



Public Financing of Campaigns in Wisconsin

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The primary focus of this paper is the public financing of campaigns through grants from the Wisconsin Election Campaign Fund (WECF). A secondary focus is the review of the law governing the non-public financing of campaigns through contributions from individuals, committees and political parties. The WECF finances 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. The paper is divided into the following eight sections: (1) history of the WECF; (2) public funding of the WECF; (3) WECF grant eligibility; (4) WECF spending limits; (5) WECF grant awards; (6) WECF grant administration; (7) limits on non-public financing of candidates; and (8) registration and reporting of campaign finance activity.

History of the WECF

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: (1) public campaign financing is made available; and (2) 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 taxpayer 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 taxpayer 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 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. The fund is administered by the State Elections Board.

2001 Wisconsin Act 109. On July 26, 2002, Governor Scott McCallum signed 2001 Wisconsin Act 109 (the 2001-03 budget adjustment act) into law. Act 109 made numerous significant changes to Wisconsin's campaign finance laws. Among these changes were the following: (1) 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; (2) 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; (3) increasing the spending limits applicable to candidates accepting WECF grants; (4) providing supplemental grants matching an opposing candidate's disbursements exceeding the applicable spending limit; (5) requiring special interest committees, during the last 30 days prior to a general, special or spring election, to pre-report their independent advocacy and "issue ad" disbursements and obligations; (6) providing supplemental grants matching independent advocacy and "issue ad" disbursements and obligations by special interest committees; (7) 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; (8) 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; (9) 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; (10) 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; (11) 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; (12) 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 (13) 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.

Public Funding of the WECF

Each taxfiler 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 the Elections Board, 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 taxfilers 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 taxfilers with no tax liability or less than \$1 of tax liability 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, and 2003. 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 1997 reflects tax returns for calendar year 1997 due by April 15, 1998. Table 2 shows participation in the fund as measured by the proportion of individual taxfilers making a designation.

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

Table 1: Number of Taxfiler Designations

Tax Year	Designations	<u>Change Over Prior Year</u>	
		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

Table 2: Taxfiler Designations as a Percent of Eligible Taxfilers

Tax Year	Number of Taxfilers Eligible to Make Designations	<u>Taxfiler Designations</u>	
		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

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.

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

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

**Includes taxfiler designation amounts and interest earnings.

*** Net of returned disbursements.

Eligibility to Receive a WECF 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 the Elections Board no later than the deadline for filing nomination papers for the office. An eligible candidate who applies for a WECF grant may file a written withdrawal of the application with the Elections Board 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, the Elections Board determines if those candidates who applied have met all of the eligibility requirements to receive a grant. Those requirements are: (1) 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; (2) the applicant will face an opponent in the general election; and (3) 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, State Superintendent or Supreme Court Justice 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 "WECF 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.

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

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
Supreme Court	10,781
State Senate	3,450
State Assembly	1,725

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 Non-Public 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 Non-Public Financing of Candidates -- Aggregate Committee Funding of WECF 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 the Elections Board.

For the 2004 fall general election, the primary election was held September 14, 2004. 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, the Elections Board made the certifications of eligible grantees to the State Treasurer who then mailed checks to candidates between September 28 and October 1.

WECF 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.

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
Supreme Court	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.

WECF 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. Because the Elections Board 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.

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
Supreme Court	97,031
State Senate	15,525
State Assembly	7,763

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 the Elections Board with reports, including sufficient proof of payment, on how the grant monies were expended.

WECF Grant Administration

Although there is only a single Election Campaign Fund, the fund is actually divided into eight separate accounts. There is one account for each of the following seven offices: Governor,

Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, Justice of the State Supreme Court, and Superintendent of Public Instruction. The eighth and final account is for all legislative offices. The legislative account is further divided into separate Senate and Assembly sub-accounts. 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 eight 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 any nonpartisan statewide office (State Superintendent of Public Instruction or Justice of the Supreme Court) during the following year, 8% of the total annual revenues to the fund are placed in each of the nonpartisan accounts for which there will be an election. In those years in which an allocation to either or both of these nonpartisan accounts occurs, the distribution to such accounts is taken as a first draw on the total amount of funds available for allocation. Once any allocations have been made to the nonpartisan accounts, the remaining annual revenues are then apportioned to the partisan accounts as described below. However, if there is no election scheduled for a nonpartisan statewide office during the following year, the nonpartisan accounts 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 distributions to the nonpartisan accounts are 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, 2004, the DOR Secretary certified that \$241,852 in taxfiler designations was available for transfer from the general fund to the Election Campaign Fund. When combined with \$4,222 of interest earnings, a total of \$246,074 was available for apportionment to the eligible accounts in 2004. Since there will be an election in the spring of 2005 for a Justice of the State Supreme Court, \$19,686 (8% of total funds available) was apportioned to the Justice of the State Supreme Court account. Likewise, as there will be an election in the spring of 2005 for Superintendent of Public Instruction, \$19,686 (8% of total funds available) was apportioned to the Superintendent of Public Instruction account. From the remaining funds (\$206,702) available for allocation to the partisan accounts, a total of \$155,027 (75%) was apportioned to the legislative account and the remaining \$51,675 (25%) was apportioned to the executive accounts. From that portion of the amounts apportioned to the legislative account, 25% (\$38,757) was earmarked to the Senate subaccount and 75% (\$116,270) was earmarked to the Assembly subaccount. From that portion of the amounts allocated to the executive accounts, 67% (\$34,622) was apportioned to the account for

Governor, 8% (\$4,134) was apportioned to the account for Lieutenant Governor, 17% (\$8,785) was apportioned to the account for Attorney General, and 4% each (\$2,067) 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 2004 apportionments, the amounts that were apportioned to each account on August 15, 2004, 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, 2004 Opening Balance	August 15, 2004 Apportion- ment	Amount Available for Distribution
Superintendent of Public Instruction	\$26,729	\$19,686	\$46,415
Supreme Court	-1,132	19,686	18,554
Governor	242,188	34,623	276,811
Lieutenant Governor	3,741	4,134	7,875
Attorney General	7,950	8,785	16,735
State Treasurer	14,715	2,067	16,782
Secretary of State	14,459	2,067	16,526
Senate	42,602	38,757	81,358
Assembly	<u>168,025</u>	<u>116,270</u>	<u>284,295</u>
Totals	\$519,277	\$246,074	\$765,351

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 Non-Public 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
Supreme Court	97,031	140,156
State Senate	15,525	22,425
State Assembly	7,763	11,213

Aggregate Committee Funding of WECF Grant Recipients

The amount of WECF grant funding that a candidate 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 eligible to receive a grant. At the time the grant

award amount is being determined by the Elections Board, 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 insufficient 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 eligible candidates 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 candidates for that office determined by the Elections 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 1988. [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 the Elections Board 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

Table 10: Proration of Statutory Grant Amounts Since 1988

Affected Office Account	Statutory Maximum Grant Amount	Prorated Maximum Grant Amount
1988 Election		
State Senate	\$15,525	\$13,365
State Assembly	7,763	6,355
1990 Election		
Governor	\$485,190	\$291,197
Lieutenant Governor	145,564	18,005
Attorney General	242,550	38,574
State Treasurer	97,031	9,052
Secretary of State	97,031	18,111
State Assembly	7,763	6,521
1994 Election		
Governor	\$485,190	\$274,020
Lieutenant Governor	145,564	15,639
Attorney General	242,550	33,233
State Treasurer	97,031	15,640
State Assembly	7,763	6,519
1996 Election		
State Senate	\$15,525	\$10,234
State Assembly	7,763	4,155
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		
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
2004 Election		
State Assembly	\$7,763	\$5,574

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.

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
Supreme Court	10,000	8,625
State Senate	1,000	1,000
State Assembly	500	500

Political Party Funding of Partisan Candidates

Up to \$6,000 in a calendar year may be: (1) received by a political party from a committee or its subunits or affiliates, excluding transfers between party committees of the same party; and (2) 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

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.

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 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.

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
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
	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
	Secretary of State	3	0	0	--
	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	2	26,398	13,119
	Senate	2	2	31,050	15,525
	Assembly	1	1	6,519	6,519
1996	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

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