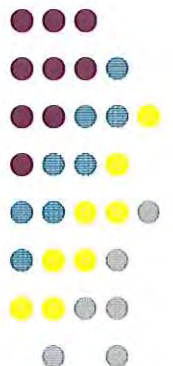




Public Financing of Campaigns in Wisconsin

Wisconsin Legislative Fiscal Bureau
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WISCONSIN ELECTION CAMPAIGN FUND

History

Prior to 1973, the law governing campaign finance activities was contained primarily in Chapter 12 of the statutes dealing with "Corrupt Practices Relating to Elections." Among other provisions at that time, Chapter 12 specified certain limits on the amount of funds that could be expended by candidates for public office and by party and personal campaign committees. That law also contained a prohibition on any political contributions from corporations, but otherwise was generally silent with regard to campaign contributions.

Chapter 334, Laws of 1973. Chapter 334, Laws of 1973, created an entire new statutory chapter (Chapter 11 of the statutes) governing campaign finance activities. As a part of that new chapter, the campaign spending limits in existence at the time were increased. Further, the new law established limits for the first time on the contribution amounts that could be made to candidates by any one individual. Limits were also created on the amount of contributions that could be received from various political committees. In addition to these changes, Chapter 334 also created the State Elections Board and charged the Board with the administration of state laws relating to elections including the new campaign finance law.

The recodification of spending limits under Chapter 334 reflected the Legislature's concerns about the total level of spending on campaigns and the relative ability of candidates to raise sufficient funds to finance competitive electoral campaigns. These concerns were expressed in a statutory declaration of policy that the Legislature included as a preamble in the new law (s. 11.001(1) of the

statutes):

"The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information that aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence. The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. Such a system must make readily available to the voters complete information as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly. This chapter is intended to serve the public purpose of stimulating vigorous campaigns on a fair and equal basis and to provide for a better informed electorate."

On January 20, 1976, the United States Supreme Court in *Buckley v. Valeo* invalidated all spending limitations that were imposed on individuals, groups and candidates in election campaigns for federal office under the Federal Election Campaign

Act of 1971. The Court held that limitations on the amounts a candidate could spend to promote or advance his or her political views constituted a restriction on the candidate's freedom of speech and were, therefore, impermissible. However, the Court held that spending limitations were permissible where the candidate accepts them voluntarily as a condition of receiving public financing.

The impact of the *Buckley* decision on the state's campaign finance law was discussed in an August 16, 1976, Attorney General's opinion (OAG 55-76). In that opinion, Attorney General Bronson La Follette opined that the spending limits that the state had imposed were unconstitutional given the *Buckley* decision. However, he further stated that based on *Buckley*, spending limits could be enforced in a system where: (a) public campaign financing is made available; and (b) a candidate chooses to accept public funding with attendant spending limits imposed as a condition for receiving public funding. In effect, if the state were to offer public funding to candidates, spending limits could still be enforced on those candidates who accepted grants.

This latter consideration appears to have provided the primary impetus for establishing the Wisconsin Election Campaign Fund (WECF) during the 1977 legislative session. Another reason for the creation of the fund was the belief that public funding should be made available to candidates seeking office in order to curb the influence of political action committees. Holders of this viewpoint argued that by offering public funding to a candidate's campaign, there would be less need for a candidate to seek campaign financing from large individual contributors and political action committees.

Chapter 107, Laws of 1977. The WECF was established by Chapter 107, Laws of 1977, and began operation on October 21, 1977. When 1977 Assembly Bill 664 (which ultimately became Chapter 107) was passed by the Legislature, the bill stipulated that an individual's state income tax liability would be increased by \$1 if the individual

taxfiler elected to make a designation to the WECF. The designation was, in effect, an income tax surcharge since an individual's tax liability would be increased by \$1 if he or she made a designation to the WECF. However, this provision was partially vetoed by then acting Governor Martin J. Schreiber in such a manner that the original income tax surcharge language, as passed by the Legislature, was converted to a check-off.

Under the resulting revised language, a taxfiler could designate that \$1 be transferred from general fund revenues to the WECF without affecting the amount of his or her tax liability or tax refund. The Governor's veto was challenged by State Senator Gerald D. Kleczka and Representative John C. Shabaz. On April 5, 1978, the State Supreme Court upheld the Governor's veto (*State Ex rel. Kleczka v. Conta*).

The WECF is a segregated fund originally established to help finance the election campaigns of qualifying candidates for the offices of Governor, Lieutenant Governor, Attorney General, State Treasurer, Secretary of State, Superintendent of Public Instruction, Justice of the Supreme Court, State Senator, and Member of the Assembly.

2001 Wisconsin Act 109. On July 26, 2002, Governor Scott McCallum signed 2001 Wisconsin Act 109 into law. Act 109 made numerous significant changes to Wisconsin's campaign finance laws. Among these changes were the following: (a) increasing the income tax designation supporting the WECF from \$1, to the lesser of \$20 or the taxpayer's tax liability prior to making such a designation; (b) creating political party accounts and a general account in the WECF and permitting a taxpayer to designate which account receives funding from the taxpayer's WECF income tax designation; (c) increasing the spending limits applicable to candidates accepting WECF grants; (d) providing supplemental grants matching an opposing candidate's disbursements exceeding the applicable spending limit; (e) requiring special interest committees, during the last 30 days prior to a general, special or spring election, to pre-report their inde-

pendent advocacy and "issue ad" disbursements and obligations; (f) providing supplemental grants matching independent advocacy and "issue ad" disbursements and obligations by special interest committees; (g) expanding the role of political parties by transferring approximately 55% of the annual WECF income tax designation revenue in a given political party account to the political party to be distributed by the party to provide supplemental grants; (h) halving the contribution limits for legislative candidates who neither accept a WECF grant nor file an affidavit of voluntary compliance to abide by the spending limits for the applicable office; (i) doubling contribution limits for candidates subject to an opposing candidate's disbursements exceeding the applicable spending limit, or subject to independent advocacy and "issue ad" disbursements and obligations by committees exceeding 5% of the spending limit for the applicable office; (j) increasing from \$150,000 to \$450,000, the amount that political parties may receive from all committees in a biennium, excluding transfers between political party committees of the same party; (k) specifying that political parties may receive an additional \$450,000 per biennium in contributions from committees, conduits and individuals to a special party account with segregated Assembly and Senate accounts to fund supplemental grants and to provide up to 65% of the spending limit for the applicable office, the funds that a candidate may receive from all committees, including political party committees; (l) generally prohibiting a candidate or personal campaign committee applying for a grant from the WECF from accepting a contribution from a committee, other than a political party committee; and (m) requiring public television stations and public access channel operators to provide a minimum amount of free airtime to certified state office candidates.

During legislative deliberations on this legislation, concerns were expressed about the constitutionality of a number of the campaign finance provisions. To allay these concerns, Act 109 directed the Attorney General to promptly seek a declaratory judgment from the Wisconsin Supreme Court that the treatment of the campaign finance

statutes by the act was constitutional.

On July 26, 2002, the day Act 109 was signed into law, the Attorney General petitioned the Wisconsin Supreme Court to begin an original action seeking a declaratory judgment regarding the constitutionality of the campaign finance law revisions under the act. Although the Attorney General petitioned the Supreme Court for a declaratory judgment, as directed by Act 109, the Office of the Attorney General, invoking its responsibilities as an officer of the Court, advised the Supreme Court in its petition that, "it has concluded that the constitutionality of the provisions ... cannot be defended because they are plainly in conflict with well-established principles." On November 13, 2002, the Wisconsin Supreme Court denied the Attorney General's petition to commence an original action.

On July 26, 2002, a separate action challenging the constitutionality of the Act 109 campaign finance provisions was filed in the United States District Court for the Western District of Wisconsin. A variety of private parties brought the action, including the Wisconsin Realtors Association, the Wisconsin Education Association Council, Wisconsin Manufacturers and Commerce, Wisconsin Grocers Association, Wisconsin Builders Association, Wisconsin Broadcasters Association, Wisconsin Farm Bureau Federation, Realtors-PAC, WEAC-PAC and WMC Issues Mobilization Council, Inc.

On December 11, 2002, the United States District Court for the Western District of Wisconsin ruled that requiring special interest committees to pre-report their independent advocacy and "issue ad" disbursements and obligations during the last 30 days prior to a general, special or spring election, was neither supported by a significant government interest nor narrowly tailored. Together, these failings rendered the provision incompatible with the First Amendment to the federal Constitution. The Court did conclude, however, that the public broadcasting free airtime provision was not preempted by federal law, but could not yet be reviewed on constitutional grounds as the Elections Board had yet to adopt rules putting the provision

into effect.

Act 109 provided that if a court found any part of the public broadcasting free airtime provision unconstitutional, this provision would be voided. The act further provided that if a court found any other part of the campaign finance provisions unconstitutional, all campaign finance provisions, other than the free airtime provision, would be voided. As a result of the District Court's actions on December 11, 2002, all of the Act 109 campaign finance changes, other than the free airtime provision, have been voided. This action returned the operation of the WECF to its pre-Act 109 status.

2007 Wisconsin Act 1. Act 1 dissolved the Elections and Ethics Boards, but merged their functions under a new Government Accountability Board (GAB). Existing campaign finance laws were not modified. However, this successor Board is now responsible for the administration of the WECF.

2009 Wisconsin Act 89. Act 89 provided that candidates for Supreme Court Justice will no longer receive public financing under the WECF. Instead, these candidates will receive public financing under a new Democracy Trust Fund. This fund is described in Chapter 2.

Public Funding

Each filer may designate on his or her individual income tax return that \$1 be transferred from the general fund to the Election Campaign Fund. The Secretary of the Department of Revenue (DOR) is required to certify annually on August 15, to GAB, the Department of Administration and the Office of the State Treasurer, the number of designations made by taxpayers during the preceding fiscal year.

Originally, the DOR Secretary interpreted the check-off law to mean that only those filers with

at least \$1 in tax liability could designate \$1 to the fund. This interpretation meant that persons owing less than \$1 in tax or no tax at all were ineligible to make a designation. Provisions of 1985 Wisconsin Act 29 modified the check-off eligibility standards to allow those individual filers who have a tax liability or are entitled to a tax refund to designate \$1 to the fund, first effective for tax returns filed for tax year 1985.

The individual income tax forms for tax year 2002 were printed prior to the District Court's decision that voided the campaign finance provisions under Act 109. Therefore, rather than the \$1 designation allowed under current law as affected by the Court's decision, the tax forms were printed showing that a \$20 maximum designation could be made (\$40 for a married couple filing a joint return) and providing a method for a taxpayer to direct the amount to a specific political party or the general account. Because of the lateness of the Court's decision (relative to tax filing for the 2002 tax year) and the cost of printing new forms, the Department of Revenue decided to treat each \$20 designation as a designation of \$1 and to deposit all such designations to the general WECF account. However, the Department was able to revise the 2002 income tax forms available through its telephone and free electronic filing options.

After a modest growth in the level of contributions to the fund in the first few years of its existence, the total level of contributions to the fund has generally been declining. Contributions, however, increased over prior year levels in 1997, 1998, 2001, 2003, and 2004. Table 1 shows, for each tax year since 1977 (the first year of the program), the total number of designations certified and the annual change in the number of designations. The years shown in the table represent tax years. For example, tax year 2009 reflects tax returns for calendar year 2009 due by April 15, 2010. Table 2 shows participation in the fund as measured by the proportion of individual filers making a designation.

Table 1: Number of Taxfiler Designations

Tax Year	Designations	Change Over Prior Year	
		Number	Percent
1977	499,415	---	--
1978	525,740	26,325	5.3%
1979	561,083	35,343	6.7
1980	544,021	-17,062	3.0
1981	529,880	-14,141	-2.6
1982	495,852	-34,028	-6.4
1983	468,427	-27,425	-5.5
1984	430,351	-38,076	-8.1
1985	476,536	46,185	10.7
1986	396,700	-79,836	-16.8
1987	449,211	52,511	13.2
1988	439,821	-9,390	-2.1
1989	426,309	-13,512	-3.1
1990	431,478	5,169	1.2
1991	407,179	-24,299	-5.6
1992	378,824	-28,355	-7.0
1993	359,662	-19,162	-5.1
1994	315,133	-44,529	-12.4
1995	306,955	-8,178	-2.6
1996	295,232	-11,723	-3.8
1997	311,954	16,722	5.7
1998	329,014	17,060	5.5
1999	324,649	-4,365	-1.3
2000	322,072	-2,577	-0.8
2001	328,775	6,703	2.1
2002	191,729	-137,046	-41.7
2003	241,852	50,123	26.1
2004	246,836	4,984	2.1
2005	239,879	-6,957	-2.8
2006	211,308	-28,571	-11.9
2007	203,463	-7,845	-3.7
2008	181,316	-22,147	-10.9
2009	166,344	-14,972	-8.3

Table 2: Taxfiler Designations as a Percent of Eligible Taxfilers

Tax Year	Number of Taxfilers Eligible to Make Designations	Taxfiler Designations	
		Number	% of Total Taxfilers
1977	2,636,958	499,415	18.9%
1978	2,755,781	525,740	19.1
1979	2,843,687	561,083	19.7
1980	2,831,186	544,021	19.2
1981	2,803,465	529,880	18.9
1982	2,847,106	495,852	17.4
1983	2,885,769	468,427	16.2
1984	2,955,465	430,351	14.6
1985	3,055,688	476,536	15.6
1986	3,106,738	396,700	12.8
1987	3,227,559	449,211	13.9
1988	3,261,105	439,821	13.5
1989	3,335,796	426,309	12.8
1990	3,486,987	431,478	12.4
1991	3,503,141	407,179	11.6
1992	3,461,329	378,824	10.9
1993	3,526,098	359,662	10.2
1994	3,579,301	315,133	8.8
1995	3,647,775	306,955	8.4
1996	3,656,065	295,232	8.1
1997	3,706,880	311,954	8.4
1998	3,761,606	329,014	8.7
1999	3,893,127	324,649	8.3
2000	3,881,393	322,072	8.3
2001	3,854,766	328,775	8.5
2002	3,852,208	191,729	5.0
2003	3,885,582	241,852	6.2
2004	3,903,486	246,836	6.3
2005	4,000,416	239,879	6.0
2006	3,798,143	211,308	5.6
2007	4,149,571	203,463	4.9
2008	4,049,378	181,316	4.5
2009	3,990,461	166,344	4.2

Since the check-off does not affect taxpayer liability, the amount generated from the check-off is transferred to the WECF from a sum sufficient general purpose revenue (GPR) appropriation. The amount of the transfer, plus any WECF balance, all investment earnings and any additional gifts or donations are available for public campaign grants to eligible candidates. A summary of annual fiscal activity in the Election Campaign Fund is presented in Table 3.

Eligibility to Receive a Grant

In order to receive a grant, a candidate running in a regular or special election for a statewide or legislative office for which election campaign fund financing is available must file an application for a grant with GAB no later than the deadline for filing nomination papers for the office. An eligible

Table 3: Receipts, Expenditures and Balances

Year	Opening Balance	Amounts Received**	Amounts Disbursed***	Ending Balance
1978-79	-0-	\$499,415	\$229,133	\$270,282
1979-80	\$270,282	550,292	65,623	754,951
1980-81	754,951	651,606	534,364	872,193
1981-82	872,193	664,190	-0-	1,536,383
1982-83	1,536,383	727,344	1,461,692	802,035
1983-84	802,035	618,461	12,251	1,408,245
1984-85	1,408,245	610,909	1,044,285	974,869
1985-86	974,869	559,656	-0-	1,534,525
1986-87	1,534,525	596,889	1,820,175	311,239
1987-88	311,239	444,847	15,198	740,888
1988-89	740,888	498,416	874,907	364,397
1989-90	364,397	491,924	33,085	823,236
1990-91	823,236	494,474	1,105,584	212,126
1991-92	212,126	485,780	28,567	669,338
1992-93	669,338	443,131	749,971	362,498
1993-94	362,498	400,537	88,333	674,702
1994-95	674,702	354,518	969,844	59,376
1995-96	59,376	331,106	63,967	326,515
1996-97	326,515	326,850	463,543	189,822
1997-98	189,822	308,998	14,389	484,431
1998-99	484,431	337,566	778,979	43,018
1999-00	43,018	338,391	25,169	356,240
2000-01	347,373*	342,978	457,677	232,674
2001-02	232,674	344,751	-2,332	579,757
2002-03	574,472*	342,026	586,626	329,872
2003-04	329,872	199,374	9,969	519,277
2004-05	519,277	246,074	282,374	482,977
2005-06	482,977	257,950	1,743	739,184
2006-07	739,184	270,332	259,658	749,858
2007-08	749,858	261,734	-0-	1,011,593
2008-09	1,011,593	234,009	205,131	1,040,471
2009-10	1,040,471	195,752	-0-	1,236,223

* Opening balance reflects accounting reconciliations by the State Controller's Office.

** Includes taxfiler designation amounts and interest earnings.

*** Net of returned disbursements.

candidate who applies for a WECF grant may file a written withdrawal of the application with GAB no later than the 7th day after the day of the primary in which the person withdrawing the application is a candidate or the 7th day after the date that the primary would be held, if required.

Following the primary election, GAB determines if those candidates who applied have met all of the eligibility requirements to receive a grant. Those requirements are: (a) if the office sought is a

partisan office, the applicant received at least 6% of the total votes cast in the primary and won the primary or if the office sought is a nonpartisan office, the applicant has been certified as a candidate; (b) the applicant will face an opponent in the general election; and (c) the applicant received the required number of qualifying individual contributions of \$100 or less. Candidates for Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, or State Superintendent must raise 5% of the spending limit for the applicable office in individual contributions of \$100 or less. Candidates for State Senator and Representative to the Assembly must raise 10% of the spending limit for the applicable office in individual contributions of \$100 or less. Spending limits are discussed under the section "Spending Limits." The dollar threshold amounts for individual contributions of \$100 or less that must be raised by candidates for the various offices are listed in Table 4.

Table 4: Required Total of Individual Contributions of \$100 or Less -- Election Campaign Fund Recipients

Governor	\$53,910
Lieutenant Governor	16,174
Attorney General	26,950
State Treasurer	10,781
Secretary of State	10,781
Superintendent of Public Instruction	10,781
State Senate	3,450
State Assembly	1,725

The operation of the individual contributions qualification requirement may be illustrated by the following example. If the individual applying for a grant is seeking election to the State Senate, the candidate must raise a total of at least \$3,450 in contributions from individuals in amounts of \$100 or less in order to be eligible to receive a grant. For individual contributions that exceed \$100, only the first \$100 may be counted towards reaching the threshold amount. Thus, if the candidate receives \$100 contributions from at least 35 different individuals, the \$3,450 threshold would be met. While

this requirement applies only to candidates seeking a grant from the fund, all candidates must comply with certain other limits on campaign contributions whether they receive a grant or not. The general limits on campaign contributions for all candidates are discussed under the section "Limits on Private Financing of Candidates." These contribution limits are set by statute and apply to all candidates for the respective offices.

The Board makes its post-primary determination as to which applicants (candidates) have met the eligibility requirements for receiving a grant based on the results of the primary election and information from the candidate's pre-primary campaign finance report. This report must be submitted to the Board by all candidates whether they have applied for a grant or not. After this determination, the Board certifies which candidates who have applied for a grant are actually eligible to receive a grant. Based on the source of contributions shown in the pre-primary report, the amount of the grant award for each candidate is determined. This determination is discussed in greater detail in the section "Limits on Private Financing of Candidates -- Aggregate Committee Funding of Grant Recipients."

The Board then provides this grant eligibility information to the State Treasurer no later than the first Tuesday in March for spring elections or the fourth Tuesday in September for fall elections. The State Treasurer then distributes a check for the indicated amount to the candidate's campaign committee no later than three business days following receipt of this information from GAB.

For the 2010 fall general election, the primary election was held September 14, 2010. Seven days after the primary, September 21, any supplemental reports were due from candidates who still had not met the threshold amount in individual contributions. On September 28, GAB made the certifications of eligible grantees to the State Treasurer who then mailed checks to candidates between September 28 and September 30. For the 2010 fall general election, 30 candidates received grants; one for the

office of Attorney General, one for the Office of Secretary of State, four for the state Senate, and 24 for the state Assembly. A total of \$315,126 was distributed to the 30 candidates. Of the 2010 fall general election candidates who accepted WECF grants, one senate candidate and nine assembly candidates were elected.

Spending Limits

Any candidate accepting a grant from the fund must agree to be subject to a limit on the total amount of money from all sources that may be expended on his or her campaign. Further, any candidate who accepts a grant from the fund is subject to a separate limitation on the amount that he or she may personally contribute to his or her own campaign. For example, if a candidate is seeking an Assembly seat, the most that the candidate could spend for the campaign is \$17,250. The most the candidate could contribute to his or her own campaign from personal resources is \$1,000. Even if a candidate does not apply for a grant from the fund or is not eligible for a grant from the fund, he or she may still file an affidavit stating the candidate's intent to comply voluntarily with the spending and self-contribution limitations. (If a candidate does not participate in the WECF or voluntarily agree to be subject to WECF spending and self-contribution limits, there is no limit as to either: (a) the total amount the candidate may spend in the campaign; or (b) the amount that the candidate may contribute to his or her campaign.)

Table 5 lists these statutory spending and self-contribution limits for each state office. Prior to 1987, the Elections Board had the authority under s. 11.31(9) of the statutes to adjust these total expenditure limits to reflect the biennial impact of inflation, as determined on December 31 of each odd-numbered year. However, 1987 Wisconsin Act 370 repealed this provision, thereby fixing the spending limits for candidates seeking a grant from the fund at the 1987 levels listed in Table 5.

Table 5: Spending and Self-Contribution Limits -- Election Campaign Fund Recipients

	Total Spending Limit	Limit on Candidate Contribution to Self
Governor	\$1,078,200	\$20,000
Lieutenant Governor	323,475	20,000
Attorney General	539,000	20,000
State Treasurer	215,625	20,000
Secretary of State	215,625	20,000
Superintendent of Public Instruction	215,625	20,000
State Senate	34,500	2,000
State Assembly	17,250	1,000

For candidates receiving election campaign fund financing who are seeking a Senate or Assembly seat, separate spending limits are also established for both the primary and the general election as well as a total spending limit for the entire campaign. A candidate seeking a Senate seat may not spend more than \$21,575 in either the primary or general election. Similarly, a candidate seeking an Assembly seat may not spend more than \$10,775 in either the primary or general election. In addition, the overall maximum campaign spending limit of \$34,500 for Senate candidates and \$17,250 for Assembly candidates still applies. Thus, if a candidate for the Senate spent the maximum allowable amount of \$21,575 in the primary, the most that the candidate could spend in the general election and still remain under the total spending limit of \$34,500 would be \$12,925.

An important exception to the spending and self-contribution limits occurs when a grant recipient's opponent received the required number of votes cast on the date of the primary election to qualify for a WECF grant, but did not accept a grant and declined to file an affidavit to voluntarily comply with the spending or self-contribution limits. In these cases, the candidate who accepts the grant is no longer limited in the amount he or she may spend on the campaign or the amount of personal funds that may be used in the campaign.

In summary, by taking a grant from the fund, a candidate for state political office makes herself or

himself subject to more campaign finance limits than is the case for other candidates. The spending limit on candidates who accept a grant is intended to address the concerns of those who argue that allowing candidates to spend an unlimited amount on a campaign favors those candidates who have the greatest resources and ability to raise money, compared to those with limited funds and fundraising ability who would be disadvantaged in that regard when waging a campaign.

Grant Awards

Table 6 lists the maximum grant allowed for each office for which an election campaign fund grant may be made. These maximum grant amounts are equal to 45% of the total spending limit for the office (see Table 5). For example, the total spending limit for a candidate for the State Senate is \$34,500; 45% of this amount (\$15,525) is the statutory maximum grant amount for qualifying Senate candidates.

Table 6: Maximum Grant Amounts

Office	Maximum Grant
Governor	\$485,190
Lieutenant Governor	145,564
Attorney General	242,550
State Treasurer	97,031
Secretary of State	97,031
Superintendent of Public Instruction	97,031
State Senate	15,525
State Assembly	7,763

Because GAB no longer has the authority to adjust total spending limits to reflect the impact of inflation, these maximum grant amounts do not change from year to year. The appendix lists, for each year since 1984, the number of eligible candidates who applied for a grant and the number who received a grant for each office, the total amount disbursed, and the average grant award.

Under s. 11.50(7) of the statutes, grant funds can be used only for the following election-related expenses:

- Purchase of services from a communications medium;
- Printing, graphic arts and advertising services;
- Office supplies (such as envelopes, paper, notebooks and pens); and
- Postage.

Items that cannot be purchased with grant funds include office furniture and equipment, the payment of office rent, telephone or electrical services or any staff salaries. Candidates must provide GAB with reports, including sufficient proof of payment, on how the grant monies were expended.

Grant Administration

Although there is only a single election campaign fund, the fund is actually divided into seven separate accounts. There is one account for each of the following six offices: Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, and Superintendent of Public Instruction. The seventh and final account is for all legislative offices. The legislative account is further divided into separate Senate and Assembly subaccounts. Following the August 15 annual certification by the Secretary of DOR, an amount equivalent to the total number of certified check-off designations is transferred from the general fund to the election campaign fund. The amount of this transfer plus all investment earnings accruing during the prior year on total fund balances and any additional gifts or donations are apportioned to the seven separate accounts in accordance with statutory distribution formulas established under ss. 11.50(3) and (4) of the statutes.

The annual apportionment to the various office accounts proceeds as follows:

- If there is an election occurring for State Superintendent of Public Instruction during the following year, 8% of the total annual revenues to the fund are placed in this account. In those years in which an allocation to this nonpartisan account occurs, the distribution to such account is taken as a first draw on the total amount of funds available for allocation. Once any allocations have been made to this nonpartisan account, the remaining annual revenues are then apportioned to the partisan accounts as described below. However, if there is no election scheduled for State Superintendent of Public Instruction during the following year, this account will not receive any apportionment during that year and all annual revenues available for distribution will then be apportioned among the partisan office accounts.

- After any required distribution to the State Superintendent of Public Instruction account is made, 75% of the revenues available for distribution to the partisan accounts is apportioned to the legislative account and 25% is apportioned to the executive accounts. Of the total amount allocated to the legislative account, 25% is apportioned to a Senate subaccount for races involving that house and 75% is apportioned to an Assembly subaccount for races involving that house. Of the amounts available for allocation to executive accounts, 67% is apportioned to the account for Governor, 8% is apportioned to the account for Lieutenant Governor, 17% is apportioned to the account for Attorney General, and 4% each are apportioned to the accounts for State Treasurer and Secretary of State.

On August 15, 2010, the DOR Secretary certified that \$166,344 in taxfiler designations was available for transfer from the general fund to the election campaign fund. When combined with \$2,865 of interest earnings, a total of \$169,209 was available for apportionment to the eligible accounts in 2010. Since there will not be an election in the spring of 2011 for Superintendent of Public Instruction, \$0

was apportioned to the Superintendent of Public Instruction account. From the remaining funds (\$169,209) available for allocation to the partisan accounts, a total of \$126,907 (75%) was apportioned to the legislative account and the remaining \$42,302 (25%) was apportioned to the executive accounts. From that portion of the amounts apportioned to the legislative account, 25% (\$31,727) was earmarked to the Senate subaccount and 75% (\$95,180) was earmarked to the Assembly subaccount. From that portion of the amounts allocated to the executive accounts, 67% (\$28,343) was apportioned to the account for Governor, 8% (\$3,384) was apportioned to the account for Lieutenant Governor, 17% (\$7,191) was apportioned to the account for Attorney General, and 4% each (\$1,692) was apportioned to the accounts for State Treasurer and Secretary of State. Table 7 shows for each office account the opening balance prior to these 2010 apportionments, the amounts that were apportioned to each account on August 15, 2010, and the total balances that were then available for disbursement to candidates for the respective offices after those apportionments.

Table 7: Office Account Balances

Office Account	July 1, 2010 Opening Balance	August 15, 2010 Apportionment	Amount Available for Distribution
Superintendent of Public Instruction	\$0	\$0	\$0
Governor	464,266	28,343	492,609
Lieutenant Governor	25,757	3,384	29,141
Attorney General	64,298	7,191	71,489
State Treasurer	6,331	1,692	8,023
Secretary of State	27,717	1,692	29,409
Senate	281,637	31,727	313,364
Assembly	<u>265,739</u>	<u>95,180</u>	<u>360,919</u>
Totals	\$1,135,745	\$169,209	\$1,304,954

The separate accounts in the fund cannot be intermingled, nor can one account "borrow" funds from another account. (Under s. 11.50(5) of the statutes, eligible candidates for Governor and Lieutenant Governor of the same political party may combine grant funds, if they so desire.) Further, if after all disbursements have been made

to eligible candidates from the account for that office and a balance remains in that office's account, the residual amounts may not be used to supplement the earlier grants. The remaining balance must be retained in that account to be used for future disbursements to candidates for that office during the next election cycle.

Limits on Private Financing of Candidates

Aggregate Committee Funding of Candidates

A candidate may not accept more than 45% of the spending limit for his or her office in contributions from political action committees and other candidates' campaign committees. A candidate may not accept more than 65% of the spending limit for his or her office in contributions from political action committees, other candidates' campaign committees and political party committees. The aggregate committee contribution limits are shown in Table 8. All candidates, whether or not they participate in the WECF, must comply with these aggregate committee contribution limits.

Table 8: Aggregate Committee Contribution Limits

Office	Maximum Total Contributions From All Committees Except Political Party Committees	Maximum Total Contributions From All Committees Including Political Party Committees
Governor	\$485,190	\$700,830
Lieutenant Governor	145,564	210,259
Attorney General	242,550	350,350
State Treasurer	97,031	140,156
Secretary of State	97,031	140,156
Superintendent of Public Instruction	97,031	140,156
State Senate	15,525	22,425
State Assembly	7,763	11,213

Aggregate Committee Funding of Grant Recipients

The amount of WECF grant funding that a can-

didate actually receives is subject to reduction based on the type and amount of contributions accepted by the candidate from political action committees, political party committees, and other candidates' campaign committees. For qualifying candidates for election to those state offices for which a grant may be made, the following determinations are required in order to establish the actual grant amount a candidate is eligible to receive:

- First, the combined total of all contributions from the grant (calculated at the statutory maximum grant amount for the office), political action committees and other candidates' campaign committees may not exceed 45% of the spending limit for the office. Since the statutory maximum grant amount itself is also equal to this 45% limitation, the statutory maximum grant can be received only if the candidate has accepted no contributions from political action committees or from other candidates' campaign committees. As a result, for every dollar in contributions taken from either political action committees or from other candidates' campaign committees, the candidate's maximum grant amount will be reduced from the statutory maximum grant amount on a dollar-for-dollar basis.

- Second, the combined total of all contributions from the grant (calculated at the statutory maximum grant amount for the office), political action committees, political party committees and other candidates' campaign committees may not exceed 65% of the total spending limit for the office. In comparison to the 45% limitation, the effect of this 65% limitation is to permit 20% of the candidate's contributions to be received from political party committees without affecting the maximum amount of the candidate's grant. However, if the candidate has accepted contributions from political party committees in excess of the allowable 20% amount, the candidate's grant will be reduced from the statutory maximum on a dollar-for-dollar basis by the amount in excess of 20%.

To illustrate the operation of these provisions, consider the following example of a candidate running for the State Senate who is certified as eli-

gible to receive a grant. At the time the grant award amount is being determined by GAB, the candidate has reported receiving \$1,000 in contributions from political action committees, \$100 from another candidate's campaign committee, and \$8,000 from political party committees. Based on these reported contribution types and amounts, the candidate's actual grant award amount is determined as illustrated in Table 9.

Table 9: Example of Grant Award Calculation--Candidate for State Senate

Maximum Grant Amount	\$15,525
Less political action committee contributions (if any)	-1,000
Less other candidates' campaign committee contributions (if any)	-100
Amount of political parties' contributions (if any)	\$8,000
Deduct allowed amount (20% of total spending limit of \$34,500)	<u>-6,900</u>
Excess amount (if any)	1,100
Less excess amount of political parties campaign contributions (if any)	<u>-1,100</u>
Net Grant Award	\$13,325

In this example, it can be seen that the maximum grant amount is affected by certain types of contributions. If a candidate does not receive contributions from political action committees or another candidate's campaign committee, the candidate is eligible to receive the maximum grant, provided there are no contributions from political party committees in excess of 20% of the total spending limit for the office. However, for every dollar the candidate accepts in contributions from political party committees above this 20% threshold, the maximum grant is offset by the amount of the excess.

The process described above illustrates how grant awards are determined for eligible candidates provided that there is sufficient funding available in each office account in the fund to award the maximum grant amount to all candidates who meet the previously discussed eligibility criteria for receiving a grant. Since 1988, the funds available in the accounts for some offices were in-

sufficient to fully fund the maximum grant amounts for all eligible candidates who applied for a grant. For each office where the level of available funds in that office account was insufficient to fund all candidate applicants at the statutory maximum grant, it was necessary to reduce the amount of the maximum grant. To effect this reduction, the maximum grant for each office was prorated by dividing the actual amount of funding available in each office account by the number of candidate applicants for that office determined by the Board to be eligible for a grant. Table 10 shows the office accounts and the reduced maximum grant amounts which have been required in elections since 1998. [Table 10 does not show office accounts for which proration was not required.]

A candidate may also return grant money to the fund in order to receive a larger share of contributions from political action committees or another candidate's personal campaign committee. When a candidate elects to do so, the grant money must be returned to GAB no later than the second Tuesday in October before the general election, the fourth Tuesday preceding a spring election, or the third Tuesday preceding a special election. The grant money must be returned before the candidate may accept the additional contributions.

Individual and Single Committee Contribution Limits

All candidates, whether or not they participate in the WECF, must also comply with individual contribution limits and single committee contribution limits applicable to non-political party committees. The individual and single committee contribution limits are shown in Table 11. These contribution limits are set by statute and apply to all candidates for the respective offices. (In addition to the individual contribution limits per candidate per office outlined in Table 11, an individual may not make aggregate contributions to candidates and committees, including political party committees, of more than \$10,000 in any calendar year.)

Table 10: Proration of Statutory Grant Amounts Since 1998

Affected Office Account	Statutory Maximum Grant Amount	Prorated Maximum Grant Amount
1998 Election		
Governor	\$485,190	\$200,613
Lieutenant Governor	145,564	11,977
Attorney General	242,550	50,902
State Treasurer	97,031	11,977
Secretary of State	97,031	13,808
State Senate	15,525	9,537
State Assembly	7,763	6,715
2000 Election		
Supreme Court	\$97,031	\$13,536
State Senate	15,525	12,420
State Assembly	7,763	5,692
2002 Election		
Lieutenant Governor	\$145,564	\$25,177
Attorney General	242,550	53,501
State Senate	15,525	11,932
2003 Election		
Supreme Court	\$97,031	\$54,800
2004 Election		
State Assembly	\$7,763	\$5,574
2005 Election		
Public Instruction	\$97,031	\$23,207
2006 Election		
Lieutenant Governor	\$145,564	\$17,595
State Treasurer	97,031	21,642
2009 Election		
Public Instruction	\$97,031	\$41,928
2010 Election		
Attorney General	\$242,595	\$71,489
Secretary of State	97,031	29,409

Table 11: Limitation on Contributions

Office	Individual	Single Committee
Governor	\$10,000	\$43,128
Lieutenant Governor	10,000	12,939
Attorney General	10,000	21,560
State Treasurer	10,000	8,625
Secretary of State	10,000	8,625
Superintendent of Public Instruction	10,000	8,625
State Senate	1,000	1,000
State Assembly	500	500

Individual Contributions Passed Through Conduits

Under state campaign finance laws, a "conduit" is an individual who, or an organization which, receives a contribution of money from an individual, and transfers the contribution to another individual or organization without exercising discretion as to the amount which is transferred and the individual to whom, or organization to which, the transfer is made. A conduit must identify itself, in writing, to the transferee as a conduit and provide the required information under campaign finance reporting laws regarding each contribution transferred by it to the transferee. For purposes of contribution limits, a contribution of money received from a conduit is considered to be a contribution from the original individual contributor. As a result, while individuals remain limited by the individual contribution limits, there are no established limits as to the amount of individual contributions which a conduit may pass-through to candidates. Candidates then report these pass-through contributions to GAB as individual contributions. For example, in calendar year 2006, individual conduits passed-through aggregate individual contributions to individual gubernatorial campaigns that ranged from \$50 to \$211,700.

Political Party Funding of Partisan Candidates

Up to \$6,000 in a calendar year may be: (a) received by a political party from a committee or its subunits or affiliates, excluding transfers between party committees of the same party; and (b) contributed, directly or indirectly, by a committee, other than a political party committee, to a political party. Political parties may receive \$150,000 in a biennium from all committees, excluding transfers between party committees of the same party. These amounts may be used by political parties to increase up to 65% of the applicable spending limit, the funds received by a candidate from all committees, including political party committees.

Registration and Reporting of Campaign Finance Activity

General Registration and Reporting Requirements

Candidates and their personal campaign committees must always file campaign finance registration statements. Generally, individuals, other than candidates or agents of candidates, and committees, other than personal campaign committees, must file a registration statement if they accept contributions, incur obligations or make disbursements exceeding \$25 in a calendar year. For most purposes, a contribution or disbursement includes a gift, loan or advance of money or anything of value made for a "political purpose." The term "political purpose" includes the making of a communication which expressly advocates the election or defeat of a clearly identified candidate. Generally, registrants must also file complete reports of all contributions received, contributions or disbursements made, and obligations incurred. The reports must include information about the source of the contributions received and to whom contributions or disbursements are made.

Table 12 identifies for calendar year 2006, individual contributions, individual contributions received through conduits, and committee contributions received by candidates for both statewide and legislative office. Individual contributions made up 87% of the total individual and committee contributions received by these candidates. It should be noted, however, that approximately 18% of the total individual contributions received by these candidates in calendar year 2006 were received through conduits. [Complete contribution data for statewide office races in 2010 will not be reported until January 31, 2011.]

However, if a disbursement is made or an obligation is incurred by an individual, other than a candidate, or by a committee or group which is not primarily organized for political purposes, and the

Table 12: Aggregate 2006 Individual and Committee Contributions to Candidates for Statewide and Legislative Office

Office	Individual Contributions	Individual Contributions-- Conduits	Committee Contributions	Total
Governor	\$8,254,500	\$1,203,500	\$703,100	\$10,161,100
Lieutenant Governor	165,400	24,600	222,600	412,600
Attorney General	2,709,900	113,800	542,500	3,366,200
State Treasurer	37,200	1,500	24,500	63,200
Secretary of State	96,600	2,300	25,700	124,600
State Senate	1,782,200	978,500	210,100	2,970,800
State Assembly	<u>3,030,100</u>	<u>1,184,500</u>	<u>1,201,500</u>	<u>5,416,100</u>
Total	\$16,075,900	\$3,508,700	\$2,930,000	\$22,514,600

disbursement does not constitute a contribution to any candidate or other individual, committee or group, the disbursement or obligation is required to be reported only if the purpose is to expressly advocate the election or defeat of a clearly identified candidate or the adoption or rejection of a referendum. This reporting exemption permits qualifying producers of so-called "issue ads" to avoid campaign finance reporting requirements. This reporting exemption does not apply to a political party, legislative campaign, personal campaign or support committee.

Reporting of Individual Contributions to Partisan Campaigns for Statewide or Legislative Office

Under the Legislature's declaration of campaign finance policy, the Legislature has identified goals for the state's campaign finance system, including: (a) encouraging the broadest possible participation in the financing of campaigns by all citizens of the state; and (b) providing information as to the source of support or extent of support being provided to campaigns.

Under s. 11.21(16) of the statutes, GAB is required to have campaign finance registrants who accept contributions in a total amount or value of \$20,000 during a campaign period, to file required campaign finance reports electronically. (Campaign finance registrants may also voluntarily choose to file their campaign finance reports electronically.) For candidates for elective office and

their committees, the campaign period is the length of term for the office for which they are campaigning. For example, the campaign period for a candidate for Assembly is two years, while the campaign period for a candidate for Senate is four years. For other campaign finance registrants (such as political action committees), the campaign period runs for two years, beginning January 1 of each odd-numbered year and ending on December 31 of the following even-numbered year.

The Department of Administration (DOA) annually estimates the: (a) state population; and (b) number of eligible voters. Table 13 provides data on DOA estimates as to the number of eligible voters in the state for each even-numbered year since 2000.

Table 13: Estimated Number of Eligible Voters in Wisconsin

<u>Date</u>	<u>Number of Eligible Voters</u>
January, 2000	3,994,300
January, 2002	4,083,100
January, 2004	4,171,800
January, 2006	4,260,600
January, 2008	4,330,700
January, 2010	4,372,300

From July 1, 2006 through November 7, 2006 (the last year for which individual contribution data for statewide office candidates is available

through the date of the election), three candidates for Governor, two candidates for Lieutenant Governor, four candidates for Attorney General, one candidate for State Treasurer, and one candidate for Secretary of State reported electronically as to the individual contributions received by their respective campaigns. These campaigns reported receiving 44,159 individual contributions during this time period. These contributions were as follows: (a) 40,231 individual contributions of less than \$500 each, totaled \$2,658,900; and (b) 3,928 individual contributions of \$500 or more each, totaled \$4,696,300. (Under current law, an individual may give up to \$10,000 to a candidate for statewide office.) Table 14 identifies the estimated number of eligible voters in 2006, as well as by office: (a) the number and amount of individual contributions received of less than \$500 each; (b) the number and amount of individual contributions received of \$500 or more each; and (c) the total number and amount of contributions received. [Complete contribution data for statewide office races in 2010 will not be reported until January 31, 2011.]

From July 1, 2008, through November 4, 2008 (the last year for which individual contribution data for legislative candidates is available through the date of the election), 222 candidates for Assembly and 45 candidates for Senate reported electronically as to the individual contributions received by their respective campaigns. These campaigns reported receiving 47,647 individual contributions during this time period. These contribu-

tions were as follows: (a) 36,737 individual contributions of \$100 or less each, totaled \$1,953,700; and (b) 10,910 individual contributions of more than \$100 each, totaled \$3,417,600. (Under current law, an individual may give up to \$500 to a candidate for Assembly and up to \$1,000 to a candidate for Senate.) Table 15 identifies the estimated number of eligible voters in 2008, as well as by office: (a) the number and amount of individual contributions received of \$100 or less each; (b) the number and amount of individual contributions received of more than \$100 each; and (c) the total number and amount of contributions received.

As there were 267 legislative campaigns that filed electronically in 2008, Table 16 provides an estimate of the average number and amount of contributions received by the 222 Assembly campaigns, and the 45 Senate campaigns from July 1, 2008 through November 4, 2008.

In regards to the individual contribution data for 2008, it should be noted that: (a) in many cases the candidates' electronically filed campaign finance reports have not yet been audited by GAB for accuracy; (b) un-itemized contributions are not included in the analysis; (c) contributions/loans of more than \$1,000 by a candidate to his or her own campaign are excluded; and (d) state law permits an individual to make multiple contributions to a given candidate, provided that the aggregate individual contribution limits are followed.

Table 14: Individual Contributions Received by Candidates Running for Statewide Office in 2006 Who Filed Electronically

	Eligible Voters Statewide	Contributions Received of Less Than \$500 Each		Contributions Received of \$500 or More Each		Total Contributions	
		Number	Amount	Number	Amount	Number	Amount
	4,260,600						
Governor		32,329	\$1,991,900	3,121	\$3,979,900	35,450	\$5,971,800
Lieutenant Governor		937	66,400	44	49,200	981	115,600
Attorney General		6,462	569,600	749	656,400	7,211	1,226,000
Secretary of State		341	21,400	6	5,000	347	26,400
State Treasurer		162	9,700	8	5,800	170	15,400
Total		40,231	\$2,658,900	3,928	\$4,696,300	44,159	\$7,355,200

Table 15: Individual Contributions Received by Candidates Running for Legislative Office in 2008 Who Filed Electronically

	Eligible Voters Statewide	Contributions Received of \$100 or Less Each		Contributions Received of More Than \$100 Each		Total Contributions	
		Number	Amount	Number	Amount	Number	Amount
	4,330,700						
Assembly		26,517	\$1,419,900	7,417	\$2,222,900	33,934	\$3,642,800
Senate		<u>10,220</u>	<u>533,800</u>	<u>3,493</u>	<u>1,194,700</u>	<u>13,713</u>	<u>1,728,500</u>
Total		36,737	\$1,953,700	10,910	\$3,417,600	47,647	\$5,371,300

Table 16: Average Number and Amount of Individual Contributions Received by Candidates Running for Legislative Office in 2008 Who Filed Electronically

	Number of Candidates	Average Total Individual Contributions of \$100 or Less Each Per Candidate		Average Total Individual Contributions of More Than \$100 Each Per Candidate		Average Total Contributions Per Candidate	
		Number	Amount	Number	Amount	Number	Amount
Assembly	222	119	\$6,400	33	\$10,000	152	\$16,400
Senate	45	227	11,900	78	26,500	305	38,400

History

On December 1, 2009, 2009 Wisconsin Act 89 was signed into law. Under the act, candidates for Supreme Court Justice no longer receive public financing under the WECF. Instead, Supreme Court Justice candidates receive public financing under a new Democracy Trust Fund (DTF). The DTF is supported by funds generated from an increased campaign finance check-off on state individual income tax returns. The act increases the check-off from \$1 to \$3, and provides that the \$2 increase in the check-off be used exclusively to fund the DTF. As the increased \$3 designation does not increase the tax liability or reduce the tax refund of the taxpayer (as with the prior \$1 check-off), the increased revenue generated from the check-off is transferred to the DTF from a sum sufficient GPR appropriation.

The act also creates a second GPR sum sufficient appropriation. If income tax check-off funding is insufficient to fully fund all DTF grants to qualifying Supreme Court Justice candidates in a given election cycle, this latter sum sufficient appropriation provides the remaining funding to fully fund these grants.

Under the act, the maximum base grant for an "eligible candidate" for Supreme Court Justice is \$300,000 for the spring election, and, unlike under the WECF, such a candidate is also eligible for a maximum base grant of \$100,000 for the spring primary (prior to any future adjustment to account for inflation).

Unlike under the WECF, the act creates a supplemental grant available to candidates participat-

ing in the DTF to match disbursements made, or obligated to be made, by a non-participating candidate exceeding the base grant for either the spring primary or spring election. The total supplemental grant to match a non-participating candidate's disbursements made, or obligated to be made, may not exceed three times the relevant base grant for the spring primary or spring election. As a result, this supplemental grant may not exceed, in the aggregate, \$300,000 for the spring primary and \$900,000 for the spring election (prior to any future adjustment for inflation).

The act also creates a second supplemental grant available to candidates participating in the DTF to match "independent disbursements" made against the DTF candidate, or for the opponents of the DTF candidate. The total supplemental grant to match independent disbursements may not exceed three times the relevant base grant for the spring primary or spring election. As a result, this supplemental grant may not exceed \$300,000 for the spring primary and \$900,000 for the spring election (prior to any future adjustment for inflation). This cap on independent disbursements supplemental grants applies on a per producer of independent disbursements basis, and not on an aggregate basis.

On December 18, 2009, the Wisconsin Right to Life Political Action Committee filed suit in the United States District Court for the Western District of Wisconsin challenging the constitutionality of the DTF. On December 21, 2009, Randy P. Koschnick, a Wisconsin Circuit Court Judge in Jefferson County, also filed suit in the United States District Court for the Western District of Wisconsin challenging the constitutionality of the DTF. As of December, 2010, both lawsuits are still pending.

On April 29, 2010, 2009 Wisconsin Act 216 was

signed into law. The provisions of Act 216 eliminated the requirement under Act 89 that any communication paid for or authorized by a nonparticipating candidate would have to contain the following sentence: "This communication is paid for with money raised from private sources. This candidate has not agreed to abide by campaign contribution and spending limits." Act 216 also moved up the effective date of the DTF from December 1, 2010, to May 1, 2010. Act 216 also provided that the unencumbered balance in the justice account of the WECF be transferred to the DTF.

Funding

Beginning with 2010 tax returns, every individual filing an income tax return who has a tax liability or is entitled to a tax refund may now designate \$3 for the WECF and the DTF. One-third of the total amount designated by taxfilers through the campaign finance check-off is credited to the WECF, and the remaining two-thirds is credited to the DTF through a GPR sum sufficient appropriation.

Act 89 also created a second GPR sum sufficient appropriation. This appropriation provides additional funding to the DTF equal to the difference between the unencumbered balance in the DTF and the amounts required to provide full public financing benefits to Supreme Court candidates participating in the DTF.

In addition, all seed money and qualifying contributions of eligible Supreme Court candidates exceeding DTF limits for such contributions, held by these candidates after the end of the public financing qualifying period, must be deposited to the DTF. Finally, the DTF also consists of: (a) grant funds repaid to GAB by Supreme Court candidates who violate the statutory requirements for receipt of the DTF grant funds; and (b) any unencumbered or unexpended portion of a grant award under the DTF within 30 days after the primary or election in which the candidate participates. However, an eli-

gible candidate whose name is certified to appear on the ballot at the election following the primary may utilize any unencumbered balance of the public financing benefit received by the candidate in the primary election campaign period for the election campaign period.

Candidate Eligibility for Public Financing

Primary Election. Before a candidate for Supreme Court Justice in the primary election may be certified as an "eligible candidate" to receive a public financing benefit for the primary election campaign period, the candidate must apply to GAB for a public financing benefit and file a sworn statement that the candidate has complied and will comply with DTF law throughout the applicable campaign, which includes both the primary and election for that office. A candidate is generally required to file the application and statement no later than the first Wednesday in January preceding the spring election.

Under the DTF, an "eligible candidate" means a candidate for Supreme Court Justice who qualifies for public financing by collecting the required number of qualifying contributions, makes all required reports and disclosures, is certified by GAB as being in compliance with DTF statutory provisions, and who has an opponent who has qualified to have his or her name certified for placement on the ballot at the spring primary or election.

The Government Accountability Board must certify a candidate as an eligible candidate for receipt of public financing for a primary election if the candidate: (a) files the required application and sworn statement identified in the previous paragraph; and (b) receives at least 1,000 qualifying contributions from separate contributors in an aggregate amount of not less than \$5,000 nor more than \$15,000 generally before the first Wednesday in January. The Board must verify a candidate's compliance with these requirements by such verification and sampling techniques as the Board con-

siders appropriate.

Each candidate is required to: (a) acknowledge each qualifying contribution by a receipt to the contributor which contains the contributor's name and home address; and (b) no later than the 15th or the last day of the month which immediately follows the date of receipt of a qualifying contribution, whichever comes first, file a copy of the receipt of the contribution with GAB, except that during July, August, and September a copy need only be filed by the last day of the month. A qualifying contribution may only be utilized by a candidate for the purpose of making a disbursement authorized by law.

Spring Election. Before a candidate may be certified as eligible for receipt of public financing for a spring election, the candidate must apply to GAB and file a sworn statement that the candidate has fulfilled the DTF requirements during the primary election campaign period and will comply with such requirements during the election campaign period. The application must generally be filed no later than the 7th day after the date of the spring primary election, or the day on which the primary election would have been held if a primary had been required. A candidate satisfying these requirements who was an eligible candidate during the primary election campaign period must be certified by GAB as an eligible candidate for receipt of public financing for the spring election.

Conditions on Receiving Public Financing

An eligible candidate may not accept private contributions, other than "seed money contributions" and "qualifying contributions," that the candidate accepts through the first Tuesday in January preceding a spring election for Supreme Court Justice.

A "seed money contribution" means a contribution in an amount of not more than \$100 made to a

candidate by an elector of this state anytime following the prior spring election through the first Tuesday of the following January immediately preceding a spring election for Supreme Court Justice. A seed money contribution may also include personal funds contributed by a candidate or a member of a candidate's immediate family during this time period. Total seed money contributions (including personal funds, but not including qualifying contributions) may not exceed \$5,000. No eligible candidate may make any disbursement derived from seed money contributions after the first Tuesday in January preceding the spring election for Supreme Court Justice.

A "qualifying contribution" means a contribution in an amount of not less than \$5 nor more than \$100 made to a candidate by an elector of this state, which is acknowledged by written receipt identifying the contributor. A qualifying contribution must be received anytime from the first day of July immediately preceding the year of the spring election through the first Tuesday of the following January. In order to qualify for a grant, a Supreme Court Justice candidate must receive at least 1,000 qualifying contributions from separate contributors in an aggregate amount of not less than \$5,000, nor more than \$15,000.

No candidate who receives a public financing benefit may accept an anonymous contribution exceeding \$5. Any anonymous contribution that may not be accepted must be donated to the common school fund or to a charitable organization at the option of the registrant's treasurer.

No eligible candidate may accept more than \$25 in cash from any contributor and no such candidate may accept cash from all sources in a total amount greater than one-tenth of one percent of the public financing benefit or \$500, whichever is greater.

If an eligible candidate receives and accepts excess seed money contributions or qualifying contributions in an aggregate amount greater than the limits identified above, the candidate must transfer

to the Board all seed money and qualifying contributions that exceed these limits for deposit to the DTF.

An eligible candidate who accepts a public financing benefit during the primary election campaign period must comply with DTF requirements throughout the spring election campaign period during the same campaign as a precondition to receipt of public financing. An eligible candidate who accepts a public financing benefit during a primary election campaign period may not elect to accept private contributions in violation of DTF grant rules during the corresponding spring election campaign period.

A Supreme Court Justice candidate who participates in the DTF may not make or authorize total disbursements in a campaign, to the extent of more than the maximum amounts permitted as qualifying and seed money contributions, and grants received under the DTF as base grants, non-participating candidate supplemental grants, and independent disbursements supplemental grants.

Timing of Grant Awards

In order to apply for a public financing benefit, a candidate must: (a) certify to GAB that the candidate has complied with and will comply, throughout the applicable campaign, with all DTF requirements and that all disclosures required as of the time of application have been made; and (b) present evidence of the requisite number of qualifying contributions received by the candidate. The candidate's request for certification must be signed by the candidate and the candidate's campaign treasurer.

The Government Accountability Board must certify to the State Treasurer the name of each eligible candidate at the spring primary together with the amount of the public financing benefit payable to the candidate promptly after the candidate demonstrates his or her eligibility and, in any

event, not later than five days after the end of the public financing qualifying period. The State Treasurer must immediately credit that candidate's account with a line of credit for the amount certified. No candidate may utilize this line of credit until the first Wednesday in January preceding the spring primary for Supreme Court Justice.

The Government Accountability Board must certify to the State Treasurer the name of each eligible candidate at the spring election together with the amount of the public financing benefit payable to the candidate not later than 48 hours after the date of the spring primary election for Supreme Court Justice, or the date that the primary election would have been held had a primary been required. The State Treasurer must immediately credit that candidate's account with a line of credit for the amount certified. However, no candidate may receive a line of credit until all Supreme Court Justice candidates who apply and qualify for a public financing benefit have been certified as eligible candidates.

Base Grants

The DTF provides for a \$100,000 base grant for an eligible candidate for the primary election, while the spring election base grant for an eligible candidate is \$300,000. An eligible candidate may use these grant funds to finance any lawful disbursements during the primary and election campaign periods to further the election of the candidate in that primary or election. An eligible candidate may not use these grant funds to repay any loan, or in violation of DTF requirements or any other applicable law.

If there is no spring primary, no eligible candidate for Supreme Court Justice may receive a DTF public financing benefit for the primary election.

Beginning on July 1, 2012, and every two years thereafter, GAB must modify the amount of the DTF base grants to adjust for the change in the con-

sumer price index, all items, U.S. city average, published by the U.S. Department of Labor for the preceding two year period ending on December 31.

Nonparticipating Candidate Supplemental Grants

Upon receiving information that a Supreme Court Justice candidate at a primary or election who is not participating in the DTF received contributions, or made or obligated to make disbursements, exceeding 105% of the base grant provided to an eligible candidate at the same primary or election, the Board must immediately certify to the State Treasurer the name of each opposing eligible candidate together with the amount of a nonparticipating candidate supplemental grant payable to that candidate. The nonparticipating candidate supplemental grant must be equivalent to the total excess disbursement amount made or obligated to be made, but these supplemental grants may not exceed, in the aggregate, three times the public financing benefit provided during the relevant primary or election. "Excess disbursement amount" means the amount of disbursements made by a nonparticipating candidate in excess of the DTF base grant.

The State Treasurer must immediately credit each opposing eligible candidate with an additional line of credit for the amount certified. Prior to any future adjustments to reflect changes in the consumer price index, as the base grants for the primary and election campaigns are \$100,000 and \$300,000 respectively, the maximum aggregate nonparticipating candidate supplemental grants for the primary and election campaigns equal \$300,000 and \$900,000 respectively.

Nonparticipating candidates are required to report contributions received, or disbursements made or obligated to be made, that exceed 105% of the relevant base grant for a candidate participating in the DTF. However, nonparticipating candidate supplemental grants provided to a DTF can-

didate are based only on the disbursements made or obligated to be made by the nonparticipating candidate. In other words, nonparticipating candidate supplemental grants do not match contributions received by the nonparticipating candidate, but only disbursements.

Independent Disbursements Supplemental Grants

When the aggregate independent disbursements made or obligated to be made against an eligible candidate for Supreme Court Justice or for the opponents of that eligible candidate, exceed 120% of the base grant in the primary or election campaign, GAB must immediately certify to the State Treasurer the name of that eligible candidate together with the amount of the independent disbursements supplemental grant that is payable to that candidate.

The independent disbursements supplemental grant equals the aggregate independent disbursements made or obligated to be made, but not to exceed, three times the public financing benefit provided during the relevant primary or election. As a result, once the 120% threshold is exceeded, the participating candidate receives a supplemental grant equivalent to the total independent disbursements made or obligated to be made, from the first independent disbursement dollar expended or obligated to be expended. "Independent disbursement" means a disbursement by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with a candidate, or any authorized committee or agent of a candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of a candidate.

The State Treasurer must immediately credit that candidate with an additional line of credit for the amount certified. Prior to any future adjustments to reflect changes in the consumer price in-

dex, as the base grants for the primary and election campaigns are \$100,000 and \$300,000 respectively, the maximum independent disbursements supplemental grants for the primary and election campaigns equal \$300,000 and \$900,000 respectively. This cap on independent disbursements supplemental grants applies on a per producer of independent disbursements basis, and not on an aggregate basis.

Transfer of Grant Funding to Replacement Candidate

Any unspent and unencumbered moneys received by a candidate from the DTF must be immediately transferred to any successor candidate who is appointed to replace that candidate upon filing of a proper application with GAB to determine the successor candidate's eligibility to participate in the DTF. For purposes of qualifying to receive DTF funding, contributions received and disbursements made by the former candidate would be considered to have been received or made by the replacement candidate. If no replacement candidate is appointed, or if no proper application is filed with GAB within seven days of the date on which the vacancy occurs, the unspent and unencumbered DTF funds revert to the state.

Limits on Campaign Contributions

Candidates participating in the DTF are subject to the contribution limitations for seed money and qualifying contributions identified above. A nonparticipating candidate may accept contributions from private sources without limitation, except that no person may make any contribution or contributions to a nonparticipating candidate exceeding a total of \$1,000 during any campaign. This contribution limit applies to both individuals and single campaign committees.

Additional Reporting Requirements

Grant Recipients. A Supreme Court Justice candidate who receives a DTF public financing benefit must furnish complete financial records, including records of seed money contributions, qualifying contributions, and disbursements to GAB on the 15th or the last day of the month that immediately follows the receipt of the contribution or the making of the disbursement, whichever came first, except that during July, August, and September such records only have to be furnished by the last day of the month. Any candidate receiving DTF funding must cooperate with any audit or examination by GAB.

A Supreme Court Justice candidate who receives a DTF public financing benefit must maintain records of all contributions received by the candidate of more than \$5 but less than \$50, including seed money contributions and qualifying contributions, including the full name of the contributor and the contributor's complete home address. In addition, if a contributor's aggregate contributions to any candidate exceed \$50 for any campaign, the candidate must also maintain a record of the contributor's principal occupation and the name and business address of the contributor's place of employment. Any failure to record or provide this information disqualifies the relevant contribution from being used by a candidate as a qualifying contribution. No eligible candidate, and no person acting on a candidate's behalf, may deposit any contribution that is not recorded in accordance with these provisions in a candidate's campaign depository account.

Nonparticipating Candidates. A nonparticipating candidate for Supreme Court Justice at a primary or election who receives contributions, or makes or obligates to make disbursements, in an amount that is more than 5% greater than the public financing benefit (that is, an amount greater than 105% of the relevant base grant) applicable to an eligible candidate for the same office at the same

primary or election, must file a report with GAB itemizing the total contributions received and disbursements made or obligated to be made by the candidate as of the date of the report. The Government Accountability Board must transmit copies of the report to all candidates for the same office at the same election. A nonparticipating candidate must file additional reports after the candidate receives each additional \$1,000 of contributions, or the candidate makes or obligates to make each additional \$1,000 of disbursements. If such contributions are received, or such disbursements are made or obligated to be made, more than six weeks prior to the date of the primary election at which the name of the candidate appears on the ballot (or prior to the date that the primary election would have been held, had a primary been required), such reports must be made at the next regular reporting interval. If such contributions are received, or such disbursements are made or obligated to be made, within six weeks prior to the date of the primary election at which the name of the candidate appears on the ballot (or prior to the date that the primary election would have been held, had a primary been required), such reports must be made

within 24 hours after each instance in which such contributions are received, or such disbursements are made or obligated to be made.

Producers of Independent Disbursements. If any person makes, or becomes obligated to make, by oral or written agreement, an independent disbursement in excess of \$1,000 with respect to a Supreme Court Justice candidate at a spring primary or election, that person must file with GAB a notice of such disbursement, or obligation to make such a disbursement. Any such person is required to file reports of such disbursements, or obligations to make such disbursements, on the 15th or last day of the month that immediately follows the date of the disbursement, or the obligation to make the disbursement, whichever comes first. However, within six weeks prior to the date of the spring primary election, if a primary is held, and within six weeks prior to the date of the spring election, the person must file such reports within 24 hours after each independent disbursement is made or obligated to be made. Any such person must file an additional report after each additional \$1,000 of disbursements are made or obligated to be made.

APPENDIX

Participation and Disbursement Levels -- Wisconsin Election Campaign Fund

Calendar Year	Office	Number of Eligible Applicants	Number of Grants Awarded*	Total Amount Disbursed	Average Grant Award
1984	Senate	39	19	\$202,455	\$10,655
	Assembly	251	128	792,958	6,195
1985	State Superintendent of Public Instruction	1	1	48,872	48,872
1986	Governor	6	2	359,483	179,741
	Lieutenant Governor	8	2	42,923	21,461
	Secretary of State	3	2	50,297	25,148
	Treasurer	2	2	21,461	10,730
	Attorney General	3	2	194,618	97,309
	Senate	34	23	286,023	12,435
	Assembly	190	117	779,928	6,666
1988	Senate	27	14	171,893	12,278
	Assembly	169	89	525,582	5,905
1989	Supreme Court	2	2	194,062	97,031
1990	Governor	3	1	291,197	291,197
	Lieutenant Governor	2	2	36,010	18,005
	Secretary of State	2	1	18,111	18,111
	Treasurer	3	2	18,104	9,052
	Attorney General	4	2	77,148	38,574
	Supreme Court	2	2	76,038	38,019
	Senate	24	12	133,470	11,123
	Assembly	176	86	455,505	5,297
1992	Senate	24	11	150,321	13,666
	Assembly	192	74	490,348	6,626
1993	State Superintendent of Public Instruction	2	2	75,366	37,683
	Senate	4	2	20,559	10,280
	Assembly	6	4	34,346	8,587
1994	Governor	1	1	274,020	274,020
	Lieutenant Governor	2	2	31,279	15,639
	State Treasurer	5	1	15,640	15,640
	Attorney General	2	2	66,465	33,233
	Supreme Court	2	2	67,536	33,768
	Senate	25	12	153,393	12,783
	Assembly	149	72	429,047	5,959
1995	Supreme Court	2	1	30,954	30,954
	Senate	2	2	31,050	15,525
	Assembly	1	1	6,519	6,519
1996	Supreme Court	2	2	26,398	13,199
	Senate	18	11	100,931	9,176
	Assembly	168	80	310,316	3,879

APPENDIX (continued)

Participation and Disbursement Levels -- Wisconsin Election Campaign Fund (continued)

Calendar Year	Office	Number of Eligible Applicants	Number of Grants Awarded*	Total Amount Disbursed	Average Grant Award
1997	State Superintendent of Public Instruction	2	1	\$26,148	\$26,148
	Supreme Court	2	1	26,148	26,148
	Senate	4	1	4,155	4,155
	Assembly	1	1	10,234	10,234
1998	Governor	3	1	200,613	200,613
	Lieutenant Governor	4	2	23,954	11,977
	Secretary of State	2	2	27,616	13,808
	Attorney General	2	1	50,902	50,902
	Treasurer	2	1	11,977	11,977
	Senate	18	13	112,178	8,629
	Assembly	133	55	336,803	6,124
1999	Supreme Court	2	1	27,005	27,005
2000	Supreme Court	2	2	27,071	13,536
	Senate	21	10	113,139	11,314
	Assembly	131	63	336,982	5,349
2001	Senate	3	1	12,420	12,420
	Assembly	4	1	5,692	5,692
2002	Lieutenant Governor	2	1	25,177	25,177
	Attorney General	1	1	53,501	53,501
	Senate	18	11	121,207	11,019
	Assembly	117	47	328,477	6,989
2003	Supreme Court	2	1	54,800	54,800
	Senate	3	1	11,932	11,932
	Assembly	10	2	10,688	5,344
2004	Senate	11	1	13,958	13,958
	Assembly	115	51	268,718	5,269
2005	Assembly	1	1	5,574	5,574
	State Superintendent of Public Instruction	2	2	44,588	22,294
2006	Lieutenant Governor	2	1	4,501	4,501
	Treasurer	2	1	21,642	21,642
	Senate	11	1	2,425	2,425
	Assembly	78	36	237,711	6,603
2008	Assembly	80	26	168,953	6,498
2009	State Superintendent of Public Instruction	1	1	41,928	41,928
2010	Attorney General	1	1	71,489	71,489
	Secretary of State	1	1	29,409	29,409
	Senate	8	4	54,450	13,612
	Assembly	70	24	159,778	6,657

*This is the number of eligible applicants who actually accepted grants.