The number of qualifying contributions ranges from 2,500 to 50, depending upon the office sought by the candidate.

Under the bill, the maximum amount of a grant that a candidate may receive ranges from \$500,000 in the primary and \$1,000,000 in the election to \$18,000 in the primary and \$36,000 in the election, depending upon the office sought by the candidate, except if a candidate has no opponent whose name is certified to appear on the ballot. Under the bill, an unopposed candidate at a primary election receives a grant equal to the average total disbursements made per candidate in primary elections for the office that the candidate seeks during the four-year period preceding the date of the primary election, and an unopposed candidate at a general or special election receives a grant equal to the average total disbursements made per candidate in general and special elections for the office that the candidate seeks during the four-year period preceding the date of the general or special election, except that a candidate for the office of governor receives a grant of \$12,500 for a primary election and \$12,500 for a general or special election. Grant amounts are subject to a biennial cost-of-living adjustment.

In order to receive a grant, a candidate must affirm that he or she has not accepted and agrees not to accept a contribution from any source other than qualifying contributions or seed money contributions, which may be accepted by a candidate before the candidate qualifies to receive a grant. The total seed money contributions accepted by a candidate from one contributor, including contributions by a candidate to his or her own campaign, may not exceed \$100. The total seed money contributions accepted by a candidate from all contributors range from \$50,000 to \$500, depending upon the office sought by the candidate. A candidate must deposit with the board any unencumbered seed money contributions held by the candidate on the day the candidate receives notification of qualification for a grant. If any person makes an expenditure independently of a candidate or incurs an obligation to make such an expenditure for the purpose of making a mass communication containing a reference to a candidate for the office of governor, state senator, or representative to the assembly within 60 days preceding a primary or election for that office, the person must report that expenditure or obligation to the board. Upon receipt of the report by the board, each candidate who accepts a grant qualifies to receive an additional grant equal to the amount of the independent expenditures and outstanding obligations made in opposition to that candidate or in support of his or her opponent. If a candidate who accepts a grant is opposed by a candidate who does not accept a grant or who violates his or her agreement, any complying candidate for the same office who accepts a grant qualifies to receive an additional grant equal to the amount by which disbursements by the other candidate exceed the original amount of the grant received by that candidate. The sum of all additional grants made to a single candidate may not exceed 2.5 times the original

BILL

amount of a candidate's grant. The bill permits grants to be spent for any lawful purpose. To facilitate matching of independent disbursements made and obligations incurred in opposition to a candidate or in support of a candidate's opponent, the bill revises current requirements for individuals and committees making such disbursements to report disbursements exceeding \$20 cumulatively if they are made within 15 days of an election to require, instead, reporting of all independent disbursements and obligations to make such disbursements in support of or in opposition to a candidate for the office of governor, state senator or representative to the assembly if the disbursements are made or obligations incurred within 60 days of an election.

The bill also deletes the disbursement and self-contribution limitations currently applicable to candidates who accept grants from the Wisconsin election campaign fund, as well as the affidavit of voluntary compliance with those limitations. Under the bill, grant moneys that are not spent by a candidate on the day after an election must be returned by the candidate to the state.

The bill provides that if a candidate does not adhere to the agreement required to obtain a grant, the candidate is subject to a forfeiture (civil penalty) equivalent to the amount of the grant that the candidate received, and in addition may be fined not more than three times the amount of any contributions received by the candidate excluding the amount of any grant and any qualifying or seed money contributions that are permitted to be received under the bill.

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

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

1 **SECTION 1.** 5.02 (18) of the statutes is amended to read:

2 5.02 (18) "September primary" means the primary held the 2nd Tuesday in
3 September to nominate candidates to be voted for at the general election, and to
4 determine which candidates for ~~state offices other than district attorney~~ the offices
5 of governor, state senator, and representative to the assembly may participate in the
6 Wisconsin election campaign receive grants from the clean elections fund.

7 **SECTION 2.** 5.62 (1) (a) of the statutes is amended to read:

8 5.62 (1) (a) At September primaries, the following ballot shall be provided for
9 the nomination of candidates of recognized political parties for national, state and
10 county offices and independent candidates for ~~state office~~ the office of governor, state

BILL

1 senator, and representative to the assembly in each ward, in the same form as
2 prescribed by the board under s. 7.08 (1) (a), except as authorized in s. 5.655. The
3 ballots shall be made up of the several party tickets with each party entitled to
4 participate in the primary under par. (b) or sub. (2) having its own ballot, except as
5 authorized in s. 5.655. The independent candidates for ~~state office other than district~~
6 attorney the offices of governor, state senator, and representative to the assembly
7 shall have a separate ballot for all such candidates as under s. 5.64 (1) (e), except as
8 authorized in s. 5.655. The ballots shall be secured together at the bottom. The party
9 ballot of the party receiving the most votes for president or governor at the last
10 general election shall be on top with the other parties arranged in descending order
11 based on their vote for president or governor at the last general election. The ballots
12 of parties qualifying under sub. (2) shall be placed after the parties qualifying under
13 par. (b), in the same order in which the parties filed petitions with the board. Any
14 ballot required under par. (b) 2. shall be placed next in order. The ballot listing the
15 independent candidates shall be placed at the bottom. At polling places where voting
16 machines are used, each party and the independent candidates shall be represented
17 in one or more separate columns or rows on the ballot. At polling places where an
18 electronic voting system is used other than an electronic voting machine, each party
19 and the independent candidates may be represented in separate columns or rows on
20 the ballot.

21 **SECTION 3.** 5.62 (3) of the statutes is amended to read:

22 5.62 (3) The board shall designate the official primary ballot arrangement for
23 statewide offices and district attorney within each prosecutorial district by using the
24 same procedure as provided in s. 5.60 (1) (b). On each ballot and on each separate
25 column or row on the ballot, the candidates for office shall be listed together with the

BILL**SECTION 3**

1 offices which they seek in the following order whenever these offices appear on the
2 September primary ballot: governor, lieutenant governor, attorney general,
3 secretary of state, state treasurer, U.S. senator, U.S. representative in congress,
4 state senator, representative to the assembly, district attorney and the county offices.
5 Below the names of the independent candidates for the offices of governor, state
6 senator, and representative to the assembly shall appear the party or principle of the
7 candidates, if any, in 5 words or less, as shown on their nomination papers.

8 **SECTION 4.** 5.62 (5) of the statutes is amended to read:

9 5.62 (5) At the September primary, an elector may vote for the candidates of
10 only one party, or the elector may vote for any of the independent candidates for ~~state~~
11 ~~office~~ the offices of governor, state senator, or representative to the assembly listed;
12 but the elector may not vote for more than one candidate for a single office. A space
13 shall be provided on the ballot for an elector to write in the name of his or her choice
14 as a party candidate for any office, including a party candidate of a recognized
15 political party whose name appears on the ballot, column or row designated for
16 independent candidates, as provided in sub. (1) (b) 2. or (2) (b), but no space shall be
17 provided to write in the names of independent candidates.

18 **SECTION 5.** 7.08 (2) (c) and (cm) of the statutes are amended to read:

19 7.08 (2) (c) As soon as possible after the canvass of the ~~spring and~~ September
20 primary ~~votes~~ vote, but no later than the first Tuesday in March and the 4th Tuesday
21 in September, transmit to the state treasurer a certified list of all eligible candidates
22 for state office who have filed applications under s. ~~11.50 (2)~~ 11.51 (7) and whom the
23 board determines to be eligible to receive ~~payments~~ grants from the ~~Wisconsin~~
24 ~~election campaign~~ clean elections fund. The list shall contain each candidate's name,
25 the mailing address indicated upon the candidate's registration form, the office for

BILL

1 which the individual is a candidate and the party or principle which he or she
2 represents, if any.

3 (cm) As soon as possible after the canvass of a special primary, or the date that
4 the primary would be held, if required, transmit to the state treasurer a certified list
5 of all eligible candidates for state office who have filed applications under s. ~~11.50 (2)~~
6 11.51 (7) and whom the board determines to be eligible to receive a grant from the
7 ~~Wisconsin election campaign~~ clean elections fund ~~prior to the election.~~ The board
8 shall also transmit a similar list of candidates, if any, who have filed applications
9 under s. ~~11.50 (2)~~ and whom the board determines to be eligible to receive a grant
10 under s. ~~11.50 (1) (a) 2.~~ after the special election. The list shall contain each
11 candidate's name, the mailing address indicated upon the candidate's registration
12 form, the office for which the individual is a candidate and the party or principle
13 which he or she represents, if any.

14 **SECTION 6.** 7.70 (3) (e) 1. of the statutes is amended to read:

15 7.70 (3) (e) 1. After each September primary and special primary for the office
16 of governor, state senator, or representative to the assembly, the name of each
17 candidate not defeated in the primary who receives at least 6% of the total vote cast
18 for all candidates on all ballots at the primary for each ~~separate state office except~~
19 ~~district attorney~~ the office of governor, state senator, or representative to the
20 assembly, and the percentage of the total vote received by that candidate. Such
21 percentage shall be calculated within each district in the case of legislative
22 candidates.

23 **SECTION 7.** 8.16 (1) of the statutes is amended to read:

24 8.16 (1) Except as provided in sub. (2), the person who receives the greatest
25 number of votes for an office on a party ballot at any partisan primary, regardless of

BILL**SECTION 7**

1 whether the person's name appears on the ballot, shall be the party's candidate for
2 the office, and the person's name shall so appear on the official ballot at the next
3 election. All independent candidates shall appear on the general election ballot or
4 on any special election ballot regardless of the number of votes received by such
5 candidates at the September or at any special primary.

6 **SECTION 8.** 8.16 (5) of the statutes is amended to read:

7 8.16 (5) Any candidate for ~~a partisan state~~ the office except district attorney
8 of governor, state senator, or representative to the assembly may also qualify for
9 payments a grant under s. ~~11.50~~ 11.51 if the candidate meets the requirements
10 specified in s. ~~11.50~~ 11.51; however, a candidate who qualifies under this section for
11 placement on the official ballot at the general election or a special election shall
12 appear on such ballot regardless of whether he or she qualifies for ~~payments a grant~~
13 under s. ~~11.50~~ 11.51.

14 **SECTION 9.** 8.35 (4) (b) of the statutes is amended to read:

15 8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys
16 received by a candidate from the ~~Wisconsin election campaign~~ clean elections fund
17 shall be immediately transferred to any candidate who is appointed to replace such
18 candidate, ~~upon filing of a proper application therefor under s. 11.50 (2).~~ If there is
19 no candidate appointed ~~or if no proper application is filed within 7 days of the date~~
20 ~~on which the vacancy occurs,~~ such moneys shall revert to the state ~~as provided in s.~~
21 ~~11.50 (8).~~

22 **SECTION 10.** 8.50 (1) (d) of the statutes is amended to read:

23 8.50 (1) (d) When the election concerns a national or state office, the board shall
24 transmit to each county clerk at least 22 days before the special primary a certified
25 list of all persons for whom nomination papers have been filed in its office. If no

BILL

1 primary is required, the list shall be transmitted at least 42 days prior to the day of
2 the election. If a special primary for the office of state senator or representative to
3 the assembly is held, the board shall send a certified list of candidates who are
4 eligible to receive grants under s. 11.51 to the state treasurer pursuant to s. 7.08 (2)
5 (cm). Immediately upon receipt of the certified list of candidates from the board, the
6 county clerk shall prepare his or her ballots. For a county special election, the county
7 clerk shall certify the candidates and prepare the ballots. If there is a primary, the
8 county clerk shall publish one type B notice in a newspaper under ch. 10. When a
9 primary is held, as soon as possible after the primary, the county clerk shall certify
10 the candidates and prepare the ballots for the following special election. The clerk
11 shall publish one type B notice in a newspaper under ch. 10 for the election.

12 **SECTION 11.** 8.50 (3) (b) of the statutes is amended to read:

13 8.50 (3) (b) Except as otherwise provided in this section, the provisions for
14 September primaries under s. 8.15 are applicable to all partisan primaries held
15 under this section, and the provisions for spring primaries under s. 8.10 are
16 applicable to all nonpartisan primaries held under this section. In a special partisan
17 primary or election, the order of the parties on the ballot shall be the same as
18 provided under s. 5.62 (1) or 5.64 (1) (b). Independent candidates for ~~state office~~ the
19 office of governor, state senator, or representative to the assembly at a special
20 partisan election shall ~~not~~ appear on the primary ballot. No primary is required for
21 a nonpartisan election in which not more than 2 candidates for an office appear on
22 the ballot or for a partisan election in which not more than one candidate for an office
23 appears on the ballot of each recognized political party. In every special election
24 except a special election for nonpartisan state office where no candidate is certified

BILL**SECTION 11**

1 to appear on the ballot, a space for write-in votes shall be provided on the ballot,
2 regardless of whether a special primary is held.

3 **SECTION 12.** 10.02 (3) (b) 2m. of the statutes is amended to read:

4 10.02 (3) (b) 2m. At the September primary, the elector shall select the party
5 ballot of his or her choice or the ballot containing the names of the independent
6 candidates for ~~state office, the office of governor, state senator, and representative~~
7 to the assembly, and make a cross (X) next to or depress the lever or button next to
8 the candidate's name for each office for whom the elector intends to vote or insert or
9 write in the name of the elector's choice for a party candidate, if any. In order to
10 qualify for ~~participation in the Wisconsin election campaign~~ a grant from the clean
11 elections fund, a candidate for ~~state office~~ the office of governor, state senator, or
12 representative to the assembly at the September primary, ~~other than a candidate for~~
13 ~~district attorney, or a special primary, if a special primary is held~~, must receive at
14 least ~~6%~~ 5% of all votes cast on all ballots for the office for which he or she is a
15 candidate, in addition to other requirements.

16 **SECTION 13.** 10.06 (1) (e) of the statutes is amended to read:

17 10.06 (1) (e) As soon as possible following the state canvass of the spring
18 primary vote, but no later than the first Tuesday in March, the board shall send a
19 type B notice certifying to each county clerk the list of candidates for the spring
20 election. When no primary is held, this notice shall be sent under par. (c). The board
21 shall also in any case send a certified list of candidates under s. ~~11.50~~ 11.51 to the
22 state treasurer pursuant to s. 7.08 (2) (c). When there is a referendum, the board
23 shall send type A and C notices certifying each question to the county clerks as soon
24 as possible, but no later than the first Tuesday in March.

25 **SECTION 14.** 10.06 (1) (i) of the statutes is amended to read:

BILL

1 10.06 (1) (i) As soon as possible after the state canvass, but no later than the
2 4th Tuesday in September, the board shall send a type B notice certifying the list of
3 candidates and type A and C notices certifying each question for any referendum to
4 each county clerk for the general election and a certified list of candidates under s.
5 ~~11.50~~ 11.51 to the state treasurer pursuant to s. 7.08 (2) (c).

6 **SECTION 15.** 11.01 (4m) and (11m) of the statutes are created to read:

7 11.01 (4m) “Communication” means a message transmitted by means of a
8 printed advertisement, billboard, handbill, sample ballot, radio or television
9 advertisement, telephone call, or any medium that may be utilized for the purpose
10 of disseminating or broadcasting a message, but not including a poll conducted solely
11 for the purpose of identifying or collecting data concerning the attitudes or
12 preferences of electors.

13 (11m) “Independent expenditure” means an expenditure made for the purpose
14 of making a communication that is made during the 60-day period preceding any
15 September or special primary election for the office of governor, state senator,
16 representative to the assembly and the date of the general or special election
17 following that primary election, or if no special primary election for the office of state
18 senator or representative to the assembly is held, during the 60-day period
19 preceding a special election for one of those offices; that contains a reference to a
20 clearly identified candidate for the office of governor, state senator, or representative
21 to the assembly at that election; that is made without cooperation or consultation
22 with such a candidate, or any authorized committee or agent of such a candidate; and
23 that is not made in concert with, or at the request or suggestion of, such a candidate,
24 or any authorized committee or agent of such a candidate.

25 **SECTION 16.** 11.06 (1) (a) of the statutes is amended to read:

BILL**SECTION 16**

1 11.06 (1) (a) ~~An~~ Except as required under s. 11.51 (2), an itemized statement
2 giving the date, full name and street address of each contributor who has made a
3 contribution in excess of \$20, or whose contribution if \$20 or less aggregates more
4 than \$20 for the calendar year, together with the amount of the contribution and the
5 cumulative total contributions made by that contributor for the calendar year.

6 **SECTION 17.** 11.06 (1) (g) of the statutes is amended to read:

7 11.06 (1) (g) ~~An~~ Except as required under s. 11.51 (9), an itemized statement
8 of every disbursement exceeding \$20 in amount or value, together with the name and
9 address of the person to whom the disbursement was made, and the date and specific
10 purpose for which the disbursement was made.

11 **SECTION 18.** 11.06 (1) (jm) of the statutes is amended to read:

12 11.06 (1) (jm) A copy of any separate schedule prepared or received pursuant
13 to an escrow agreement under s. 11.16 (5). ~~-A candidate or personal campaign~~
14 ~~committee receiving contributions under such an agreement and attaching a~~
15 ~~separate schedule under this paragraph may indicate the percentage of the total~~
16 ~~contributions received, disbursements made and exclusions claimed under s. 11.31~~
17 ~~(6) without itemization, except that amounts received from any contributor pursuant~~
18 ~~to the agreement who makes any separate contribution to the candidate or personal~~
19 ~~campaign committee during the calendar year of receipt as indicated in the schedule~~
20 ~~shall be aggregated and itemized if required under par. (a) or (b).~~

21 **SECTION 19.** 11.12 (6) of the statutes is renumbered 11.12 (6) (a) and amended
22 to read:

23 11.12 (6) (a) If any disbursement of more than \$20 cumulatively is made to
24 advocate the election or defeat of a clearly identified candidate by an individual or
25 committee later than 15 days prior to a primary or election in which the candidate's

BILL

1 name appears on the ballot without cooperation or consultation with a candidate or
2 agent or authorized committee of a candidate who is supported or opposed, and not
3 in concert with or at the request or suggestion of such a candidate, agent, or
4 committee, the individual or treasurer of the committee shall, within 24 hours of
5 making the disbursement, inform the appropriate filing officer of the information
6 required under s. 11.06 (1) in such manner as the board may prescribe. The
7 information shall also be included in the next regular report of the individual or
8 committee under s. 11.20. For purposes of this paragraph, disbursements cumulate
9 beginning with the day after the last date covered on the preprimary or preelection
10 report and ending with the day before the primary or election. Upon receipt of a
11 report under this paragraph, the filing officer shall, within 24 hours of receipt, mail
12 a copy of the report to all candidates for any office in support of or opposition to one
13 of whom a disbursement identified in the report is made. This paragraph does not
14 apply to any disbursement that is required to be reported as an independent
15 expenditure under par. (b).

16 **SECTION 20.** 11.12 (6) (b) of the statutes is created to read:

17 11.12 (6) (b) 1. If any person makes an independent expenditure or incurs an
18 obligation to make an independent expenditure, the person shall, within 24 hours
19 of making the independent expenditure or incurring the obligation to make the
20 independent expenditure, report to the board the information required under this
21 paragraph in such manner as the board may prescribe.

22 2. Each report under this paragraph shall contain the following information:

23 a. The name of each candidate who is identified in each communication
24 financed with the independent expenditure or obligation.

BILL**SECTION 20**

1 b. A statement as to whether the communication is intended to support or
2 oppose that candidate.

3 c. The total amount or value of the independent expenditure or obligation and
4 the cumulative independent expenditures made and obligations to make
5 independent expenditures incurred by the person with respect to that election.

6 3. If the person is a registrant, the person shall also include the information
7 reported under subd. 2. in the next regular report of the person under s. 11.20. Upon
8 receipt of a report under this paragraph, the board shall, within 24 hours of receipt,
9 mail a copy of the report to all candidates for any office in support of or opposition
10 to one of whom an independent expenditure or obligation identified in the report is
11 made.

12 **SECTION 21.** 11.16 (5) of the statutes is amended to read:

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

BILL

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

3 **SECTION 22.** 11.21 (15) of the statutes is repealed.

4 **SECTION 23.** 11.26 (2) (a) of the statutes is amended to read:

5 11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,
6 state treasurer, attorney general, state superintendent or justice, 4% of the value of
7 the disbursement level specified in the schedule under s. 11.31 (1), as adjusted under
8 s. 11.31 (9).

9 **SECTION 24.** 11.26 (9) (a) of the statutes is amended to read:

10 11.26 (9) (a) No individual who is a candidate for state or local office may receive
11 and accept more than 65% of the value of the total disbursement level determined
12 under s. 11.31 (1), as adjusted under s. 11.31 (9), for the office for which he or she is
13 a candidate during any primary and election campaign combined from all
14 committees subject to a filing requirement, including political party and legislative
15 campaign committees.

16 **SECTION 25.** 11.26 (9) (b) of the statutes is amended to read:

17 11.26 (9) (b) No individual who is a candidate for state or local office may receive
18 and accept more than 45% of the value of the total disbursement level determined
19 under s. 11.31 (1), as adjusted under s. 11.31 (9), for the office for which he or she is
20 a candidate during any primary and election campaign combined from all
21 committees other than political party and legislative campaign committees subject
22 to a filing requirement.

23 **SECTION 26.** 11.26 (9) (c) of the statutes is repealed.

24 **SECTION 27.** 11.26 (10) and (13) of the statutes are repealed.

25 **SECTION 28.** 11.26 (17) (a) of the statutes is amended to read:

BILL**SECTION 28**

1 11.26 (17) (a) For purposes of application of the limitations imposed in subs.
2 (1), (2), and (9) and (10), the “campaign” of a candidate begins and ends at the times
3 specified in this subsection.

4 **SECTION 29.** 11.31 (title) of the statutes is amended to read:

5 **11.31 (title) Disbursement levels and limitations; calculation.**

6 **SECTION 30.** 11.31 (1) (intro.) of the statutes is amended to read:

7 11.31 (1) SCHEDULE. (intro.) The following levels of disbursements are
8 established with reference to the candidates listed below. ~~Except as provided in sub.~~
9 ~~(2), such~~ The levels are subject to adjustment under sub. (9). The levels do not
10 operate to restrict the total amount of disbursements which are made or authorized
11 to be made by any candidate in any primary or other election.

12 **SECTION 31.** 11.31 (2) and (2m) of the statutes are repealed.

13 **SECTION 32.** 11.31 (3) of the statutes is repealed.

14 **SECTION 33.** 11.31 (3m) of the statutes is repealed.

15 **SECTION 34.** 11.31 (4) of the statutes is amended to read:

16 11.31 (4) ALLOCATION. ~~Except as provided in sub. (3m), whenever~~ Whenever a
17 separate disbursement level is specified for a primary and election under sub. (1), a
18 candidate who disburses less than the authorized level in the primary may not
19 reallocate the balance to increase the level in the election. Whenever a separate
20 disbursement level is not specified for a primary and election under sub. (1), a
21 candidate may allocate disbursements between the primary and election campaign
22 within the total level of disbursements specified in sub. (1) in any proportion desired,
23 and may carry over unexpended contributions from a primary campaign to an
24 election campaign.

25 **SECTION 35.** 11.31 (6) of the statutes is repealed.

BILL

1 **SECTION 36.** 11.31 (7) (b) of the statutes is amended to read:

2 11.31 (7) (b) Disbursements which are made before a campaign period for goods
3 to be delivered or services to be rendered in connection with the campaign are
4 charged against the disbursement ~~limitation~~ level for that campaign.

5 **SECTION 37.** 11.31 (7) (c) of the statutes is amended to read:

6 11.31 (7) (c) Disbursements which are made after a campaign to retire a debt
7 incurred in relation to a campaign are charged against the disbursement ~~limitation~~
8 level for that campaign.

9 **SECTION 38.** 11.31 (8) of the statutes is amended to read:

10 11.31 (8) CERTAIN CONTRIBUTIONS EXCLUDED. The ~~limitations imposed~~ levels
11 specified under this section do not apply to a gift of anything of value constituting
12 a contribution made directly to a registrant by another, but the ~~limitations~~ levels
13 shall apply to such gift when it is received and accepted by the recipient or, if received
14 in the form of money, when disbursed.

15 **SECTION 39.** 11.31 (9) of the statutes is created to read:

16 11.31 (9) ADJUSTMENT OF DISBURSEMENT LEVELS. (a) In this subsection,
17 “consumer price index” means the average of the consumer price index over each
18 12-month period, all items, U.S. city average, as determined by the bureau of labor
19 statistics of the U.S. department of labor.

20 (b) The dollar amounts of all disbursement levels specified in sub. (1) shall be
21 subject to a cost-of-living adjustment to be determined by rule of the board in
22 accordance with this paragraph. To determine the adjustment, the board shall
23 calculate the percentage difference between the consumer price index for the
24 12-month period ending on December 31 of each odd-numbered year and the
25 consumer price index for calendar year 2003. For each biennium, the board shall

BILL

1 adjust the disbursement levels specified under sub. (1) by that percentage to the
2 extent required to reflect any difference, rounded to the nearest multiple of \$25 in
3 the case of amounts of \$1 or more, which amounts shall be in effect until a subsequent
4 rule is promulgated under this subsection. Notwithstanding s. 227.24 (1) (a), (2) (b),
5 and (3), determinations under this paragraph may be promulgated as an emergency
6 rule under s. 227.24 without providing evidence that the emergency rule is necessary
7 for the public peace, health, safety, or welfare, and without a finding of emergency.

8 **SECTION 40.** 11.31 (10) of the statutes is amended to read:

9 11.31 (10) SURPLUS MATERIALS EXCLUDED. Disbursements constituting surplus
10 materials acquired in connection with a previous campaign of a candidate are not
11 ~~subject to limitation by~~ included in the levels specified in this section, if the materials
12 were previously reported as a disbursement by that candidate.

13 **SECTION 41.** 11.50 of the statutes is repealed.

14 **SECTION 42.** 11.51 of the statutes is created to read:

15 **11.51 Clean elections fund grants.** (1) Any candidate for the office of
16 governor, state senator, or representative to the assembly may qualify to receive a
17 grant from the clean elections fund by fulfilling the requirements of this section.

18 (2) (a) In order to qualify to receive a grant from the clean elections fund, a
19 candidate shall obtain and deposit with the state treasurer the number of qualifying
20 contributions specified in this subsection, in the amount of \$5 each, each of which
21 shall be received from an elector of this state and, in the case of a candidate for
22 legislative office, an elector of the district in which the candidate seeks office. The
23 name and address of each elector making a qualifying contribution shall be identified
24 in a report filed with the board as provided in s. 11.06 (1) (a). The number of required
25 qualifying contributions for a candidate for ^{each} state office is:

BILL

- 1 1. Governor, 2,500.
- 2 2. State senator, 150.
- 3 3. Representative to the assembly, 50.

4 (b) In addition to the requirements imposed under par. (a), a candidate does not
5 qualify to receive a grant for a general or special election unless the candidate
6 receives at least 5% of the total vote cast for all candidates on all ballots for the same
7 office at the September primary, or at a special primary if a special primary is held.

8 (3) Prior to notification that a candidate has qualified to receive a grant from
9 the clean elections fund under sub. (7), a candidate may accept seed money
10 contributions from individuals. The total seed money contributions accepted by a
11 candidate from one contributor, including any seed money contributions made by a
12 candidate to his or her own campaign, may not exceed \$100. The total seed money
13 contributions accepted by a candidate during the candidate's campaign, as defined
14 in s. 11.26 (17), may not exceed, in the aggregate, the following amount for the office
15 sought by candidate:

- 16 (a) Governor, \$50,000.
- 17 (b) State senator, \$1,500.
- 18 (c) Representative to the assembly, \$500.

19 (4) A contributor who makes a qualifying contribution may also make a seed
20 money contribution in the full amount authorized under sub. (3).

21 (5) A candidate shall remit to the state treasurer all seed money contributions
22 received by the candidate that are unencumbered on the day the candidate receives
23 notification of qualification for a grant under sub. (7). The state treasurer shall
24 deposit all seed money contributions received under this subsection in the clean
25 elections fund.

BILL**SECTION 42**

1 **(6)** No candidate who accepts a grant from the clean elections fund may accept
2 any seed money contribution under sub. (3) after receiving notification of
3 qualification for a grant under sub. (7).

4 **(7)** In order to qualify to receive a grant from the clean elections fund, a
5 candidate shall file an application with the board, no later than a time specified by
6 the board by rule, in which the candidate shall affirm that he or she has not accepted
7 and agrees not to accept a contribution from any source other than a contribution
8 required under sub. (2), a contribution authorized under sub. (3), and the candidate's
9 grant from the clean elections fund during the campaign of the candidate, as defined
10 in s. 11.31 (7). If the candidate desires to receive grant payments by electronic
11 transfer, the candidate shall include in his or her application sufficient information
12 and authorization for the state treasurer to transfer payments to his or her campaign
13 depository account. The board shall notify each candidate who qualifies to receive
14 a grant from the clean elections fund as promptly as possible following qualification.

15 **(8) (a)** The board shall distribute primary election grants from the clean
16 elections fund to each candidate who qualifies to receive a grant under this section
17 as soon as possible preceding the date that the primary election is held for the office
18 which the candidate seeks or the date on which the primary election would be held
19 if a primary election were required to be held.

20 **(b)** The board shall distribute grants for the general or for a special election
21 from the clean elections fund to each candidate who qualifies to receive a grant under
22 this section as soon as possible after the date of the primary election for the office
23 sought by the candidate, or the date on which the primary election would be held if
24 a primary election were required to be held, except that, in the case of a candidate
25 of a recognized political party for a partisan office, the board shall distribute a grant

BILL

1 to a candidate for an office for which a primary election was held only if the candidate
2 was nominated at that election.

3 (9) A candidate who receives a grant from the clean elections fund shall file
4 with the board reports of all disbursements made in the manner provided under s.
5 11.06 (1) (g), without regard to the amounts thereof.

6 (10) (a) Except as provided in par. (b) and subs. (11) to (13), a candidate who
7 qualifies to receive a grant from the clean elections fund under this section shall
8 receive a grant in the following amount for the election specified, less the aggregate
9 amount of contributions accepted by the candidate under sub. (3):

office sought by the candidate and for the

10		Primary	General or
11	Office	Election	Special Election
12	1. Governor	\$500,000	\$1,000,000
13	2. State senator	36,000	72,000
14	3. Representative to the assembly	18,000	36,000

15 (b) If a candidate does not have an opponent who has qualified to have his or
16 her name appear on the ballot at the election for which a grant is to be applied, the
17 candidate shall receive a grant for a primary election equal to the average total
18 disbursements made per candidate in primary election campaign periods, as
19 determined by the board from reports filed by or on behalf of those candidates in
20 accordance with s. 11.31 (5), for the office that the candidate seeks during the 4-year
21 period preceding the date of the primary election, or a grant for a general or special
22 election equal to the average total disbursements made per candidate in general and
23 special election campaign periods, as determined by the board from reports filed by
24 or on behalf of those candidates in accordance with s. 11.31 (5), for the office that the
25 candidate seeks during the 4-year period preceding the date of the general or special

BILL

1 election, except that a candidate for the office of governor shall receive a grant of
2 \$12,500 for a primary election and a grant of \$12,500 for a general or special election.

3 (11) (a) In this subsection, “consumer price index” means the average of the
4 consumer price index over each 12-month period, all items, U.S. city average, as
5 determined by the bureau of labor statistics of the U.S. department of labor.

6 (b) The dollar amounts of the grants specified in sub. (10) (a) and the grants
7 specified for the office of governor in sub. (10) (b) shall be subject to a cost-of-living
8 adjustment to be determined by rule of the board in accordance with this paragraph.
9 To determine the adjustment, the board shall calculate the percentage difference
10 between the consumer price index for the 12-month period ending on December 31
11 of each odd-numbered year and the consumer price index for calendar year 2003.
12 For each biennium, the board shall adjust the grant amounts specified in sub. (10)
13 by that percentage to the extent required to reflect any difference, rounded to the
14 nearest multiple of \$25 in the case of amounts of \$1 or more, which amounts shall
15 be in effect until a subsequent rule is promulgated under this subsection.
16 Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), determinations under this
17 paragraph may be promulgated as an emergency rule under s. 227.24 without
18 providing evidence that the emergency rule is necessary for the public peace, health,
19 safety, or welfare, and without a finding of emergency.

20 (12) If any independent expenditure is made or any obligation to make an
21 independent expenditure is incurred by any person in opposition to a candidate who
22 receives a grant from the clean elections fund or in support of an opponent of such
23 a candidate whose name is certified to appear on the same ballot, then the candidate
24 who receives a grant shall receive an additional grant in the total amount of the
25 obligations incurred and the independent expenditures made that were not

BILL

1 previously reported as obligations, as reported to the appropriate filing officer under
2 s. 11.12 (6) (b), ~~less any amounts for the same purposes that were previously~~
3 ~~reported,~~ but not to exceed, in combination with any additional grant payable to that
4 candidate under sub. (13), 2.5 times the amount payable to the candidate under sub.
5 (10), as adjusted under sub. (11).

6 (13) If a candidate who receives a grant from the clean elections fund is opposed
7 on a primary or election ballot by another candidate who does not receive a grant or
8 by another candidate who the board determines has violated his or her agreement
9 under sub. (7), the candidate who receives a grant shall receive an additional grant
10 in the amount by which the disbursements made by the other candidate exceed the
11 amount of the grant payable for the office sought by the candidate in that election
12 under sub. (10), as adjusted under sub. (11), but not to exceed, in combination with
13 any additional grant payable to that candidate under sub. (12), 2.5 times the amount
14 payable to the candidate under sub. (10), as adjusted under sub. (11). If a candidate
15 who receives a grant from the clean elections fund is opposed on a primary or election
16 ballot by more than one candidate who does not receive a grant or who the board
17 determines has violated his or her agreement under sub. (7), the amount of the grant
18 payable under this subsection is the largest amount that would be payable by reason
19 of any candidate's opposition.

20 (14) If a candidate who makes an agreement under sub. (7) does not adhere to
21 the agreement, the candidate shall forfeit an amount equivalent to any grant from
22 the clean elections fund that is provided to the candidate and the candidate may be
23 fined not more than 3 times the amount of any contributions received by the
24 candidate in his or her campaign, as defined in s. 11.26 (17), exclusive of the amount
25 of any grant or any contributions deposited under sub. (2) or received under sub. (3).

BILL**SECTION 42**

1 **(15)** No later than December 1 of each even-numbered year, a candidate who
2 received a grant from the clean elections fund in that year or the preceding year shall
3 return to the state treasurer the amount of any grant remaining in the candidate's
4 campaign depository account.

5 **(16)** The board may promulgate rules required to implement this section.

6 **SECTION 43.** 14.58 (20) of the statutes is amended to read:

7 14.58 **(20)** ELECTION CAMPAIGN FUND. Make disbursements to each candidate
8 certified under s. 7.08 (2) (c) or (cm) by the elections board as eligible to receive
9 moneys a grant from the Wisconsin election campaign clean elections fund.

10 **SECTION 44.** 20.510 (1) (q) of the statutes is repealed and recreated to read:

11 20.510 **(1)** (q) *Clean elections fund grants.* From the clean elections fund, a sum
12 sufficient to make the grants to candidates required under s. 11.51.

13 **SECTION 45.** 20.855 (4) (b) of the statutes is repealed.

14 **SECTION 46.** 20.855 (4) (ba) of the statutes is created to read:

15 20.855 **(4)** (ba) *Clean elections fund supplement.* A sum sufficient equal to the
16 amounts required to make the grants to candidates required under s. 11.51, to be
17 transferred to the clean elections fund.

18 **SECTION 47.** 25.17 (1) (aw) of the statutes is created to read:

19 25.17 **(1)** (aw) Clean elections fund (s. 25.42);

20 **SECTION 48.** 25.17 (1) (ys) of the statutes is repealed.

21 **SECTION 49.** 25.42 of the statutes is repealed and recreated to read:

22 **25.42 Clean elections fund.** All moneys deposited with the state treasurer
23 under s. 11.51 (2) and (5) or returned to the state treasurer under s. 11.51 (15) and
24 all moneys transferred to the clean elections fund under s. 20.855 (4) (ba) constitute
25 the clean elections fund.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1100/3dn
JTK&RJM:cjs:jf

March 19, 2001

Representative Pocan:

1. Under proposed s. 11.51 (5) of the /2 draft, seed money contributions were limited to a maximum of \$100. This draft clarifies this provision slightly and expressly states that this limitation applies to a candidate's contributions to his or her own campaign.
2. Under the /2 draft, seed money and qualifying contributions were separately limited. However, for clarification purposes, this draft, in proposed s. 11.51 (4), provides that a contributor who makes a qualifying contribution may also make a seed money contribution in the full amount permitted under the draft.
3. You are correct that the cost of living adjustment in the /2 draft applied only to disbursement levels. Under this draft, the adjustment is also applied to grant amounts.
4. This draft permits grants to be received by unopposed candidates. You requested that the Maine model be followed, which you said was based on the average amount of expenditures for the immediately preceding two uncontested elections. The Maine statute, in section 16-951 A. 3. and D., provides for a grant of \$5 times the number of qualifying contributions received. This draft provides for grants for legislative candidates to be based upon total disbursements made by candidates in uncontested elections for the same office during the four-year period preceding the date of the election, but since there have been no uncontested elections for the office of governor, the draft uses the Maine model, which yields a grant of \$12,500 for an election for that office (2,500 qualifying contributions times \$5).
5. You requested that independent candidates not be permitted to receive a grant for a general or special election unless they receive at least 5% of the total vote cast at the primary election preceding that election. In order to avoid an equal protection issue, this draft, in proposed s. 11.51 (2) (b), applies this requirement to all candidates, not just independent candidates. Because there is not always a special primary preceding a special election, the requirement applies in special elections only if a special primary is held.
6. Currently, ch. 11., stats., generally requires disclosure of financial activity by individuals and committees seeking to influence the election or defeat of candidates for state or local office [see ss. 11.01 (6), (7), (11), and (16), 11.05, and 11.06, stats.], unless a disbursement is made or obligation incurred by an individual other than a candidate

or by a committee that is not organized primarily for political purposes, the disbursement is not a contribution as defined in the law, and the disbursement is not made to expressly advocate the election or defeat of a clearly identified candidate [see s. 11.06 (2), stats.]. This language pretty closely tracks the holding of the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 656-664 (1976), which prescribes the boundaries of disclosure that may be constitutionally enforced (except as those requirements affect certain minor parties and independent candidates). Proposed ss. 11.01 (4m) and (11m) and 11.12 (6) (b), which require reporting by persons that make certain communications during certain periods containing a reference to a candidate for the office of governor, state senator, or representative to the assembly, appears to extend beyond the boundaries that the court permitted in 1976. As a result, its enforceability at the current time appears to rest upon a shift by the court in its stance on this issue. In this connection, see also *North Carolina Right to Life, Inc., v. Bartlett*, 168 F. 3d 705 (4th Cir. 1999), cert. denied, 120 S. Ct. 1156 (2000), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*.

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FROM THE
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LRB-1100/3dn
JTK&RJM:cjs:jf

March 19, 2001

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3. You are correct that the cost of living adjustment in the /2 draft applied only to disbursement levels. Under this draft, the adjustment is also applied to grant amounts.
4. This draft permits grants to be received by unopposed candidates. You requested that the Maine model be followed, which you said was based on the average amount of expenditures for the immediately preceding two uncontested elections. The Maine statute, in section 16-951 A. 3. and D., provides for a grant of \$5 times the number of qualifying contributions received. This draft provides for grants for legislative candidates to be based upon total disbursements made by candidates in uncontested elections for the same office during the four-year period preceding the date of the election, but since there have been no uncontested elections for the office of governor, the draft uses the Maine model, which yields a grant of \$12,500 for an election for that office (2,500 qualifying contributions times \$5).
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6. Currently, ch. 11., stats., generally requires disclosure of financial activity by individuals and committees seeking to influence the election or defeat of candidates for state or local office [see ss. 11.01 (6), (7), (11), and (16), 11.05, and 11.06, stats.], unless a disbursement is made or obligation incurred by an individual other than a candidate

or by a committee that is not organized primarily for political purposes, the disbursement is not a contribution as defined in the law, and the disbursement is not made to expressly advocate the election or defeat of a clearly identified candidate [see s. 11.06 (2), stats.]. This language pretty closely tracks the holding of the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612, 656-664 (1976), which prescribes the boundaries of disclosure that may be constitutionally enforced (except as those requirements affect certain minor parties and independent candidates). Proposed ss. 11.01 (4m) and (11m) and 11.12 (6) (b), which require reporting by persons that make certain communications during certain periods containing a reference to a candidate for the office of governor, state senator, or representative to the assembly, appears to extend beyond the boundaries that the court permitted in 1976. As a result, its enforceability at the current time appears to rest upon a shift by the court in its stance on this issue. In this connection, see also *North Carolina Right to Life, Inc., v. Bartlett*, 168 F. 3d 705 (4th Cir. 1999), cert. denied, 120 S. Ct. 1156 (2000), in which the court voided North Carolina's attempt to regulate issue advocacy as inconsistent with *Buckley*.

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Kuesel, Jeffery

From: Wavrunek, Glenn
Sent: Wednesday, March 21, 2001 9:28 AM
To: Kuesel, Jeffery
Subject: LRB 1100/3 -- one small change and we're done

Jeff,

The bill looks great, but we have one small change. On point #4 in the drafter's note you talk about the funding formula for uncontested races and how it does not work for the Governor's race because we've never had an uncontested Governor's race.

Anyway, Mark was wondering if we could change the \$12,500 figure to 20% of the contested general election fund, which would then put the figure at \$200,000 ($.20 \times \$1,000,000 = \$200,000$)?

Please call if you have any questions, and thanks for your work on this.

Glenn Wavrunek
Office of Rep. Mark Pocan



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1100/3
JTK&RJM:cs:jf

wanted THU 3/22 AM

stays

2001 BILL

see pp.
3+22

1 AN ACT to repeal 11.21 (15), 11.26 (9) (c), 11.26 (10) and (13), 11.31 (2) and (2m),
2 11.31 (3), 11.31 (3m), 11.31 (6), 11.50, 20.855 (4) (b), 25.17 (1) (ys) and 71.10 (3);
3 to renumber and amend 11.12 (6); to amend 5.02 (18), 5.62 (1) (a), 5.62 (3),
4 5.62 (5), 7.08 (2) (c) and (cm), 7.70 (3) (e) 1., 8.16 (1), 8.16 (5), 8.35 (4) (b), 8.50
5 (1) (d), 8.50 (3) (b), 10.02 (3) (b) 2m., 10.06 (1) (e), 10.06 (1) (i), 11.06 (1) (a), 11.06
6 (1) (g), 11.06 (1) (jm), 11.16 (5), 11.26 (2) (a), 11.26 (9) (a), 11.26 (9) (b), 11.26 (17)
7 (a), 11.31 (title), 11.31 (1) (intro.), 11.31 (4), 11.31 (7) (b), 11.31 (7) (c), 11.31 (8),
8 11.31 (10) and 14.58 (20); to repeal and recreate 20.510 (1) (q) and 25.42; and
9 to create 11.01 (4m) and (11m), 11.12 (6) (b), 11.31 (9), 11.51, 20.855 (4) (ba) and
10 25.17 (1) (aw) of the statutes; relating to: public financing of elections for
11 certain state offices, providing an exemption from emergency rule procedures,

BILL

1 granting rule-making authority, providing a penalty, and making
2 appropriations.

Analysis by the Legislative Reference Bureau

Currently, a candidate for state office other than court of appeals judge, circuit judge, or district attorney may qualify to receive a grant from the Wisconsin election campaign fund for use in an election campaign only. No funding is provided for primary campaigns. In order to qualify for a grant, a candidate must qualify to have his or her name appear on the general or spring election ballot and must have an opponent who qualifies to have his or her name appear on that ballot. In addition, a candidate for a partisan office at the general election must receive at least six percent of the total vote cast on all ballots at the September primary election, and a candidate for a partisan office at a special election must either represent a political party whose candidate for the office that the candidate seeks received at least six percent of the total vote cast for that office at the most recent general election at which the office was contested or must receive at least six percent of the total vote cast for that office at the special election.

Currently, the maximum amount of a grant that a candidate may receive is 45% of the disbursement (spending) level or limit for the office that the candidate seeks. This amount is not subject to any cost of living adjustment. In addition, this amount is reduced by the total amount of contributions received by a candidate from committees other than political party or legislative campaign committees and this amount may not be fully funded in a particular year if there are not sufficient moneys in the Wisconsin election campaign fund to provide full financing for all qualifying candidates. Grants may only be used to purchase services from a communications medium, printing, graphic arts, or advertising services, office supplies, or postage. A candidate must agree to abide by disbursement and self-contribution limits in order to receive a grant, but this agreement does not apply if the candidate has an opponent who could have qualified for a grant but declines to do so and declines to file an affidavit of voluntary compliance with disbursement and self-contribution limits. Grant moneys that are not spent by a candidate after the date of an election must be returned by the candidate to the state.

This bill replaces the Wisconsin election campaign fund with a new fund called the clean elections fund. Under the bill, a candidate for the office of governor, state senator, or representative to the assembly may qualify to receive a grant from the clean elections fund. Separate grants are provided for primary and election campaigns. Candidates for other state offices are not eligible to receive grants. In order to qualify for a grant, a candidate must qualify to have his or her name appear on the ballot at a spring, September, or special primary or a spring, general, or special election for which the grant money will be used. In order to qualify for a grant at a general or special election, a candidate must also receive at least 5% of the total vote cast on all ballots for the office that the candidate seeks at the September primary, or at the special primary, if a special primary is held. In addition, a candidate must

BILL

raise and deposit with the state treasurer a specified number of qualifying contributions in the amount of \$5 each. Each qualifying contribution must be received from an elector of this state and, in the case of a candidate for legislative office, an elector of the district in which the candidate seeks office, and the name and address of the contributor must be reported to the state elections board. The number of qualifying contributions ranges from 2,500 to 50, depending upon the office sought by the candidate.

Under the bill, the maximum amount of a grant that a candidate may receive ranges from \$500,000 in the primary and \$1,000,000 in the election to \$18,000 in the primary and \$36,000 in the election, depending upon the office sought by the candidate, except if a candidate has no opponent whose name is certified to appear on the ballot. Under the bill, an unopposed candidate at a primary election receives a grant equal to the average total disbursements made per candidate in primary elections for the office that the candidate seeks during the four-year period preceding the date of the primary election, and an unopposed candidate at a general or special election receives a grant equal to the average total disbursements made per candidate in general and special elections for the office that the candidate seeks during the four-year period preceding the date of the general or special election, except that a candidate for the office of governor receives a grant of ~~\$12,300~~ for a primary election and ~~\$12,500~~ for a general or special election. Grant amounts are subject to a biennial cost-of-living adjustment. ~~\$100,000~~

~~\$200,000~~

In order to receive a grant, a candidate must affirm that he or she has not accepted and agrees not to accept a contribution from any source other than qualifying contributions or seed money contributions, which may be accepted by a candidate before the candidate qualifies to receive a grant. The total seed money contributions accepted by a candidate from one contributor, including contributions by a candidate to his or her own campaign, may not exceed \$100. The total seed money contributions accepted by a candidate from all contributors range from \$50,000 to \$500, depending upon the office sought by the candidate. A candidate must deposit with the board any unencumbered seed money contributions held by the candidate on the day the candidate receives notification of qualification for a grant. If any person makes an expenditure independently of a candidate or incurs an obligation to make such an expenditure for the purpose of making a mass communication containing a reference to a candidate for the office of governor, state senator, or representative to the assembly within 60 days preceding a primary or election for that office, the person must report that expenditure or obligation to the board. Upon receipt of the report by the board, each candidate who accepts a grant qualifies to receive an additional grant equal to the amount of the independent expenditures and outstanding obligations made in opposition to that candidate or in support of his or her opponent. If a candidate who accepts a grant is opposed by a candidate who does not accept a grant or who violates his or her agreement, any complying candidate for the same office who accepts a grant qualifies to receive an additional grant equal to the amount by which disbursements by the other candidate exceed the original amount of the grant received by that candidate. The sum of all additional grants made to a single candidate may not exceed 2.5 times the original

BILL

amount of a candidate's grant. The bill permits grants to be spent for any lawful purpose. To facilitate matching of independent disbursements made and obligations incurred in opposition to a candidate or in support of a candidate's opponent, the bill revises current requirements for individuals and committees making such disbursements to report disbursements exceeding \$20 cumulatively if they are made within 15 days of an election to require, instead, reporting of all independent disbursements and obligations to make such disbursements in support of or in opposition to a candidate for the office of governor, state senator or representative to the assembly if the disbursements are made or obligations incurred within 60 days of an election.

The bill also deletes the disbursement and self-contribution limitations currently applicable to candidates who accept grants from the Wisconsin election campaign fund, as well as the affidavit of voluntary compliance with those limitations. Under the bill, grant moneys that are not spent by a candidate on the day after an election must be returned by the candidate to the state.

The bill provides that if a candidate does not adhere to the agreement required to obtain a grant, the candidate is subject to a forfeiture (civil penalty) equivalent to the amount of the grant that the candidate received, and in addition may be fined not more than three times the amount of any contributions received by the candidate excluding the amount of any grant and any qualifying or seed money contributions that are permitted to be received under the bill.

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

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

1 **SECTION 1.** 5.02 (18) of the statutes is amended to read:

2 5.02 (18) "September primary" means the primary held the 2nd Tuesday in
3 September to nominate candidates to be voted for at the general election, and to
4 determine which candidates for ~~state offices other than district attorney~~ the offices
5 of governor, state senator, and representative to the assembly may participate in the
6 Wisconsin election campaign receive grants from the clean elections fund.

7 **SECTION 2.** 5.62 (1) (a) of the statutes is amended to read:

8 5.62 (1) (a) At September primaries, the following ballot shall be provided for
9 the nomination of candidates of recognized political parties for national, state and
10 county offices and independent candidates for ~~state office~~ the office of governor, state

BILL

1 senator, and representative to the assembly in each ward, in the same form as
2 prescribed by the board under s. 7.08 (1) (a), except as authorized in s. 5.655. The
3 ballots shall be made up of the several party tickets with each party entitled to
4 participate in the primary under par. (b) or sub. (2) having its own ballot, except as
5 authorized in s. 5.655. The independent candidates for ~~state office other than district~~
6 attorney the offices of governor, state senator, and representative to the assembly
7 shall have a separate ballot for all such candidates as under s. 5.64 (1) (e), except as
8 authorized in s. 5.655. The ballots shall be secured together at the bottom. The party
9 ballot of the party receiving the most votes for president or governor at the last
10 general election shall be on top with the other parties arranged in descending order
11 based on their vote for president or governor at the last general election. The ballots
12 of parties qualifying under sub. (2) shall be placed after the parties qualifying under
13 par. (b), in the same order in which the parties filed petitions with the board. Any
14 ballot required under par. (b) 2. shall be placed next in order. The ballot listing the
15 independent candidates shall be placed at the bottom. At polling places where voting
16 machines are used, each party and the independent candidates shall be represented
17 in one or more separate columns or rows on the ballot. At polling places where an
18 electronic voting system is used other than an electronic voting machine, each party
19 and the independent candidates may be represented in separate columns or rows on
20 the ballot.

21 **SECTION 3.** 5.62 (3) of the statutes is amended to read:

22 5.62 (3) The board shall designate the official primary ballot arrangement for
23 statewide offices and district attorney within each prosecutorial district by using the
24 same procedure as provided in s. 5.60 (1) (b). On each ballot and on each separate
25 column or row on the ballot, the candidates for office shall be listed together with the

BILL

1 offices which they seek in the following order whenever these offices appear on the
2 September primary ballot: governor, lieutenant governor, attorney general,
3 secretary of state, state treasurer, U.S. senator, U.S. representative in congress,
4 state senator, representative to the assembly, district attorney and the county offices.
5 Below the names of the independent candidates for the offices of governor, state
6 senator, and representative to the assembly shall appear the party or principle of the
7 candidates, if any, in 5 words or less, as shown on their nomination papers.

8 **SECTION 4.** 5.62 (5) of the statutes is amended to read:

9 5.62 (5) At the September primary, an elector may vote for the candidates of
10 only one party, or the elector may vote for any of the independent candidates for state
11 office the offices of governor, state senator, or representative to the assembly listed;
12 but the elector may not vote for more than one candidate for a single office. A space
13 shall be provided on the ballot for an elector to write in the name of his or her choice
14 as a party candidate for any office, including a party candidate of a recognized
15 political party whose name appears on the ballot, column or row designated for
16 independent candidates, as provided in sub. (1) (b) 2. or (2) (b), but no space shall be
17 provided to write in the names of independent candidates.

18 **SECTION 5.** 7.08 (2) (c) and (cm) of the statutes are amended to read:

19 7.08 (2) (c) As soon as possible after the canvass of the ~~spring and~~ September
20 primary ~~votes~~ vote, but no later than the first Tuesday in March and the 4th Tuesday
21 in September, transmit to the state treasurer a certified list of all eligible candidates
22 for state office who have filed applications under s. ~~11.50 (2)~~ 11.51 (7) and whom the
23 board determines to be eligible to receive ~~payments~~ grants from the ~~Wisconsin~~
24 ~~election campaign~~ clean elections fund. The list shall contain each candidate's name,
25 the mailing address indicated upon the candidate's registration form, the office for

BILL

1 which the individual is a candidate and the party or principle which he or she
2 represents, if any.

3 (cm) As soon as possible after the canvass of a special primary, or the date that
4 the primary would be held, if required, transmit to the state treasurer a certified list
5 of all eligible candidates for state office who have filed applications under s. 11.50 (2)
6 11.51 (7) and whom the board determines to be eligible to receive a grant from the
7 ~~Wisconsin election campaign clean elections fund prior to the election. The board~~
8 ~~shall also transmit a similar list of candidates, if any, who have filed applications~~
9 ~~under s. 11.50 (2) and whom the board determines to be eligible to receive a grant~~
10 ~~under s. 11.50 (1) (a) 2. after the special election.~~ The list shall contain each
11 candidate's name, the mailing address indicated upon the candidate's registration
12 form, the office for which the individual is a candidate and the party or principle
13 which he or she represents, if any.

14 **SECTION 6.** 7.70 (3) (e) 1. of the statutes is amended to read:

15 7.70 (3) (e) 1. After each September primary and special primary for the office
16 of governor, state senator, or representative to the assembly, the name of each
17 candidate not defeated in the primary who receives at least 6% of the total vote cast
18 for all candidates on all ballots at the primary for each ~~separate state office except~~
19 ~~district attorney~~ the office of governor, state senator, or representative to the
20 assembly, and the percentage of the total vote received by that candidate. Such
21 percentage shall be calculated within each district in the case of legislative
22 candidates.

23 **SECTION 7.** 8.16 (1) of the statutes is amended to read:

24 8.16 (1) Except as provided in sub. (2), the person who receives the greatest
25 number of votes for an office on a party ballot at any partisan primary, regardless of

BILL**SECTION 7**

1 whether the person's name appears on the ballot, shall be the party's candidate for
2 the office, and the person's name shall so appear on the official ballot at the next
3 election. All independent candidates shall appear on the general election ballot or
4 on any special election ballot regardless of the number of votes received by such
5 candidates at the September or at any special primary.

6 **SECTION 8.** 8.16 (5) of the statutes is amended to read:

7 8.16 (5) Any candidate for ~~a partisan state~~ the office except district attorney
8 of governor, state senator, or representative to the assembly may also qualify for
9 payments a grant under s. ~~11.50~~ 11.51 if the candidate meets the requirements
10 specified in s. ~~11.50~~ 11.51; however, a candidate who qualifies under this section for
11 placement on the official ballot at the general election or a special election shall
12 appear on such ballot regardless of whether he or she qualifies for payments a grant
13 under s. ~~11.50~~ 11.51.

14 **SECTION 9.** 8.35 (4) (b) of the statutes is amended to read:

15 8.35 (4) (b) Notwithstanding par. (a), any unspent and unencumbered moneys
16 received by a candidate from the ~~Wisconsin election campaign~~ clean elections fund
17 shall be immediately transferred to any candidate who is appointed to replace such
18 candidate, ~~upon filing of a proper application therefor under s. 11.50 (2).~~ If there is
19 no candidate appointed ~~or if no proper application is filed within 7 days of the date~~
20 ~~on which the vacancy occurs,~~ such moneys shall revert to the state as provided in s.
21 ~~11.50 (8).~~

22 **SECTION 10.** 8.50 (1) (d) of the statutes is amended to read:

23 8.50 (1) (d) When the election concerns a national or state office, the board shall
24 transmit to each county clerk at least 22 days before the special primary a certified
25 list of all persons for whom nomination papers have been filed in its office. If no

BILL

1 primary is required, the list shall be transmitted at least 42 days prior to the day of
2 the election. If a special primary for the office of state senator or representative to
3 the assembly is held, the board shall send a certified list of candidates who are
4 eligible to receive grants under s. 11.51 to the state treasurer pursuant to s. 7.08 (2)
5 (cm). Immediately upon receipt of the certified list of candidates from the board, the
6 county clerk shall prepare his or her ballots. For a county special election, the county
7 clerk shall certify the candidates and prepare the ballots. If there is a primary, the
8 county clerk shall publish one type B notice in a newspaper under ch. 10. When a
9 primary is held, as soon as possible after the primary, the county clerk shall certify
10 the candidates and prepare the ballots for the following special election. The clerk
11 shall publish one type B notice in a newspaper under ch. 10 for the election.

12 **SECTION 11.** 8.50 (3) (b) of the statutes is amended to read:

13 8.50 (3) (b) Except as otherwise provided in this section, the provisions for
14 September primaries under s. 8.15 are applicable to all partisan primaries held
15 under this section, and the provisions for spring primaries under s. 8.10 are
16 applicable to all nonpartisan primaries held under this section. In a special partisan
17 primary or election, the order of the parties on the ballot shall be the same as
18 provided under s. 5.62 (1) or 5.64 (1) (b). Independent candidates for ~~state office~~ the
19 office of governor, state senator, or representative to the assembly at a special
20 partisan election shall ~~not~~ appear on the primary ballot. No primary is required for
21 a nonpartisan election in which not more than 2 candidates for an office appear on
22 the ballot or for a partisan election in which not more than one candidate for an office
23 appears on the ballot of each recognized political party. In every special election
24 except a special election for nonpartisan state office where no candidate is certified

BILL

1 to appear on the ballot, a space for write-in votes shall be provided on the ballot,
2 regardless of whether a special primary is held.

3 **SECTION 12.** 10.02 (3) (b) 2m. of the statutes is amended to read:

4 10.02 (3) (b) 2m. At the September primary, the elector shall select the party
5 ballot of his or her choice or the ballot containing the names of the independent
6 candidates for ~~state office, the office of governor, state senator, and representative~~
7 to the assembly, and make a cross (X) next to or depress the lever or button next to
8 the candidate's name for each office for whom the elector intends to vote or insert or
9 write in the name of the elector's choice for a party candidate, if any. In order to
10 qualify for participation in the Wisconsin election campaign a grant from the clean
11 elections fund, a candidate for ~~state office the office of governor, state senator, or~~
12 representative to the assembly at the September primary, ~~other than a candidate for~~
13 district attorney, or a special primary, if a special primary is held, must receive at
14 least 6% 5% of all votes cast on all ballots for the office for which he or she is a
15 candidate, in addition to other requirements.

16 **SECTION 13.** 10.06 (1) (e) of the statutes is amended to read:

17 10.06 (1) (e) As soon as possible following the state canvass of the spring
18 primary vote, but no later than the first Tuesday in March, the board shall send a
19 type B notice certifying to each county clerk the list of candidates for the spring
20 election. When no primary is held, this notice shall be sent under par. (c). The board
21 shall also in any case send a certified list of candidates under s. ~~11.50~~ 11.51 to the
22 state treasurer pursuant to s. 7.08 (2) (c). When there is a referendum, the board
23 shall send type A and C notices certifying each question to the county clerks as soon
24 as possible, but no later than the first Tuesday in March.

25 **SECTION 14.** 10.06 (1) (i) of the statutes is amended to read:

BILL

1 10.06 (1) (i) As soon as possible after the state canvass, but no later than the
2 4th Tuesday in September, the board shall send a type B notice certifying the list of
3 candidates and type A and C notices certifying each question for any referendum to
4 each county clerk for the general election and a certified list of candidates under s.
5 ~~11.50~~ 11.51 to the state treasurer pursuant to s. 7.08 (2) (c).

6 **SECTION 15.** 11.01 (4m) and (11m) of the statutes are created to read:

7 11.01 (4m) "Communication" means a message transmitted by means of a
8 printed advertisement, billboard, handbill, sample ballot, radio or television
9 advertisement, telephone call, or any medium that may be utilized for the purpose
10 of disseminating or broadcasting a message, but not including a poll conducted solely
11 for the purpose of identifying or collecting data concerning the attitudes or
12 preferences of electors.

13 (11m) "Independent expenditure" means an expenditure made for the purpose
14 of making a communication that is made during the 60-day period preceding any
15 September or special primary election for the office of governor, state senator,
16 representative to the assembly and the date of the general or special election
17 following that primary election, or if no special primary election for the office of state
18 senator or representative to the assembly is held, during the 60-day period
19 preceding a special election for one of those offices; that contains a reference to a
20 clearly identified candidate for the office of governor, state senator, or representative
21 to the assembly at that election; that is made without cooperation or consultation
22 with such a candidate, or any authorized committee or agent of such a candidate; and
23 that is not made in concert with, or at the request or suggestion of, such a candidate,
24 or any authorized committee or agent of such a candidate.

25 **SECTION 16.** 11.06 (1) (a) of the statutes is amended to read:

BILL

1 11.06 (1) (a) ~~An~~ Except as required under s. 11.51 (2), an itemized statement
2 giving the date, full name and street address of each contributor who has made a
3 contribution in excess of \$20, or whose contribution if \$20 or less aggregates more
4 than \$20 for the calendar year, together with the amount of the contribution and the
5 cumulative total contributions made by that contributor for the calendar year.

6 **SECTION 17.** 11.06 (1) (g) of the statutes is amended to read:

7 11.06 (1) (g) ~~An~~ Except as required under s. 11.51 (9), an itemized statement
8 of every disbursement exceeding \$20 in amount or value, together with the name and
9 address of the person to whom the disbursement was made, and the date and specific
10 purpose for which the disbursement was made.

11 **SECTION 18.** 11.06 (1) (jm) of the statutes is amended to read:

12 11.06 (1) (jm) A copy of any separate schedule prepared or received pursuant
13 to an escrow agreement under s. 11.16 (5). ~~A candidate or personal campaign~~
14 ~~committee receiving contributions under such an agreement and attaching a~~
15 ~~separate schedule under this paragraph may indicate the percentage of the total~~
16 ~~contributions received, disbursements made and exclusions claimed under s. 11.31~~
17 ~~(6) without itemization, except that amounts received from any contributor pursuant~~
18 ~~to the agreement who makes any separate contribution to the candidate or personal~~
19 ~~campaign committee during the calendar year of receipt as indicated in the schedule~~
20 ~~shall be aggregated and itemized if required under par. (a) or (b).~~

21 **SECTION 19.** 11.12 (6) of the statutes is renumbered 11.12 (6) (a) and amended
22 to read:

23 11.12 (6) (a) If any disbursement of more than \$20 cumulatively is made to
24 advocate the election or defeat of a clearly identified candidate by an individual or
25 committee later than 15 days prior to a primary or election in which the candidate's

BILL

1 name appears on the ballot without cooperation or consultation with a candidate or
2 agent or authorized committee of a candidate who is supported or opposed, and not
3 in concert with or at the request or suggestion of such a candidate, agent, or
4 committee, the individual or treasurer of the committee shall, within 24 hours of
5 making the disbursement, inform the appropriate filing officer of the information
6 required under s. 11.06 (1) in such manner as the board may prescribe. The
7 information shall also be included in the next regular report of the individual or
8 committee under s. 11.20. For purposes of this paragraph, disbursements cumulate
9 beginning with the day after the last date covered on the preprimary or preelection
10 report and ending with the day before the primary or election. Upon receipt of a
11 report under this paragraph, the filing officer shall, within 24 hours of receipt, mail
12 a copy of the report to all candidates for any office in support of or opposition to one
13 of whom a disbursement identified in the report is made. This paragraph does not
14 apply to any disbursement that is required to be reported as an independent
15 expenditure under par. (b).

16 **SECTION 20.** 11.12 (6) (b) of the statutes is created to read:

17 11.12 (6) (b) 1. If any person makes an independent expenditure or incurs an
18 obligation to make an independent expenditure, the person shall, within 24 hours
19 of making the independent expenditure or incurring the obligation to make the
20 independent expenditure, report to the board the information required under this
21 paragraph in such manner as the board may prescribe.

22 2. Each report under this paragraph shall contain the following information:

23 a. The name of each candidate who is identified in each communication
24 financed with the independent expenditure or obligation.

BILL

1 b. A statement as to whether the communication is intended to support or
2 oppose that candidate.

3 c. The total amount or value of the independent expenditure or obligation and
4 the cumulative independent expenditures made and obligations to make
5 independent expenditures incurred by the person with respect to that election.

6 3. If the person is a registrant, the person shall also include the information
7 reported under subd. 2. in the next regular report of the person under s. 11.20. Upon
8 receipt of a report under this paragraph, the board shall, within 24 hours of receipt,
9 mail a copy of the report to all candidates for any office in support of or opposition
10 to one of whom an independent expenditure or obligation identified in the report is
11 made.

12 **SECTION 21.** 11.16 (5) of the statutes is amended to read:

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

BILL

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

3 **SECTION 22.** 11.21 (15) of the statutes is repealed.

4 **SECTION 23.** 11.26 (2) (a) of the statutes is amended to read:

5 11.26 (2) (a) Candidates for governor, lieutenant governor, secretary of state,
6 state treasurer, attorney general, state superintendent or justice, 4% of the value of
7 the disbursement level specified in the schedule under s. 11.31 (1), as adjusted under
8 s. 11.31 (9).

9 **SECTION 24.** 11.26 (9) (a) of the statutes is amended to read:

10 11.26 (9) (a) No individual who is a candidate for state or local office may receive
11 and accept more than 65% of the value of the total disbursement level determined
12 under s. 11.31 (1), as adjusted under s. 11.31 (9), for the office for which he or she is
13 a candidate during any primary and election campaign combined from all
14 committees subject to a filing requirement, including political party and legislative
15 campaign committees.

16 **SECTION 25.** 11.26 (9) (b) of the statutes is amended to read:

17 11.26 (9) (b) No individual who is a candidate for state or local office may receive
18 and accept more than 45% of the value of the total disbursement level determined
19 under s. 11.31 (1), as adjusted under s. 11.31 (9), for the office for which he or she is
20 a candidate during any primary and election campaign combined from all
21 committees other than political party and legislative campaign committees subject
22 to a filing requirement.

23 **SECTION 26.** 11.26 (9) (c) of the statutes is repealed.

24 **SECTION 27.** 11.26 (10) and (13) of the statutes are repealed.

25 **SECTION 28.** 11.26 (17) (a) of the statutes is amended to read:

BILL

1 11.26 (17) (a) For purposes of application of the limitations imposed in subs.
2 (1), (2), and (9) and (10), the “campaign” of a candidate begins and ends at the times
3 specified in this subsection.

4 **SECTION 29.** 11.31 (title) of the statutes is amended to read:

5 **11.31 (title) Disbursement levels and limitations; calculation.**

6 **SECTION 30.** 11.31 (1) (intro.) of the statutes is amended to read:

7 **11.31 (1) SCHEDULE.** (intro.) The following levels of disbursements are
8 established with reference to the candidates listed below. ~~Except as provided in sub.~~
9 ~~(2), such~~ The levels are subject to adjustment under sub. (9). The levels do not
10 operate to restrict the total amount of disbursements which are made or authorized
11 to be made by any candidate in any primary or other election.

12 **SECTION 31.** 11.31 (2) and (2m) of the statutes are repealed.

13 **SECTION 32.** 11.31 (3) of the statutes is repealed.

14 **SECTION 33.** 11.31 (3m) of the statutes is repealed.

15 **SECTION 34.** 11.31 (4) of the statutes is amended to read:

16 **11.31 (4) ALLOCATION.** ~~Except as provided in sub. (3m), whenever~~ Whenever a
17 separate disbursement level is specified for a primary and election under sub. (1), a
18 candidate who disburses less than the authorized level in the primary may not
19 reallocate the balance to increase the level in the election. Whenever a separate
20 disbursement level is not specified for a primary and election under sub. (1), a
21 candidate may allocate disbursements between the primary and election campaign
22 within the total level of disbursements specified in sub. (1) in any proportion desired,
23 and may carry over unexpended contributions from a primary campaign to an
24 election campaign.

25 **SECTION 35.** 11.31 (6) of the statutes is repealed.

BILL

1 **SECTION 36.** 11.31 (7) (b) of the statutes is amended to read:

2 11.31 (7) (b) Disbursements which are made before a campaign period for goods
3 to be delivered or services to be rendered in connection with the campaign are
4 charged against the disbursement ~~limitation~~ level for that campaign.

5 **SECTION 37.** 11.31 (7) (c) of the statutes is amended to read:

6 11.31 (7) (c) Disbursements which are made after a campaign to retire a debt
7 incurred in relation to a campaign are charged against the disbursement ~~limitation~~
8 level for that campaign.

9 **SECTION 38.** 11.31 (8) of the statutes is amended to read:

10 11.31 (8) **CERTAIN CONTRIBUTIONS EXCLUDED.** The ~~limitations imposed levels~~
11 specified under this section do not apply to a gift of anything of value constituting
12 a contribution made directly to a registrant by another, but the ~~limitations levels~~
13 shall apply to such gift when it is received and accepted by the recipient or, if received
14 in the form of money, when disbursed.

15 **SECTION 39.** 11.31 (9) of the statutes is created to read:

16 11.31 (9) **ADJUSTMENT OF DISBURSEMENT LEVELS.** (a) In this subsection,
17 "consumer price index" means the average of the consumer price index over each
18 12-month period, all items, U.S. city average, as determined by the bureau of labor
19 statistics of the U.S. department of labor.

20 (b) The dollar amounts of all disbursement levels specified in sub. (1) shall be
21 subject to a cost-of-living adjustment to be determined by rule of the board in
22 accordance with this paragraph. To determine the adjustment, the board shall
23 calculate the percentage difference between the consumer price index for the
24 12-month period ending on December 31 of each odd-numbered year and the
25 consumer price index for calendar year 2003. For each biennium, the board shall

BILL

1 adjust the disbursement levels specified under sub. (1) by that percentage to the
2 extent required to reflect any difference, rounded to the nearest multiple of \$25 in
3 the case of amounts of \$1 or more, which amounts shall be in effect until a subsequent
4 rule is promulgated under this subsection. Notwithstanding s. 227.24 (1) (a), (2) (b),
5 and (3), determinations under this paragraph may be promulgated as an emergency
6 rule under s. 227.24 without providing evidence that the emergency rule is necessary
7 for the public peace, health, safety, or welfare, and without a finding of emergency.

8 **SECTION 40.** 11.31 (10) of the statutes is amended to read:

9 **11.31 (10) SURPLUS MATERIALS EXCLUDED.** Disbursements constituting surplus
10 materials acquired in connection with a previous campaign of a candidate are not
11 ~~subject to limitation by~~ included in the levels specified in this section, if the materials
12 were previously reported as a disbursement by that candidate.

13 **SECTION 41.** 11.50 of the statutes is repealed.

14 **SECTION 42.** 11.51 of the statutes is created to read:

15 **11.51 Clean elections fund grants.** (1) Any candidate for the office of
16 governor, state senator, or representative to the assembly may qualify to receive a
17 grant from the clean elections fund by fulfilling the requirements of this section.

18 (2) (a) In order to qualify to receive a grant from the clean elections fund, a
19 candidate shall obtain and deposit with the state treasurer the number of qualifying
20 contributions specified in this subsection, in the amount of \$5 each, each of which
21 shall be received from an elector of this state and, in the case of a candidate for
22 legislative office, an elector of the district in which the candidate seeks office. The
23 name and address of each elector making a qualifying contribution shall be identified
24 in a report filed with the board as provided in s. 11.06 (1) (a). The number of required
25 qualifying contributions for a candidate for each office is:

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- 1 1. Governor, 2,500.
- 2 2. State senator, 150.
- 3 3. Representative to the assembly, 50.

4 (b) In addition to the requirements imposed under par. (a), a candidate does not
5 qualify to receive a grant for a general or special election unless the candidate
6 receives at least 5% of the total vote cast for all candidates on all ballots for the same
7 office at the September primary, or at a special primary if a special primary is held.

8 (3) Prior to notification that a candidate has qualified to receive a grant from
9 the clean elections fund under sub. (7), a candidate may accept seed money
10 contributions from individuals. The total seed money contributions accepted by a
11 candidate from one contributor, including any seed money contributions made by a
12 candidate to his or her own campaign, may not exceed \$100. The total seed money
13 contributions accepted by a candidate during the candidate's campaign, as defined
14 in s. 11.26 (17), may not exceed, in the aggregate, the following amount for the office
15 sought by candidate:

- 16 (a) Governor, \$50,000.
- 17 (b) State senator, \$1,500.
- 18 (c) Representative to the assembly, \$500.

19 (4) A contributor who makes a qualifying contribution may also make a seed
20 money contribution in the full amount authorized under sub. (3).

21 (5) A candidate shall remit to the state treasurer all seed money contributions
22 received by the candidate that are unencumbered on the day the candidate receives
23 notification of qualification for a grant under sub. (7). The state treasurer shall
24 deposit all seed money contributions received under this subsection in the clean
25 elections fund.

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1 (6) No candidate who accepts a grant from the clean elections fund may accept
2 any seed money contribution under sub. (3) after receiving notification of
3 qualification for a grant under sub. (7).

4 (7) In order to qualify to receive a grant from the clean elections fund, a
5 candidate shall file an application with the board, no later than a time specified by
6 the board by rule, in which the candidate shall affirm that he or she has not accepted
7 and agrees not to accept a contribution from any source other than a contribution
8 required under sub. (2), a contribution authorized under sub. (3), and the candidate's
9 grant from the clean elections fund during the campaign of the candidate, as defined
10 in s. 11.31 (7). If the candidate desires to receive grant payments by electronic
11 transfer, the candidate shall include in his or her application sufficient information
12 and authorization for the state treasurer to transfer payments to his or her campaign
13 depository account. The board shall notify each candidate who qualifies to receive
14 a grant from the clean elections fund as promptly as possible following qualification.

15 (8) (a) The board shall distribute primary election grants from the clean
16 elections fund to each candidate who qualifies to receive a grant under this section
17 as soon as possible preceding the date that the primary election is held for the office
18 which the candidate seeks or the date on which the primary election would be held
19 if a primary election were required to be held.

20 (b) The board shall distribute grants for the general or for a special election
21 from the clean elections fund to each candidate who qualifies to receive a grant under
22 this section as soon as possible after the date of the primary election for the office
23 sought by the candidate, or the date on which the primary election would be held if
24 a primary election were required to be held, except that, in the case of a candidate
25 of a recognized political party for a partisan office, the board shall distribute a grant

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1 to a candidate for an office for which a primary election was held only if the candidate
2 was nominated at that election.

3 (9) A candidate who receives a grant from the clean elections fund shall file
4 with the board reports of all disbursements made in the manner provided under s.
5 11.06 (1) (g), without regard to the amounts thereof.

6 (10) (a) Except as provided in par. (b) and subs. (11) to (13), a candidate who
7 qualifies to receive a grant from the clean elections fund under this section shall
8 receive a grant in the following amount for the office sought by the candidate and for
9 the election specified, less the aggregate amount of contributions accepted by the
10 candidate under sub. (3):

Office	Primary Election	General or Special Election
1. Governor	\$500,000	\$1,000,000
2. State senator	36,000	72,000
3. Representative to the assembly	18,000	36,000

16 (b) If a candidate does not have an opponent who has qualified to have his or
17 her name appear on the ballot at the election for which a grant is to be applied, the
18 candidate shall receive a grant for a primary election equal to the average total
19 disbursements made per candidate in primary election campaign periods, as
20 determined by the board from reports filed by or on behalf of those candidates in
21 accordance with s. 11.31 (5), for the office that the candidate seeks during the 4-year
22 period preceding the date of the primary election, or a grant for a general or special
23 election equal to the average total disbursements made per candidate in general and
24 special election campaign periods, as determined by the board from reports filed by
25 or on behalf of those candidates in accordance with s. 11.31 (5), for the office that the

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1 candidate seeks during the 4-year period preceding the date of the general or special
2 election, except that a candidate for the office of governor shall receive a grant of
3 ~~\$12,500~~ ^{\$100,000} for a primary election and a grant of ~~\$12,500~~ ^{\$200,000} for a general or special election.

4 (11) (a) In this subsection, "consumer price index" means the average of the
5 consumer price index over each 12-month period, all items, U.S. city average, as
6 determined by the bureau of labor statistics of the U.S. department of labor.

7 (b) The dollar amounts of the grants specified in sub. (10) (a) and the grants
8 specified for the office of governor in sub. (10) (b) shall be subject to a cost-of-living
9 adjustment to be determined by rule of the board in accordance with this paragraph.
10 To determine the adjustment, the board shall calculate the percentage difference
11 between the consumer price index for the 12-month period ending on December 31
12 of each odd-numbered year and the consumer price index for calendar year 2003.
13 For each biennium, the board shall adjust the grant amounts specified in sub. (10)
14 by that percentage to the extent required to reflect any difference, rounded to the
15 nearest multiple of \$25 in the case of amounts of \$1 or more, which amounts shall
16 be in effect until a subsequent rule is promulgated under this subsection.
17 Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), determinations under this
18 paragraph may be promulgated as an emergency rule under s. 227.24 without
19 providing evidence that the emergency rule is necessary for the public peace, health,
20 safety, or welfare, and without a finding of emergency.

21 (12) If any independent expenditure is made or any obligation to make an
22 independent expenditure is incurred by any person in opposition to a candidate who
23 receives a grant from the clean elections fund or in support of an opponent of such
24 a candidate whose name is certified to appear on the same ballot, then the candidate
25 who receives a grant shall receive an additional grant in the total amount of the

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1 obligations incurred and the independent expenditures made that were not
2 previously reported as obligations, as reported to the appropriate filing officer under
3 s. 11.12 (6) (b), but not to exceed, in combination with any additional grant payable
4 to that candidate under sub. (13), 2.5 times the amount payable to the candidate
5 under sub. (10), as adjusted under sub. (11).

6 (13) If a candidate who receives a grant from the clean elections fund is opposed
7 on a primary or election ballot by another candidate who does not receive a grant or
8 by another candidate who the board determines has violated his or her agreement
9 under sub. (7), the candidate who receives a grant shall receive an additional grant
10 in the amount by which the disbursements made by the other candidate exceed the
11 amount of the grant payable for the office sought by the candidate in that election
12 under sub. (10), as adjusted under sub. (11), but not to exceed, in combination with
13 any additional grant payable to that candidate under sub. (12), 2.5 times the amount
14 payable to the candidate under sub. (10), as adjusted under sub. (11). If a candidate
15 who receives a grant from the clean elections fund is opposed on a primary or election
16 ballot by more than one candidate who does not receive a grant or who the board
17 determines has violated his or her agreement under sub. (7), the amount of the grant
18 payable under this subsection is the largest amount that would be payable by reason
19 of any candidate's opposition.

20 (14) If a candidate who makes an agreement under sub. (7) does not adhere to
21 the agreement, the candidate shall forfeit an amount equivalent to any grant from
22 the clean elections fund that is provided to the candidate and the candidate may be
23 fined not more than 3 times the amount of any contributions received by the
24 candidate in his or her campaign, as defined in s. 11.26 (17), exclusive of the amount
25 of any grant or any contributions deposited under sub. (2) or received under sub. (3).

BILL

1 (15) No later than December 1 of each even-numbered year, a candidate who
2 received a grant from the clean elections fund in that year or the preceding year shall
3 return to the state treasurer the amount of any grant remaining in the candidate's
4 campaign depository account.

5 (16) The board may promulgate rules required to implement this section.

6 **SECTION 43.** 14.58 (20) of the statutes is amended to read:

7 14.58 (20) ELECTION CAMPAIGN FUND. Make disbursements to each candidate
8 certified under s. 7.08 (2) (c) or (cm) by the elections board as eligible to receive
9 moneys a grant from the Wisconsin election campaign clean elections fund.

10 **SECTION 44.** 20.510 (1) (q) of the statutes is repealed and recreated to read:

11 20.510 (1) (q) *Clean elections fund grants.* From the clean elections fund, a sum
12 sufficient to make the grants to candidates required under s. 11.51.

13 **SECTION 45.** 20.855 (4) (b) of the statutes is repealed.

14 **SECTION 46.** 20.855 (4) (ba) of the statutes is created to read:

15 20.855 (4) (ba) *Clean elections fund supplement.* A sum sufficient equal to the
16 amounts required to make the grants to candidates required under s. 11.51, to be
17 transferred to the clean elections fund.

18 **SECTION 47.** 25.17 (1) (aw) of the statutes is created to read:

19 25.17 (1) (aw) Clean elections fund (s. 25.42);

20 **SECTION 48.** 25.17 (1) (ys) of the statutes is repealed.

21 **SECTION 49.** 25.42 of the statutes is repealed and recreated to read:

22 **25.42 Clean elections fund.** All moneys deposited with the state treasurer
23 under s. 11.51 (2) and (5) or returned to the state treasurer under s. 11.51 (15) and
24 all moneys transferred to the clean elections fund under s. 20.855 (4) (ba) constitute
25 the clean elections fund.



State of Wisconsin

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March 21, 2001

MEMORANDUM

To: Representative Pocan

From: Jeffery T. Kuesel, Managing Attorney

Re: LRB-1100 Public financing of campaigns for state office

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

JACKET FOR ASSEMBLY JACKET FOR SENATE

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

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

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