

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

.....  
**January 3, 2020  
St Croix Room  
Centennial Office Building**  
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**MINUTES**

The meeting was called to order by Chair Moilanen.

Members present: Flynn, Haugen, Leppik, Moilanen, Rosen (by telephone, left during legal report), Swanson

Others present: Sigurdson, Engelhardt, Olson, Pope, staff; Hartshorn, counsel

**MINUTES** (December 4, 2019)

After discussion, the following motion was made:

Member Leppik's motion:	To approve the December 4, 2019, minutes as drafted.
Vote on motion:	A roll call vote was taken. All members voted in the affirmative.

**CHAIR'S REPORT**

**A. 2020 Meeting schedule**

The next Board meeting is scheduled for 10:30 a.m. on Wednesday, February 5, 2020.

**B. Verbal comments from Chair Moilanen**

Chair Moilanen said that to begin his term as chair, he had asked individual members and staff for suggestions about how the Board could do things better in the coming year. Chair Moilanen told members that he had heard their comments and would raise them in the appropriate places during the meeting. Members then discussed whether to start meetings at an earlier time but ultimately decided to retain the current 10:30 a.m. starting time.

**EXECUTIVE DIRECTOR REPORT**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that staff member Kevin Lochner would be leaving his position on January 7th. Mr. Sigurdson said that Mr. Lochner had administered the economic interest (EIS) program. Mr. Sigurdson stated that he would post the vacancy after reviewing

the position description to ensure that it accurately reflected the amount of time spent on the EIS program. Mr. Sigurdson then told members that he and Assistant Director Engelhardt had attended the Council on Governmental Ethics Laws (COGEL) conference where they had taken part in seminars discussing new issues in the campaign finance, lobbying, and ethics areas and had exchanged information with counterparts from other states. Mr. Sigurdson also said that the primaries for two house special elections would be held soon and that staff would be making public subsidy payments for those elections after the primaries.

#### **ADVISORY OPINION 451 – GIFT PROHIBITION**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that the draft advisory opinion was public because the requester had signed the necessary release. Mr. Sigurdson explained that the requester was a professor who had asked whether members of the legislature could be given meals as part of a study to determine whether having lunch together had any effect on bipartisan cooperation. Mr. Sigurdson said that the draft opinion concluded that the meals were not prohibited gifts because the study's sponsors were not principals.

After discussion, the following motion was made:

Member Swanson's motion:	To approve Advisory Opinion 451 as drafted.
Vote on motion:	A roll call vote was taken. All members voted in the affirmative.

#### **REVIEW OF RELEVANT COURT DECISIONS**

##### **A. Thompson v. Hebdon (individual contribution limit)**

Mr. Olson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Olson told members that this case involved the question of whether Alaska's \$500 annual limit on individual contributions to state-level candidates violated the Constitution. Mr. Olson said that the U.S. Supreme Court had ordered the 9<sup>th</sup> Circuit Court of Appeals to reconsider its decision upholding the limit in light of *Randall v. Sorrell*, a 2006 Supreme Court case. Mr. Olson said that in *Randall v. Sorrell*, which was a plurality opinion, the Supreme Court had invalidated contribution limits similar to those in Alaska because the dollar amounts simply were too low. Mr. Olson said that the *Thompson* decision had no immediate implications for Chapter 10A but that if the case were to make its way to the Supreme Court again, it could lead to a re-examination of the question of how low a contribution limit may be before it violates the First Amendment.

##### **B. Calzone v. Summers (lobbyist registration and reporting)**

Mr. Olson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Olson told members that this case involved the question of whether a Missouri law requiring registration of all lobbyists, even those who were not paid to lobby, violated the

Constitution. Mr. Olson said that the 8<sup>th</sup> Circuit Court of Appeals had determined that the law violated the First Amendment when applied to a person who did not receive money or anything else of value for his lobbying activities. Mr. Olson said that the *Calzone* decision did not have any direct implications for Chapter 10A because Minnesota's lobbyist registration and reporting requirements apply only to those who receive more than \$3,000 per year in compensation for lobbying or who spend more than \$250 in a year of their own money on lobbying efforts. Mr. Olson said that it appeared that the State of Missouri might appeal the *Calzone* decision.

## **ENFORCEMENT REPORT**

Before Mr. Olson started the enforcement report, Chair Moilanen said that one of the suggestions that he had received from members concerned creating a consent agenda for this portion of the meeting. Members discussed the issue and directed staff to move forward with this plan for the next meeting with the understanding that any member could remove an item from the consent agenda for discussion.

### **A. Discussion item**

#### **1. Retroactive administrative termination of lobbyist Walid Issa (4187)**

Mr. Olson told members that Mr. Issa's former employer, Solomon Strategies Group (SSG), had asked for the administrative termination of Mr. Issa's registrations as a lobbyist for five principals. SSG asked that the terminations be retroactive to June 30, 2017. Mr. Olson said that a reporting lobbyist for four of the principals had filed lobbyist disbursement reports inclusive of Mr. Issa that covered each reporting period through May 31, 2019, and that a former reporting lobbyist for the remaining principal had filed lobbyist disbursement reports inclusive of Mr. Issa that covered each reporting period through May 31, 2018. Mr. Olson stated that SSG had asked Mr. Issa to file termination statements but that Mr. Issa had not done so. Mr. Olson said that the Board had laid the matter over at the December meeting and had directed staff to ask SSG to remove references to Mr. Issa from its website. Mr. Olson stated that SSG's website had since been updated to remove references to Mr. Issa. Mr. Olson said that Board staff was asking that Mr. Issa's termination date be June 30, 2017.

After discussion, the following motion was made:

Member Leppik's motion: To approve the request for the retroactive administrative termination of lobbyist Walid Issa.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

**B. Waiver request**

<u>Name of Candidate or Committee</u>	<u>Late Fee &amp; Civil Penalty Amount</u>	<u>Reason for Fine</u>	<u>Factors for waiver</u>	<u>Board Member's Motion</u>	<u>Motion</u>	<u>Vote on Motion</u>
Together Minnesota	\$1,300 LFFs	3 2018 pre-primary 24-hour notices (2 were late, 1 was never received)	<p>IE committee registered during pre-primary 24-hour notice period on 8/7/2018, one day after it received a contribution of \$15,000, so it was required to file a 24-hour notice the same day it registered. Treasurer filed an underlying source disclosure statement on 8/10/2018 for contribution received 8/6/2018 and thought that the statement satisfied 24-hour notice requirement. Treasurer thought contribution of \$3,000 received 8/9/2018 did not require a 24-hour notice because unregistered associations are only required to provide underlying source disclosure statements to IE committees if they give \$5,000 or more in a calendar year. Two contributions over \$1,000 were deposited 8/13/2018, the last day of pre-primary 24-hour notice period. Treasurer stated that he should have reported those contributions as having been received 8/14/2018, as that was the date the funds became available in committee's bank account, and that would have prevented the committee from having to file 24-hour notices for those contributions. However, Minn. Stat. § 10A.15, subd. 2a, states that contribution not made through electronic means is received for reporting purposes when contribution is physically received, not when deposited, and definition of contribution includes negotiable instruments, so the contributions had to have been received on or before 8/13/2018. Treasurer uses Apple computer and thus files paper reports. He apparently didn't realize until 8/13/2018 that 24-hour notices may be filed electronically via the Board's website and 24-hour notices were filed for three of the subject contributions on that day. One of those notices was timely filed while the other two resulted in LFFs of \$200 and \$100 based on the date contributions were received. No 24-hour notice was received regarding one of the 8/13/2018 contributions, resulting in LFF of \$1,000.</p> <p>The Board typically reduces \$1,000 24-hour notice late fees for first-time violations to \$250.</p>	Member Swanson	To reduce the late filing fees to \$360.	Roll call vote was taken. Five members voted in affirmative. Member Flynn abstained.

**C. Informational items**

**1. Payment of late filing fee for 2018 pre-general report of receipts and expenditures**

People PAC, \$800

**2. Payment of late filing fee for lobbyist disbursement report due 6/17/2019**

Robert Doar, \$100  
Bob Carney Jr., \$75  
Martin McDonough, \$100  
Christopher Parsons, \$25

**REVIEW OF LEGISLATIVE RECOMMENDATIONS**

Mr. Sigurdson presented members with a memorandum regarding this issue that is attached to and made a part of these minutes. Mr. Sigurdson said that the Governor's Office had contacted him and had voiced no objections to the legislative proposals but had indicated that the governor had other priorities for the 2020 session, specifically the bonding bill. Mr. Sigurdson then stated that in response to comments from lobbyists, the lobbying proposal had been changed to require reporting of any issue on which the lobbyist spent 25% of his or her efforts, rather than 10%. Mr. Sigurdson said that the lobbyist proposal now also included a provision applicable when a former legislator arranges meetings between lobbyists and current legislators but does not actually attend or lobby at those meetings. Mr. Sigurdson said that in these situations, the former legislator would need to register as a lobbyist or the entity that hired the former legislator would need to report that payment as a lobbying expense.

Kathy Hahne from the Minnesota Governmental Relations Council (MGRC) then addressed the Board. Ms. Hahne said that the MGRC had surveyed its members about the lobbying proposal. Ms. Hahne reported that the MGRC members were supportive of the goal of better disclosure and specifically supported the recommended changes regarding identification of lobbying subjects at the time of registration and the threshold for reporting on the annual report by lobbyist principals. Members were concerned about the potential administrative burdens related to reporting on the lobbyist disbursement reports. Specifically, some members from smaller firms were concerned about how they would determine whether they had met the 10% reporting threshold, especially when they were paid on a flat fee basis. Ms. Hahne acknowledged that the latest version of the lobbying proposal increased this reporting threshold to 25% and said that the threshold change had been made after the survey was released to MGRC members. Ms. Hahne said that the MGRC governing board would consider taking a formal position on the proposal at its January meeting. Ms. Hahne then answered questions from members.

Members then decided to first discuss the two new proposals regarding lobbying and the increase in the amount of the political contribution refund (PCR). Discussion also took place regarding different ways that the Board could proceed with any legislative proposals. After discussion, it was the consensus of the Board not to pursue the PCR proposal this year. Members, however, were interested in continuing to refine and pursue the lobbyist proposal.

Next, members reviewed the decisions that had been made in 2019 regarding the proposals for the campaign finance and economic interest (EIS) programs. Members recalled that the Board had unanimously approved the technical changes for both programs and the policy changes for the EIS

program. The policy changes for the campaign finance program were approved but this approval was not unanimous.

Additional discussion took place regarding how to proceed with the legislative proposals. Members discussed the idea of sending a letter to some or all members of the legislature and what content should be in any letter that was sent. Members also discussed who should sign the letter.

George Beck from Clean Elections Minnesota (CEM) then addressed the Board. Mr. Beck referred members to the written comments that CEM had submitted for the meeting. Mr. Beck urged the Board to pursue the policy changes to the definition of express advocacy and discussed the concerns that this proposal was intended to address. Mr. Beck then answered questions from members.

Members continued discussing the potential content of the letter that could be sent to the legislature. During this discussion, Mr. Sigurdson noted that Board had not officially acted on the lobbying proposals.

After discussion, the following motion was made:

Member Swanson's motion: To add the lobbying proposals in the form presented at the January meeting to the Board's list of approved policy recommendations with the understanding that those proposals may be modified going forward.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

After additional discussion, the following motion was made:

Member Moilanen's motion:

To direct staff to draft a letter for signature by all Board members for distribution to all legislators advising the legislature that amendments to Chapter 10A are needed in the areas of campaign finance, economic interest, and lobbying; that these amendments involve both technical and policy changes, that there is some urgency for some of the proposals, that Chapter 10A has not been updated in some areas in a number of years, and that the Board invites further discussion with the Board or the executive director about these changes.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

#### **LEGAL COUNSEL'S REPORT**

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn told members that a default judgment hearing soon would be held in the Meyer matter and that the Ellingboe matter had been resolved. Mr. Hartshorn had nothing else to add to the legal report.

**OTHER BUSINESS**

Chair Moilanen thanked Member Leppik for her service as chair in 2019 and Mr. Lochner for his work with the Board in the economic interest program.

**EXECUTIVE SESSION**

The chair recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had nothing to report into regular session.

There being no other business, the meeting was adjourned by the chair.

Respectfully submitted,



Jeff Sigurdson  
Executive Director

Attachments:

Executive director's report  
Memorandum regarding Advisory Opinion 451  
Draft public version of Advisory Opinion 451  
Memorandum regarding *Thompson v. Hebdon*  
Memorandum regarding *Calzone v. Summers*  
Memorandum regarding legislative recommendations  
2019 legislative recommendations  
Lobbyist recommendations  
Political contribution refund program recommendations  
Legal report



# MINNESOTA CAMPAIGN FINANCE BOARD

**Date:** December 27, 2019

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Executive Director's Report

## Personnel

Kevin Lochner has tendered his resignation from the Board's staff, effective January 7, 2020. Mr. Lochner has administered the economic interest statement (EIS) program, and through his hard work the accuracy of the EIS program database and the overall procedures used for the program have improved. Kevin was also instrumental in developing online training videos for all three Board programs.

I am evaluating the current position description to see if there are changes or updates needed before posting the job opening. I anticipate hiring a replacement in February or early March.

## Status of Year-end Reports and Annual Certification

Notices of the need to file the 2019 year-end Report of Receipts and Expenditures, the June – July Lobbyist Disbursement Report, and the EIS Annual Certification were all mailed at the end of December. I will be updating the following table in February and March to keep the Board apprised of compliance with the reporting periods.

Program	Notifications Mailed	Due Date	Filed Electronically	Number of Late Reports
Lobbyist	824	1/15/2020		
EIS	2,899	1/27/2020		
Campaign Finance	1,062	1/31/2020		



# MINNESOTA CAMPAIGN FINANCE BOARD

**Date:** December 23, 2019

**To:** Board members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Advisory Opinion 451 – Gift of Meal to Public Officials

This advisory opinion was requested on December 10, 2019, by Dr. Kathryn Pearson, Associate Professor of Political Science, at the University of Minnesota. Dr. Pearson signed a release making her request and the resulting opinion public data. The request asks if members of the legislature may be provided meals as part of an academic research study that will be conducted by Dr. Pearson and other political scientists. The cost of the study, including the meals, will be paid through a grant from the University of California, San Diego. Additional funding has been requested from other universities and a charitable foundation not located in Minnesota. The current and potential sources of funding for the study are not represented by lobbyists in Minnesota, and do not otherwise meet the definition of a lobbyist principal.

The opinion as drafted states that the gift prohibition in Minnesota Statutes section 10A.071 applies only if the giver is a lobbyist or a lobbyist principal, or if the gift is given at the request of a lobbyist or a lobbyist principal. The draft opinion concludes that because the funding for the study is not derived from a lobbyist or a lobbyist principal, the meals provided to legislators for the study will not violate the gift prohibition in Chapter 10A.

**Attachments:**

Advisory opinion request

Draft advisory opinion

**State of Minnesota**  
**Campaign Finance and Public Disclosure Board**  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**THIS ADVISORY OPINION IS PUBLIC DATA  
pursuant to a consent for release of information  
provided by the requester**

Issued to: Dr. Kathryn Pearson  
University of Minnesota  
1414 Social Sciences Building  
267 – 19th Ave. S.  
Minneapolis, MN 55455

**RE: Gift of meal to public officials**

**ADVISORY OPINION 451**

**SUMMARY**

Providing meals to public officials is not a prohibited gift as long as the funding for the meals is from an association that is not a principal in Minnesota, and the meals were not provided to the public officials at the request of a lobbyist or principal.

**FACTS**

As a professor at the University of Minnesota, Department of Political Science, you request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts which were provided to the Board in a written request and through conversations with Board staff.

1. You and other political scientists are preparing to conduct a research study entitled, "Can Breaking Bread Build Bipartisanship? Social Interactions and Cosponsorship Behavior?" All Minnesota state legislators will be invited to participate in the study. Participation in the study is voluntary.
2. The political scientists who are conducting the study will select legislators to pair with one or more legislators from the opposing party. The paired legislators will be asked to have lunch together three times during the first month of the legislative session. The study will pay for the cost of the meals.
3. The research records generated from the study will be stored securely, and any report that results from the study will not identify legislators who participated. A legislator's decision to participate, or not to participate, in the study will not affect a legislator's relationship with the University of Minnesota.
4. The study is currently funded by a research grant from the University of California, San Diego. Additional funding has been applied for from other universities and a charitable foundation. The current and potential sources of funding for the study are not lobbyist principals in Minnesota.

## **ISSUE ONE**

May the study provide meals to Minnesota legislators without violating the gift prohibition in Minnesota Statutes section 10A.071?

## **OPINION ONE**

Minnesota Statutes section 10A.071 generally prohibits a principal or lobbyist from giving a gift to a public official. A meal is included within the definition of a prohibited gift.<sup>1</sup> However, the prohibition is limited to situations where the gift is provided by a principal or a lobbyist, or at the request of a principal or a lobbyist.

The current source of funding for the study, and the additional potential sources of funding, are not represented by any registered lobbyists in Minnesota, and do not otherwise meet the definition of “principal” as provided in Minnesota Statutes section 10A.01, subdivision 33. Further, the meals are not being provided at the request of any lobbyist or principal. Therefore, providing meals to legislators as a part of the study described in this opinion is not a prohibited gift under Minnesota Statutes section 10A.071.

The Board notes that the University of Minnesota is not listed as a current or potential source of funding for the study. If circumstances change, and the University of Minnesota does provide funding for the study, the meal provided in the study is still not a prohibited gift because the University of Minnesota, as a public higher education system, is not a principal even though it is represented by registered lobbyists.<sup>2</sup>

Issued: January 3, 2020

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Robert Moilanen, Chair  
Campaign Finance and Public Disclosure Board

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<sup>1</sup> Minnesota Rules 4512.0100, subpart 3.

<sup>2</sup> Advisory Opinion 224 (January 26, 1996). [https://cfb.mn.gov/pdf/advisory\\_opinions/AO224.pdf](https://cfb.mn.gov/pdf/advisory_opinions/AO224.pdf)



# MINNESOTA CAMPAIGN FINANCE BOARD

**Date:** December 27, 2019

**To:** Board members

**From:** Andrew Olson, Legal/Management Analyst      **Telephone:** 651-539-1190

**Re:** *Thompson v. Hebdon*, 140 S. Ct. 348 (2019) (individual contribution limit)

## Alaska's Individual Contribution Limit

Alaska prohibits individuals from giving contributions in excess of \$500 per calendar year to any particular state candidate, or any political group aside from political parties.<sup>1</sup> The limit is the same with respect to candidates for governor, state legislature, judicial office, etc. Individuals who wished to give contributions in excess of that limit filed a lawsuit asserting, in part, that the limit is so low that it violates the First Amendment by preventing candidates, particularly non-incumbents, from waging competitive campaigns. A federal district court upheld the \$500 limit<sup>2</sup> as did the Ninth Circuit Court of Appeals<sup>3</sup>.

## United States Supreme Court Decision

In November 2019 the United States Supreme Court granted the plaintiffs' petition for a writ of certiorari. Rather than add to the case to its docket, the Court ordered the Ninth Circuit Court of Appeals to reconsider its decision in light of *Randall v. Sorrell*<sup>4</sup>. In *Randall* the United States Supreme Court invalidated Vermont's individual contribution limits as violative of the First Amendment. The Ninth Circuit panel felt that it wasn't bound by *Randall* because that case resulted in highly fractured opinions and only three justices joined the plurality opinion. However, in *Randall* six justices agreed that Vermont's contribution limits violated the First Amendment and five of them joined opinions that explicitly stated that part of the reason the contribution limits were constitutionally infirm is because the dollar amounts were simply too low under *Buckley v. Valeo*<sup>5</sup>.

The individual contribution limits struck down in *Randall* applied to two-year cycles and were \$400 for statewide candidates, \$300 for state senate candidates, and \$200 for state representative candidates. The \$400 limit for statewide candidates, even if increased by 25% to account for inflation, is still effectively about half the size of Alaska's \$500 limit because Alaska's limit applies to each calendar year while Vermont's limits applied to a two-year cycle. Because Alaska's limit is significantly higher than the limits considered in *Randall*, the Ninth Circuit may

<sup>1</sup> Alaska Stat. § 15.13.070 (b).

<sup>2</sup> *Thompson v. Dauphinais*, 217 F. Supp. 3d 1023 (D. Alaska 2016).

<sup>3</sup> *Thompson v. Hebdon*, 909 F.3d 1027 (9th Cir. 2018).

<sup>4</sup> *Randall v. Sorrell*, 548 U.S. 230 (2006).

<sup>5</sup> *Buckley v. Valeo*, 424 U.S. 1 (1976).

again uphold Alaska's individual contribution limit upon remand, which may prompt further review by the United States Supreme Court. If the Ninth Circuit instead changes course and strikes down Alaska's \$500 individual contribution limit, the case is much less likely to be revisited by the United States Supreme Court.

## Potential Impact on Chapter 10A

There is no immediate impact on the validity of Chapter 10A's individual contribution limits. However, the Court issued a brief per curiam opinion explaining its decision, a couple aspects of which are notable in light of similarities to Chapter 10A.

First, the Court noted that "[t]he lowest campaign contribution limit this Court has upheld remains the limit of \$1,075 per two-year election cycle for candidates for Missouri state auditor in 1998." "That limit translates to over \$1,600 in today's dollars." The Court is referring to *Nixon v. Shrink Missouri Government PAC*<sup>6</sup> in which the Court considered a limit for a statewide candidate with a two-year election cycle. While Minnesota lacks statewide candidates with a two-year election cycle, the individual contribution limits applicable to state auditor candidates in Minnesota is somewhat similar in that those candidates are limited to a total of \$3,000 per contributor over the course of a four-year cycle, combining the two-year non-election segment and election segment limits of \$1,000 and \$2,000, respectively.

Second, the Court stated that "Alaska's contribution limit is not adjusted for inflation. We observed in *Randall* that Vermont's 'failure to index limits means that limits which are already suspiciously low' will 'almost inevitably become too low over time.'" "The failure to index 'imposes the burden of preventing the decline upon incumbent legislators who may not diligently police the need for changes in limit levels to ensure the adequate financing of electoral challenges.'" While Chapter 10A's aggregate special source contribution limits are indexed to inflation,<sup>7</sup> the individual contribution limits<sup>8</sup> and party unit and dissolving principal campaign committee aggregate contribution limits<sup>9</sup> are static. Alaska's \$500 limit is unique in that the amount is the same as it was in 1996. On the other hand, Chapter 10A's individual contribution limits and party unit and dissolving principal campaign committee aggregate contribution limits were increased considerably in 2013.<sup>10</sup>

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<sup>6</sup> *Nixon v. Shrink Missouri Government PAC*, 528 U. S. 377 (2000).

<sup>7</sup> Minn. Stat. § 10A.27, subd. 11 (the aggregate special source limits are indexed to inflation because they are calculated as a percentage of the expenditure limits codified at [Minnesota Statutes section 10A.25](#), subdivision 2, which are indexed to the Consumer Price Index pursuant to [Minnesota Statutes section 10A.255](#), subdivision 1).

<sup>8</sup> Minn. Stat. § 10A.27, subd. 1.

<sup>9</sup> Minn. Stat. § 10A.27, subd. 2.

<sup>10</sup> 2013 Minnesota Laws Ch. 138, Sec. 44 (S.F. 661).



# MINNESOTA CAMPAIGN FINANCE BOARD

**Date:** December 27, 2019

**To:** Board members

**From:** Andrew Olson, Legal/Management Analyst      **Telephone:** 651-539-1190

**Re:** Calzone v. Summers, [942 F.3d 415](#) (8th Cir. 2019) (lobbyist registration and reporting)

## **Missouri's Lobbyist Registration and Reporting Requirements**

Missouri defines lobbyists to include, in relevant part, an individual that attempts to influence any official action of that state's legislature who “[i]s designated to act as a lobbyist by any person ... or other entity.”<sup>1</sup> There is no exception for individuals that are designated as lobbyists but do not receive compensation or make lobbying expenditures. Complaints were filed with the Missouri Ethics Commission regarding Ron Calzone, who regularly identified himself as a lobbyist for a nonprofit organization but did not register as a lobbyist. Mr. Calzone filed a lawsuit asserting, in part, that Missouri’s definition of lobbyist violates the First Amendment with respect to individuals who do not receive compensation or make any expenditures as part of their lobbyist efforts. A federal district court upheld Missouri’s definition, stating that “Missouri’s interest in transparency is a sufficiently important governmental interest to justify this statute. Knowing who is operating in the political arena is a valid governmental interest regardless of whether someone volunteers on behalf of a third party or is paid by the third party.”<sup>2</sup>

## **Eight Circuit Court of Appeals Decisions**

On appeal to the Eight Circuit Court of Appeals, the State of Missouri asserted two interests in compelling lobbyist disclosures from the plaintiff. First, it argued that there is an anticorruption interest because non-compensated lobbyists may nonetheless offer things of value to legislators. Second, it argued that there is a transparency interest “in knowing who is pressuring and attempting to influence legislators.” An Eighth Circuit Court of Appeals panel initially affirmed the district court 2-1.<sup>3</sup> However, the Eight Circuit subsequently vacated that decision and granted rehearing en banc.

In November 2019, the full court applied exacting scrutiny<sup>4</sup> and held 6-5 that Missouri’s definition of lobbyist violates the First Amendment when applied to an individual whose “political

<sup>1</sup> Mo. Stat. § 105.470 (5) (c).

<sup>2</sup> *Calzone v. Hagan*, No. 2:16-CV-04278, 2017 WL 2772129 (W.D. Mo. June 26, 2017).

<sup>3</sup> *Calzone v. Summers*, 909 F.3d 940 (8th Cir. 2018).

<sup>4</sup> The court noted that there is disagreement as to whether to apply exacting or strict scrutiny to lobbyist disclosure requirements and declined to decide the issue because the as-applied challenge before the court would succeed regardless of which standard was applied.

activities do not involve the transfer of money or anything of value." The majority concluded that with respect to corruption, the government may only target quid pro quo corruption and the plaintiff's "political activities do not raise the specter of 'corruption or its appearance' ... because Calzone does not spend or receive money, nor offer anything of value to legislators."

The majority considered the argument that "legislators need to know who is speaking to determine how much weight to give the speech" and that "the public has a right to know who is speaking so that it can hold legislators accountable for their votes and other actions." The majority rejected those rationales with respect to the plaintiff, stating they "are not 'sufficiently important' to justify the burdens placed on Calzone's speech," and that "speakers ordinarily have the right to keep their identities private." The court held that "Missouri's 'simple interest in providing voters with additional relevant information does not justify a state requirement that Calzone make statements or disclosures he would otherwise omit' ... [n]or does legislative curiosity justify upfront disclosure of information that legislators can presumably find out on their own" (internal citations and brackets omitted). The majority stated that the government has a greater transparency interest "when money changes hands," but because "Calzone's political activities do not involve the transfer of money or anything of value, either to him or to anyone else, Missouri's interest in transparency does not 'reflect the seriousness of the actual burden on his First Amendment rights'" (internal brackets omitted).

### Potential Impact on Chapter 10A

There is no direct impact on Chapter 10A because its definition of lobbyist is limited to individuals who, within a calendar year, receive compensation in excess of \$3,000 for, or make expenditures in excess of \$250 (excluding travel expenses and membership dues) on, lobbying efforts.<sup>5</sup> Another distinguishing factor is that Missouri's lobbyist registration and reporting requirements are more burdensome than those imposed by Chapter 10A as Missouri requires lobbyists to register and pay a \$10 fee on an annual basis, then file monthly reports.<sup>6</sup>

The majority's rejection of the argument that lobbyist registration and disclosure requirements are justified by the need of legislators to know who is a lobbyist and what entities are paying for lobbying efforts appears to be limited to instances where those requirements are applied to unpaid individuals who make no lobbying expenditures. The majority cited *United States v. Harriss*, a 1954 United States Supreme Court case in which the Court held that lobbyist registration and reporting requirements did not violate the First Amendment in seeking a "modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose," namely, "who is being hired, who is putting up the money, and how much."<sup>7</sup> Moreover, a broader version of Chapter 10A's current definition of lobbyist was upheld by the Eighth Circuit Court of Appeals under *Harriss* following a First Amendment challenge in 1985.<sup>8</sup>

The majority also reached the conclusion that in imposing lobbyist registration and reporting requirements justified by an anticorruption interest, "[t]he government 'may target only a specific type of corruption—'quid pro quo' corruption'—and Calzone's political activities do not raise the

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<sup>5</sup> Minn. Stat. § 10A.01, subd. 21.

<sup>6</sup> Mo. Stat. § 105.473.

<sup>7</sup> *United States v. Harriss*, 347 U.S. 612, 625 (1954).

<sup>8</sup> *Minnesota State Ethical Practices Bd. v. Nat'l Rifle Ass'n of Am.*, 761 F.2d 509, 512 (8th Cir. 1985) (the definition of lobbyist was broader at that time as it included individuals who were paid any amount to lobby or were authorized by another to spend any amount on lobbying, who also spent in excess of \$250 in a year, or spent in excess of five hours in a month, on lobbying efforts).

specter of ‘corruption or its appearance.’”<sup>9</sup> In doing so the majority relied on *McCutcheon* which in turn relied on *Davis v. Federal Election Commission*<sup>10</sup> and *Federal Election Commission v. National Conservative Political Action Committee*<sup>11</sup>. None of those three United States Supreme Court cases dealt with lobbying. Instead, each case dealt with contribution or expenditure limits and the only case that dealt with disclosure was *Davis*, in which the Court struck down a provision that required greater disclosure from self-financed candidates that crossed a specific threshold amount than from other candidates. In *McCutcheon* the majority stated that the “Court has identified only one legitimate governmental interest for restricting campaign finances: preventing corruption or the appearance of corruption.” However, lobbyist registration and reporting requirements do not restrict campaign finances, so it is unclear why *McCutcheon* was construed as limiting the government’s anticorruption interest to quid pro corruption when imposing disclosure requirements rather than restrictions on campaign contributions and expenditures.

Regardless, the Eighth Circuit Court of Appeals noted that its focus on corruption was prompted by Missouri’s reliance on its anticorruption interest in justifying its lobbyist registration and reporting requirements. The court stated that it does not “question that there are other interests that can justify compelled-disclosure laws.” There are indications that the State of Missouri will appeal this decision.

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<sup>9</sup> *Calzone v. Summers*, 942 F.3d 415, 424 (8th Cir. 2019) (quoting *McCutcheon v. Fed. Election Comm'n*, 572 U.S. 185, 206–07 (2014)).

<sup>10</sup> *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 741 (2008).

<sup>11</sup> *Fed. Election Comm'n v. Nat'l Conservative Political Action Comm.*, 470 U.S. 480, 496–97 (1985).



# MINNESOTA CAMPAIGN FINANCE BOARD

**Date:** December 27, 2019

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re: Possible Legislative Recommendations**

Attached to this memo for your reference are the 2019 legislative recommendations as provided to the legislature, public comments received this fall on the 2019 recommendations, the statutory recommendations related to the lobbying program, and the statutory change needed to increase the state refund available to donors through the political contribution refund program.

I have continued to discuss the lobbying proposal with the Minnesota Governmental Relations Council (MGRC) and lobbyists not affiliated with that organization. As of the date of this memo I have not received the results of the MGRC member survey on the lobbying proposal. However, informally I have been told that the proposed reporting requirement for each lobbying action that accounted for 10% or more of a lobbyist's effort on behalf of the principal is seen as too burdensome. The same concern was expressed by lobbyists not affiliated with the MGRC.

In response I have modified the proposal to report lobbying actions that account for 25% or more of the lobbying effort on behalf of the principal. This reduces the potential maximum number of reported actions from ten to four. I hope this change will be seen as a compromise that reduces the overhead for the lobbyist but that still provides the public with information on the major lobbying efforts made on behalf of the principal. As a practical matter, reporting ten lobbying actions might have diluted the disclosure provided by listing actions that were clearly secondary to the main focus of the principal.

As an additional compromise I am also recommending that the lobbyist report the specific lobbying actions that account for 25% or more of the overall lobbying effort for a client, but not report the specific percentage of time for each action. The lobbyists I spoke to generally thought that reporting the major lobbying actions on behalf of a client was a clear requirement. However, reporting the specific percentage of effort, for example did an action require 27% or 32% of a lobbyist's time, was of concern both from a tracking stand point and because reporting specific percentages could be the basis for complaints that would be hard to refute given the nature of lobbying.

Another issue brought up in discussions with lobbyists is the growing use of former legislators to gain access to public officials for lobbying. Once the former legislator arranges a meeting, the former legislator either does not attend the meeting, or does not speak on the lobbying issue at the meeting.

Under current statute, an individual who is paid a fee for providing access is not required to register as a lobbyist, and the fee paid for access is not specifically a reportable lobbying disbursement. This seems to me to be a gap in the reporting of lobbying activities that should be addressed. The modified proposal changes the definition of lobbyist to include individuals who are paid more than \$3,000 in total to gain access to public or local officials. If the Board is uncomfortable with that approach the alternative would be to modify the description of reportable expenses to specifically include this type of activity. The changes to the lobbying proposal that Board members have not seen before are highlighted in yellow.

I hope to have verbal updates on the MGRC survey and the interest of the Governor's office at the January meeting.

**Attachments**

2019 legislative recommendations  
Public comments on 2019 recommendations  
Lobbyist program recommendations  
Political contribution refund recommendation



# MINNESOTA CAMPAIGN FINANCE BOARD

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## 2019 Legislative Recommendations from the Campaign Finance and Public Disclosure Board

The Board has identified the following subjects that would benefit from a statutory change or clarification.

### **Economic interest statement program – technical proposals**

While administering the economic interest statement (EIS) program the Board has identified the following problematic areas that would benefit from statutory change or clarification. In the Board's view these proposals are technical in nature because they do not dramatically affect the disclosure provided to the public by the EIS forms. The suggested statutory language for the proposals is provided in attachment A.

- **Raising the dollar-level threshold for disclosure of honoraria.** Currently the annual EIS requires disclosure of each honorarium of over \$50 in the year covered by the statement. That amount has not been adjusted for inflation in decades (set in 1974), and could be increased to \$250 without affecting meaningful disclosure. A \$250 threshold for honoraria would conform to the threshold for disclosing other sources of compensation.
- **Ensure that Minnesota State Colleges and Universities trustees and its chancellor continue to file economic interest statements.** MNSCU trustees and the chancellor are currently filing EIS statements as public officials. However, it appears that a 2002 change in the definition of public official inadvertently excluded the MNSCU trustees and chancellor from the requirement to file the EIS statement, and from the gift prohibition. In other words, their disclosure is being provided voluntarily. Given that the MNSCU Board makes decisions regarding the expenditure of millions of dollars in public funds the Board believes that EIS disclosure should be required for these positions.
- **Eliminate requirement that local governments provide a notice of appointment for local officials to the Board.** Local governments in the metropolitan area are to notify the Board whenever they hire, or accept an affidavit of candidacy from, a local official who is required to file a statement of economic interest with that local entity. The Board, however, never uses this information because local officials do not file with the Board. Most local governments do not bother to file the notice, and even if they did the information would not have practical value.
- **Standardize economic interest statement reporting periods.** Minnesota Statutes section 10A.09, subdivision 6, clearly spells out the reporting period for the annual EIS. There is no such language defining the reporting period for an original statement. This creates confusion among filers and, in some cases, inconsistent disclosure between public officials. Additionally, EIS forms are divided into five disclosure schedules. For an original statement none of the schedules have the same reporting period.

Standardization of the reporting period requirement would simplify completing the statement, and help staff's support of clients completing the statement.

### Economic interest statement program – policy proposals

The Board believes that the economic interest statement (EIS) program requires disclosure that in some cases is unnecessary, and in other cases is insufficient, to alert the public of a possible conflict of interest. The following recommendations represent policy changes that would significantly alter the disclosure provided in the EIS form. The suggested statutory language for the proposals is included in attachment B.

- **Establish a two-tiered disclosure system.** The disclosure required for soil and water conservation district supervisors and members of watershed districts and watershed management organizations is excessive given their limited authority. In a two-tiered system, members of these boards and districts would disclose their occupation, sources of compensation and non-homesteaded property owned in the state. The members of these boards and districts would not disclose securities or professional or business categories.
- **Require public and local officials to disclose direct interests in government contracts.** This new disclosure would consist of a listing of any contract, professional license, lease, franchise, or permit issued by a state agency or any political subdivision of the state to the public official as an individual, or to any business in which the public official has an ownership interest of at least 25 percent.
- **Expand EIS disclosure to include beneficial interests that may create a conflict of interest.** The Board believes that the EIS program provides the public with disclosure of assets held directly by an official that may create a conflict of interest when conducting public business. However, the EIS program does not require disclosure of assets owned by another even when those assets will provide direct financial benefit to the public official because of a contract or relationship between the public official and the owner of the asset. To address this gap in disclosure the Board recommends expanding disclosure to include the official's "beneficial interest" in assets owned by another.

### Campaign finance program – technical proposals

The Board has identified the following issues related to the administration of the campaign finance program that would benefit from statutory change or clarification. In the Board's view this section of proposals are technical in nature because they do not raise new issues or dramatically affect the disclosure provided to the public through the program. The suggested statutory language for each proposal is provided in attachment C.

- **Eliminate the contribution statement from Enterprise Minnesota, Inc. members.** Minnesota Statutes section 116O.03, subdivision 9, and section 116O.04, subdivision 3, require members of the Enterprise Minnesota, Inc. board of directors and its president to file statements with the Campaign Finance Board showing contributions to any public official, political committee or fund, or political party unit. These statements must cover

the four years prior to the person's appointment and must be updated annually. The contributions that require itemization on these statements are already reported by the recipient committee to the Campaign Finance Board or, for county commissioners, to the county auditor. This disclosure therefore is at best repetitive. The Board is also not sure why this disclosure is required only of members of the Enterprise Minnesota, Inc. board of directors and its president, and for consistency, recommends eliminating the requirement.

- **Affidavit of contribution deadline.** Minnesota Statutes section 10A.323, provides that the affidavit of contributions required to qualify for a public subsidy payment must be submitted "by the deadline for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4." The cross reference to section 10A.20 subdivision 4, is incorrect as the deadline for submitting the pre-primary report is set in section 10A.20, subdivision 2. This change would correct the cross reference error.
- **Update acceptable multicandidate political party expenditures.** Political parties are provided five specific multicandidate expenditures that do not count either as a contribution to any candidate, or as an independent expenditure. One of the five multicandidate political party expenditures is funds spent operating a phone bank as long as the calls to potential voters include the name of three or more individuals who will appear on the ballot. The Board's recommendation is to update this expenditure to include direct text message services, direct voice mail services, and e-mails that meet the same standard of naming three or more individuals who will appear on the ballot.
- **Eliminate disclosure requirement for in-kind contributions between the federal and state committees of same political party.** Generally, an association not registered with the Board is required to provide underlying disclosure on the source of funds used for a contribution to a registered committee. Under current statute an exception to this requirement is made when the national committee of a political party (which is an unregistered association in Minnesota) contributes to the Minnesota state central committee of the same party. The Board recommends extending this exception to include in-kind contributions made from a federal political party unit to a political party unit registered in Minnesota. The contributors to the federal party unit are already reported to the FEC, and federal contributions are more limited than contributions that may be accepted by the state party unit. Further the public is not gaining meaningful disclosure when, for example, the federal committee for the Republican Party of Minnesota is required to provide disclosure reports to the state central committee for the Republican Party of Minnesota for the in-kind donation of shared office space and staff costs.
- **Allow unregistered associations to provide disclosure statements in writing or through a government web address.** Currently, an unregistered association that makes a contribution of over \$200 to a candidate committee, political committee or fund, or political party unit, must provide a written disclosure statement with the contribution. The disclosure statement provides information on the finances of the unregistered association in detail that is equivalent to a campaign finance report filed under Chapter 10A. The committee that receives the contribution then forwards the statement from the

unregistered association to the Board with the committee's next financial report. In practice, the majority of "unregistered associations" are in fact registered with either the Federal Election Commission (FEC) or in another state with an agency similar to the Board. The FEC and other state campaign finance agencies post reports filed by their registered committees to a government website. This proposal would allow an unregistered association to provide the written disclosure statement currently required by statute, or provide a link to a government website where the disclosure statement is available. The disclosure would still need to be equivalent to Chapter 10A, for example, it must have itemization of contributions and expenditures that are over \$200. If the reporting requirements for the state are not similar to Chapter 10A then a written report will still be required.

### Campaign finance program – policy proposals

The Board recommends two changes to the campaign finance program that represent either a new area of regulation, or which close a weakness in current statute that prevents the Board from providing complete disclosure to the public. The suggested statutory language for each proposal is provided in attachment D.

- **Provide regulation of contributions made with bitcoins and other virtual currency.** During 2018 staff received calls from campaign committees asking for guidance on accepting and reporting contributions made with bitcoins and other virtual currencies. Chapter 10A does not provide any guidance on the subject, other than to view the virtual currency as something of value. The Board's proposal will provide a statutory basis for disclosing and regulating the conversion of virtual currency into United States currency.
- **Redefine independent expenditures to include both express advocacy and words that are the functional equivalent.** Under current statute an independent expenditure must use words of express advocacy (vote for, elect, support, cast your ballot for, Smith for House, vote against, defeat, reject, or very similar words) to state support of, or opposition to, a candidate. A communication that avoid words of express advocacy, but which nonetheless has the clear purpose of influencing voting in Minnesota, does not in many cases need to be reported to the Board. This gap prevents the Board from fulfilling its core mission of providing the public with accurate and complete information on the money spent to influence the outcome of state elections.

The words of express advocacy were recognized in a footnote in the *Buckley v. Valeo* Supreme Court decision in 1976. In subsequent cases, (*McConnell v. Federal Election Commission* in 2003 and *Federal Election Commission v. Wisconsin Right to Life, Inc.* in 2007) the Supreme Court has adopted a functional equivalent of express advocacy standard that recognizes that communications can easily convey support for or opposition to a candidate while avoiding use of the so-called magic words. The Board proposal expands the definition of independent expenditure to include communications that do not use the eight magic words but could have no reasonable purpose other than to influence voting in Minnesota.

## Campaign Finance and Public Disclosure Board Suggested Statutory Language for Legislative Proposals

### Attachment A Economic interest statement program, technical proposals

#### 10A.01 DEFINITIONS

\*\*\*\*\*

Subd. 35. **Public official.** "Public official" means any:

(1) member of the legislature;

\*\*\*\*\*

(28) member of the Greater Minnesota Regional Parks and Trails Commission; or

(29) member of the Destination Medical Center Corporation established in section 469.41; or

(30) chancellor or member of the board of trustees of the Minnesota State Colleges and Universities.

#### 10A.09 STATEMENTS OF ECONOMIC INTEREST

\*\*\*\*\*

Subd. 2. **Notice to board.** The secretary of state or the appropriate county auditor, upon receiving an affidavit of candidacy or petition to appear on the ballot from an individual required by this section to file a statement of economic interest, and any official who nominates or employs a public ~~or local~~ official required by this section to file a statement of economic interest, must notify the board of the name of the individual required to file a statement and the date of the affidavit, petition, or nomination.

\*\*\*\*\*

Subd. 5b. Original statement; reporting period. (a) An original statement of economic interest required under subdivision 1, clause (1), must cover the calendar month before the month in which the individual accepted employment as a public official or a local official in a metropolitan governmental unit.

(b) An original statement of economic interest required under subdivision 1, clause (2), must cover the calendar month before the month in which the individual assumed office.

(c) An original statement of economic interest required under subdivision 1, clause (3), must cover the calendar month before the month in which the candidate filed the affidavit of candidacy.

Subd. 6. **Annual statement.** (a) Each individual who is required to file a statement of economic interest must also file an annual statement by the last Monday in January of each year that the individual remains in office. The annual statement must cover the period through

December 31 of the year prior to the year when the statement is due. The annual statement must include the amount of each honorarium in excess of \$50 \$250 received since the previous statement and the name and address of the source of the honorarium. The board must maintain each annual statement of economic interest submitted by an officeholder in the same file with the statement submitted as a candidate.

(b) ~~For the purpose of annual statements of economic interest to be filed, "compensation in any month" includes compensation and honoraria received in any month between the end of the period covered in the preceding statement of economic interest and the end of the current period.~~

(c) An individual must file the annual statement of economic interest required by this subdivision to cover the period for which the individual served as a public official even though at the time the statement was filed, the individual is no longer holding that office as a public official.

(d) ~~For the purpose of an annual statement of economic interest, the individual shall disclose any real property owned at any time between the end of the period covered by the preceding statement of economic interest and through the last day of the month preceding the current filing or the last day of employment, if the individual is no longer a public official.~~

## **Attachment B Economic interest statement program, policy proposals**

### **10A.01 DEFINITIONS**

\* \* \* \*

**Subd. 7e. Beneficial interest.** “Beneficial interest” means the right, or reasonable expectation of the right to the possession of, use of, or direct financial benefit from an asset owned by another due to a contract or relationship with the owner of the asset.

### **10A.09 STATEMENTS OF ECONOMIC INTEREST**

\* \* \* \*

**Subd. 5. Form; general requirements.** (a) A statement of economic interest required by this section must be on a form prescribed by the board. Except as provided in subdivision 5a, ~~t~~The individual filing must provide the following information:

(1) name, address, occupation, and principal place of business;

(2) the name of each associated business and the nature of that association including any associated business in which the individual has a beneficial interest;

(3) a listing of all real property within the state, excluding homestead property, in which the individual holds: (i) a fee simple interest, a beneficial interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000;

(4) a listing of all real property within the state in which a partnership of which the individual is a member holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the individual's share of the partnership interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000. A listing under this clause or clause (3) must indicate the street address and the municipality or the section, township, range and approximate acreage, whichever applies, and the county in which the property is located;

(5) a listing of any investments, ownership, or interests in property connected with pari-mutuel horse racing in the United States and Canada, including a racehorse, in which the individual directly or indirectly holds a partial or full interest or an immediate family member holds a partial or full interest;

(6) a listing of the principal business or professional activity category of each business from which the individual receives more than \$250 in any month during the reporting period as an employee, if the individual has an ownership interest of 25 percent or more in the business;

(7) a listing of each principal business or professional activity category from which the individual received compensation of more than \$2,500 in the past 12 months as an independent contractor; and

(8) a listing of the full name of each security with a value of more than \$10,000 owned in part or in full by the individual, or in which the individual has a beneficial interest, at any time during the reporting period; and

(9) a listing of any contract, professional license, lease, franchise, or professional permit that meets the following criteria:

(i) it is held by the individual or any business in which the individual has an ownership interest of 25 percent or more; and

(ii) it is entered into with or issued by any state department or agency listed in section 15.01 or 15.06 or any political subdivision of the state.

Subd. 5a. Form; exception for certain officials. (a) This subdivision applies to the following individuals:

(1) a supervisor of a soil and water conservation district;

(2) a manager of a watershed district; and

(3) a member of a watershed management organization as defined under section 103B.205, subdivision 13.

(b) Notwithstanding subdivision 5, paragraph (a), an individual listed in subdivision 5a, paragraph (a), must provide only the information listed below on a statement of economic interest:

(1) the individual's name, address, occupation, and principal place of business;

(2) a listing of any association, corporation, partnership, limited liability company, limited liability partnership, or other organized legal entity from which the individual receives compensation in excess of \$250, except for actual and reasonable expenses, in any month during the reporting period as a director, officer, owner, member, partner, employer, or employee;

(3) a listing of all real property within the state, excluding homestead property, in which the individual holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000; and

(4) a listing of all real property within the state in which a partnership of which the individual is a member holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the individual's share of the partnership interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000. A listing under this clause or clause (3) must indicate the street address and the municipality or the section, township, range and approximate acreage, whichever applies, and the county in which the property is located.

(c) If an individual listed in subdivision 5a, paragraph (a), also holds a public official position that is not listed in subdivision 5a, paragraph (a), the individual must file a statement of economic interest that includes the information specified in subdivision 5, paragraph (a).

## **Attachment C Campaign finance program, technical proposals**

### **116O.03 CORPORATION; BOARD OF DIRECTORS; POWERS.**

\* \* \* \*

~~Subd. 9. Contributions to public officials; disclosure.~~ Each director shall file a statement with the Campaign Finance and Public Disclosure Board disclosing the nature, amount, date, and recipient of any contribution made to a public official, political committee, political fund, or political party, as defined in chapter 10A, that:

(1) was made within the four years preceding appointment to the Enterprise Minnesota, Inc. board; and

(2) was subject to the reporting requirements of chapter 10A.

~~The statement must be updated annually during the director's term to reflect contributions made to public officials during the appointed director's tenure.~~

### **116O.04 CORPORATE PERSONNEL.**

\* \* \* \*

~~Subd. 3. Contributions to public officials; disclosure.~~ The president shall file a statement with the Campaign Finance and Public Disclosure Board disclosing the nature, amount, date, and recipient of any contribution made to a public official which:

(1) was made within the four years preceding employment with the Enterprise Minnesota, Inc. board; and

(2) was subject to the reporting requirements of chapter 10A.

~~The statement must be updated annually during the president's employment to reflect contributions made to public officials during the president's tenure.~~

### **10A.27 CONTRIBUTION LIMITS.**

\* \* \* \*

~~Subd. 13. Unregistered association limit; statement; penalty.~~ (a) The treasurer of a political committee, political fund, principal campaign committee, or party unit must not accept a contribution of more than \$200 from an association not registered under this chapter unless the contribution is accompanied by a ~~written~~ statement that meets the disclosure and reporting period requirements imposed by section 10A.20. The statement may be a written statement or a government web address where the disclosure report for the unregistered association may be viewed. This statement must be certified as true and correct by an officer of the contributing

association. The committee, fund, or party unit that accepts the contribution must include a copy of the written statement or web address with the report that discloses the contribution to the board.

(b) An unregistered association may provide the written statement required by this subdivision to no more than three committees, funds, or party units in a calendar year. Each statement must cover at least the 30 days immediately preceding and including the date on which the contribution was made. An unregistered association or an officer of it is subject to a civil penalty imposed by the board of up to \$1,000, if the association or its officer:

(1) fails to provide a written statement as required by this subdivision; or

(2) fails to register after giving the written statement required by this subdivision to more than three committees, funds, or party units in a calendar year.

(c) The treasurer of a political committee, political fund, principal campaign committee, or party unit who accepts a contribution in excess of \$200 from an unregistered association without the required written disclosure statement is subject to a civil penalty up to four times the amount in excess of \$200.

(d) This subdivision does not apply:

(1) when a national political party contributes money to its state committee; or

(2) when the federal committee of a major or minor political party registered with the Board gives an in kind contribution to its state central committee, or a party organization within a house of the state legislature; or

(3) to purchases by candidates for federal office of tickets to events or space rental at events held by party units in this state (i) if the geographical area represented by the party unit includes any part of the geographical area of the office that the federal candidate is seeking and (ii) the purchase price is not more than that paid by other attendees or renters of similar spaces.

## **10A.275 MULTICANDIDATE POLITICAL PARTY EXPENDITURES.**

**Subdivision 1. Exceptions.** Notwithstanding other provisions of this chapter, the following expenditures by a party unit, or two or more party units acting together, with at least one party unit being either: the state committee or the party organization within a congressional district, county, or legislative district, are not considered contributions to or expenditures on behalf of a candidate for the purposes of section 10A.25 or 10A.27 and must not be allocated to candidates under section 10A.20, subdivision 3, paragraph (g)(h):

(1) expenditures on behalf of candidates of that party generally without referring to any of them specifically in a published, posted, or broadcast advertisement;

(2) expenditures for the preparation, display, mailing, or other distribution of an official party sample ballot listing the names of three or more individuals whose names are to appear on the ballot;

(3) expenditures for a telephone ~~conversation~~ call, voice mail, text message, multimedia message, internet chat message, or e-mail when the communication includes the names of three or more individuals whose names are to appear on the ballot;

(4) expenditures for a political party fund-raising effort on behalf of three or more candidates; or

(5) expenditures for party committee staff services that benefit three or more candidates.

**10A.323 AFFIDAVIT OF CONTRIBUTIONS.**

(a) in addition to the requirements of section 10A.322, to be eligible to receive a public subsidy under section 10A.31 a candidate or the candidate's treasurer must:

\* \* \* \*

(3) submit the affidavit required by this section to the board in writing by the deadline for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4  
subdivision 2.

## **Attachment D Campaign finance program, policy proposals**

### **10A.01 DEFINITIONS**

\* \* \* \*

Subdivision 16a. **Expressly advocating.** “Expressly advocating” means:

(1) that a communication clearly identifies a candidate and uses words or phrases of express advocacy; or

(2) when taken as a whole and with limited reference to external events could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because (1) the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and (2) reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s).

\* \* \* \*

Subd. 37. **Virtual currency.** (a) “Virtual currency” means an intangible representation of value in units that can only be transmitted electronically and function as a medium of exchange, units of account, or a store of value.

(b) Virtual currency includes cryptocurrencies. Virtual currency does not include currencies issued by a government.

### **10A.15 CONTRIBUTIONS**

\* \* \* \*

Subd. 8. **Virtual currency contributions.** (a) A principal campaign committee, political committee, political fund, or party unit may accept a donation in kind in the form of virtual currency. The value of donated virtual currency is its fair market value at the time it is donated. The recipient of a virtual currency contribution must sell the virtual currency in exchange for United States currency within five business days after receipt.

(b) Any increase in the value of donated virtual currency after its donation, but before its conversion to United States currency, must be reported as a receipt that is not a contribution pursuant to section 10A.20, subdivision 3. Any decrease in the value of donated virtual currency after its donation, but before its conversion to United States currency, must be reported as an expenditure pursuant to section 10A.20, subdivision 3.

(c) A principal campaign committee, political committee, political fund, or party unit may not purchase goods or services with virtual currency.

**Public Comments on 2019 Legislative Proposals**





Minnesota Campaign Finance Board  
190 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155-1603

Tuesday, September 24, 2019

Members of the Minnesota Campaign Finance Board,

On behalf of Americans for Prosperity activists across Minnesota, I am writing today in opposition to portions of the proposed and reconsidered legislative recommendations from the Campaign Finance Board. Specifically, we have concerns with the second bullet point on page four, which would redefine “independent expenditure” from the bright line test that is in place today to a more uncertain standard sure to be subject to wide interpretation.

Americans for Prosperity stands firmly in support of the right of all Americans to participate in civic engagement and these provisions would only serve to limit discourse and undermine free speech.

Under current Minnesota law, advocacy groups are governed by an objective, bright-line test (i.e. use of words such as “vote for” or “elect”) in determining what will be subject to reporting requirements. This bill, however, abandons this language for a subjective, overbroad standard that will lead to increased uncertainty. Instead of accepting the risk of a drawn-out legal fight, many organizations will simply choose to stay on the sidelines.

I have attached to this e-mail a letter that we shared with all members of the Legislature as this topic was being debated last session. This letter addresses many other issues that were included in the underlying legislation that are NOT under consideration here today. I am sharing it in order to provide a broader context for our opposition to any attack on Americans’ free speech rights and highlight our fear that these definition changes are only a first step down a very dangerous road toward chilling civil discourse and debate.

It is our hope that the above referenced provisions related to changes to the definition of “independent expenditure” be removed from these legislative recommendations. Thank you for the opportunity to express our concerns, and please don’t hesitate to reach out if you have questions or if we can be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Flohrs".

Jason Flohrs  
State Director  
Americans for Prosperity - Minnesota



Tuesday, April 30, 2019

**Key Vote Alert: Vote “No” on SF2227 – Omnibus State Government Finance Bill**

Dear Members of the Minnesota House,

On behalf of Americans for Prosperity activists across Minnesota, I am writing today to urge a “No” vote on final passage of SF2227, the Omnibus State Government Finance Bill, which includes provisions that originated in HF2050 that would limit Minnesotans’ free speech rights. Americans for Prosperity stands firmly in support of the right of all Americans to participate in civic engagement and these provisions would only serve to limit discourse and undermine free speech.

**As a “Key Vote”, Americans for Prosperity – Minnesota may include this vote in our end-of-session Legislative Scorecard that will be shared with your constituents.**

The ability to think, speak, and engage allows all individuals to challenge social, scientific, and political issues that affect their lives and their communities. Free to choose to privately come together, people can join causes they believe in without fear of intervention or retaliation by those in government. This protects all voices, especially the marginalized.

The sections of the bill from HF2050 would chill protected speech by mandating the disclosure of donors who give to organizations to support their general missions. Donors will be deterred from donating to good causes for fear their names may end up on a government registry because those organizations took positions on legislation or issues—positions with which those donors may even disagree. It would create new and burdensome reporting requirements for organizations, regulate a stunningly broad amount of speech, and enable harassment of citizens based on their beliefs.

In addition to our broad opposition to the idea that Americans need to register with the government any time they take advantage of their First Amendment rights, there are numerous specific issues with the proposed language:

- On changing the definition of “express advocating”: Under current Minnesota law, advocacy groups are governed by an objective, bright-line test (i.e. use of words such as “vote for” or “elect”) in determining what will be subject to reporting requirements. This bill, however, abandons this language for a subjective, overbroad standard that will lead to increased uncertainty. Instead of accepting the risk of a drawn-out legal fight, many organizations will simply choose to stay on the sidelines.
- On requiring binary characterization of officeholders in electioneering communications: This provision forces speakers to adopt an intent for their communication that they may not have, making any communication in which the focus is clearly on an issue or piece of legislation, but may mention an officeholder, inherently political. In effect, an organization simply engaging on a piece of legislation will be forced to declare support or opposition to a certain lawmaker or candidate. For example, an organization dedicated to increasing literacy that runs a tv ad asking parents to contact their representative and ask her to vote “yes” on a school funding bill would be forced to take a position on that representative by declaring their communication “positive” or “negative” towards her—even when their speech was clearly focused on the issue of funding. Speakers have the right to determine the intent of their own speech without government putting words in their mouth or requiring burdensome paperwork or registration.

- On electioneering communication “targeting”: This provision regulates all mediums of communication, inevitably sweeping in communications that are never intended for election activity. This broad definition would subject a book publisher or blogger to report their activity to the state if their book or post merely mentioned a candidate or officeholder—such as a book or post on how a bill becomes law that mentions the current Governor – and happened to be distributed close to an election and could reach a relatively small number of people in the state.

**The bottom line: transparency is good for government accountability and oversight, but individuals have a right to privacy.**

Just as Americans have the right to cast ballots in private, we have the right to support causes, join groups and make donations without being monitored by the government. Seventy-three percent of registered voters agree that the government has no right to know what groups or causes they support. We should hold our government accountable without violating citizens’ privacy or burdening civic groups working to improve the lives of their fellow Americans.

History shows these freedoms protect minority voices – those fighting against injustices entrenched in the status quo. There’s a long tradition in the U.S., going all the way back to our founding, of anonymous philanthropy as well as anonymous writing on matters of public interest. The advancement of civil rights was made possible, in part, by the ability of individuals with views that ran counter to the status quo to privately join together. When Alabama tried to force the NAACP to reveal its member lists during Jim Crow, the Supreme Court held that the First Amendment protects private associations from being exposed to threats, intimidation and violence. Even today, people who have made even modest donations to groups that expressed unpopular views have lost their jobs and faced harassment when their affiliations were leaked.

Those in power shouldn’t force individuals to register their beliefs, their donations, or their associations. Our society is enriched by the civic engagement of diverse organizations clarifying and amplifying their supporters’ voices. Yet too often, these types of requirements are designed to make it harder to critique those in power and shield the political class from the voices of everyday citizens who want to make their viewpoints known to their elected officials. While the lobbyists and the well-connected will still find a way to play their inside game, everyday citizens who want to make their voices heard on issues they care about would have their voices taken away.

Thank you for the opportunity to share our opposition to the above-mentioned provisions contained within the Omnibus State Government Finance Bill. Please don’t hesitate to reach out if you have questions, need more information, or if you would like to discuss the issue further.

Sincerely,



Jason Flohrs  
State Director  
Americans for Prosperity - Minnesota

**From:** [Ron Bardal](#)  
**To:** [Engelhardt, Megan \(CFB\)](#)  
**Cc:** [George Beck](#)  
**Subject:** FW: Campaign Finance and Public Disclosure Board requests comments regarding legislative proposals  
**Date:** Monday, September 09, 2019 10:40:42 PM

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Dear Asst. Director Engelhardt:

I like the 2019 Legislative Recommendations you drafted for Governor Walz. I especially like your intention to require identification of campaign contribution sources. Dark money is a hazard to our election system because the contributor cannot be identified and held accountable for misleading and false publicity about a candidate. Our citizens need honest leaders in Washington and state houses. But, in today's society frequent repetition of falsehoods, funded by dark money, is soon taken as fact, so honest candidates are defeated through slander.

I believe one key action to achieve fair elections is to overturn the *Citizens United Vs. FEC* 2010 decision of the Supreme Court. Corporations are not people though SCOTUS claimed so in its 2010 ruling. Corporations can spend multi-millions to influence an election, but real people cannot compete financially to be heard. Under the *Citizens United* decision we can no longer be what Abraham Lincoln said we are – a government of the people, by the people, and for the people.

I am Secretary of Minnesota Citizens for Clean Elections (MnCCE). We are a non-profit, non-partisan 501-c-3 organization working to get dark money and big money out of politics so we can have equitable campaign financing and clean and fair elections.

*Ronald Bardal*

1783 19<sup>th</sup> Terrace NW, New Brighton, MN 55112  
651-633-9238

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**From:** George Beck [mailto:[georgeabeck@aol.com](mailto:georgeabeck@aol.com)]  
**Sent:** Monday, September 09, 2019 4:23 PM  
**To:** [Abelladonna@commoncause.org](mailto:Abelladonna@commoncause.org); [argetsingerlynn@gmail.com](mailto:argetsingerlynn@gmail.com); [rbardal@hotmail.com](mailto:rbardal@hotmail.com)

-----Original Message-----

From: Board Information Distribution List <[campaign.board@state.mn.us](mailto:campaign.board@state.mn.us)>  
To: Board Information Distribution List <[campaign.board@state.mn.us](mailto:campaign.board@state.mn.us)>  
Sent: Fri, Sep 6, 2019 4:02 pm  
Subject: Campaign Finance and Public Disclosure Board requests comments regarding legislative proposals

TO: All Interested Persons

The Campaign Finance and Public Disclosure Board is seeking comments from the public regarding possible legislative recommendations for 2020. The Board is currently reconsidering the legislative

recommendations offered in 2019, none of which were enacted. Here is a link to the legislative recommendations: <https://cfb.mn.gov/citizen-resources/the-board/statutes-and-rules/legislative-recommendations/>

The Board is also interested in hearing from the public on other legislative changes that might improve Chapter 10A.

Please send all comments via email ([megan.engelhardt@state.mn.us](mailto:megan.engelhardt@state.mn.us)), fax (651-539-1196 or 800-357-4114), or U.S. Mail:  
Megan Engelhardt  
190 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155-1603  
[Megan.Engelhardt@state.mn.us](mailto:Megan.Engelhardt@state.mn.us)

All comments will be provided to the Board at the October 2, 2019, Board meeting and the comments will be available to the public. Please provide comments by September 24, 2019. Thank you.

Megan Engelhardt  
Assistant Executive Director  
Minnesota State Campaign Finance and Public Disclosure Board



**From:** [Tyler Blackmon](#)  
**To:** [Engelhardt, Megan \(CFB\)](#)  
**Subject:** Re: Campaign Finance and Public Disclosure Board requests comments regarding legislative proposals  
**Date:** Friday, September 06, 2019 3:22:47 PM

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The CFB desperately needs to overhaul its reporting infrastructure and move to a browser-based online platform. The incompatibility with Macs is maddening and out of step with almost every other state in the union.

On Fri, Sep 6, 2019 at 3:19 PM CFBEmail <[cfb.reports@state.mn.us](mailto:cfb.reports@state.mn.us)> wrote:

TO: All Interested Persons

The Campaign Finance and Public Disclosure Board is seeking comments from the public regarding possible legislative recommendations for 2020. The Board is currently reconsidering the legislative recommendations offered in 2019, none of which were enacted. Here is a link to the legislative recommendations: <https://cfb.mn.gov/citizen-resources/the-board/statutes-and-rules/legislative-recommendations/>

The Board is also interested in hearing from the public on other legislative changes that might improve Chapter 10A.

Please send all comments via email ([megan.engelhardt@state.mn.us](mailto:megan.engelhardt@state.mn.us)), fax (651-539-1196 or 800-357-4114), or U.S. Mail:

Megan Engelhardt  
190 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155-1603  
[Megan.Engelhardt@state.mn.us](mailto:Megan.Engelhardt@state.mn.us)

All comments will be provided to the Board at the October 2, 2019, Board meeting and the comments will available to the public. Please provide comments by September 24, 2019. Thank you.

Megan Engelhardt  
Assistant Executive Director  
Minnesota State Campaign Finance and Public Disclosure Board

**From:** [Gary Charles](#)  
**To:** [Engelhardt, Megan \(CFB\)](#)  
**Subject:** Campaign finance  
**Date:** Monday, September 09, 2019 4:40:37 PM

---

Hello,

I oppose Citizens United and secret contributions.

Thank you,  
Gary Charles



LEAGUE OF  
WOMEN VOTERS®  
MINNESOTA

546 Rice Street, Suite 200  
St. Paul, MN 55103  
651.224.5445  
[www.lwvmin.org](http://www.lwvmin.org)

September 24, 2019

Megan Engelhardt, Assistant Executive Director  
190 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155-1603  
[Megan.Engelhardt@state.mn.us](mailto:Megan.Engelhardt@state.mn.us)

**Re: Legislative Proposals for 2020**

Dear Ms. Engelhardt,

Thank you for the opportunity for the public to comment on the Board's possible legislative recommendations for 2020. The League of Women Votes Minnesota (LWVMN) knows that the Board handles many important issues ranging from economic interest statements to inter-committee contributions to intraparty transfers. However, LWVMN would like to bring the Board's attention to an issue that LWVMN believes is one of the most important and urgent issues that need addressed.

LWVMN believes that the state's campaign finance system must ensure transparency and the public's right to know who is using money to influence elections. To pursue this goal, LWVMN believes that the Board should continue its efforts to clarify the definition of "independent expenditure."

In the Board's letter to the governor and legislative leaders on February 19, 2019, the Board described several recommendations. In that letter, the Board wrote, "there is a critical gap in the definition of what constitutes an independent expenditure to influence the nomination or election of a candidate." We agree with the Board's position that this gap exists and that it is a critical one.

The Board continued, "This gap defeats the Board's goal of providing the public with accurate information on how much money is spent in Minnesota to influence elections, and raises questions regarding the integrity and fairness of [Minnesota's campaign finance reporting]." Again, we agree that this gap defeats the Board's purpose. But we would even go so far to say that this gap does not just raise questions, but *actively undermines* the integrity of Minnesota's campaign finance reporting.

To fix that gap, the Board recommended that the definition of "independent expenditure" be updated "to include both express advocacy and words that are the functional equivalent." As the Board notes, the United States Supreme Court has used the functional equivalent standard, and the standard has survived constitutional

scrutiny. And while the functional equivalent standard ensures accurate disclosures of campaign expenditures, it avoids overregulating other forms of nonpartisan electoral activity that do not advocate for or against a party or candidate. It strikes a crucial balance of ensuring the public's right to know who is using money to influence elections, while also ensuring voters can access sufficient information about the electoral process.

We appreciate that this proposal has been a recommended in the past. LWVMN asks that it remain a high—if not the highest—priority for the Board during the 2020 legislative session.

Sincerely,



Nick Harper, Civic Engagement Director  
LWVMN

**From:** [clean elections](#)  
**To:** [Engelhardt, Megan \(CFB\)](#)  
**Cc:** [Bardal, Ron](#); [Beck, George](#); [Connie Lewis](#); [David Miller](#); [Jim Herrick](#); [Norrie Thomas](#); [Peterson, Ken](#); [Ruth Cain](#); [Skrentner, Loni](#); [Todd Otis](#)  
**Subject:** Legislative Recommendations  
**Date:** Friday, September 20, 2019 4:10:18 PM  
**Attachments:** [Legislative Recommendations to the Minnesota Campaign Finance Board - 2020.docx](#)

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Dear Assistant Executive Director Engelhardt:

Thanks you for the opportunity to comment on recommendations that the Board will make to the legislature for its 2020 session.

Our suggestions are attached. Please contact me if you have any questions.

George Beck  
Chair  
Minnesota Citizens for Clean Elections



## **2020 Legislative Recommendations to the Minnesota Campaign Finance Board**

1. We continue to strongly support the Board's recommendation that the definition of "expressly advocating" include a communication that is suggestive of only one meaning and where reasonable minds could not differ that it is meant to elect or defeat a candidate. The present definition allows for anonymous contributions that can hide foreign influence and deceive voters.
2. The *Citizens United* decision has permitted unlimited contributions to campaigns in an attempt to influence decisions by elected officials. The Board should ask the legislature to recommend to Congress that it adopt an amendment to the Constitution that reverses this regressive decision, as 20 other states have done.
3. The Board should recommend that public financing of political campaigns in Minnesota be strengthened in order to lessen the impact of special interest contributions and to permit those without wealth to run for office. The \$50 refund and the public subsidy should be increased or a state match for citizen contributions (e.g. 6 to 1) could be adopted.
4. Direct contributions from lobbyists to candidates or elected officials should be prohibited and the bundling of contributions should not be allowed. Lobbyists work closely with legislators and these actions put undue and improper influence on our elected officials.
5. The Board should recommend that our electorate be expanded to the greatest extent possible in order to permit a true democracy. Automatic voter registration should be available, voting rights of citizens released from prison should be restored and weekend voting should be considered.



**Possible Recommendation to Lobbying Program**



# MINNESOTA CAMPAIGN FINANCE BOARD

**Date:** September 25, 2019

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re: Possible legislative proposals for lobbying program**

The Board's mission is, in part, to promote public confidence in state government decision-making. This is a shared goal for the campaign finance, economic interest, and lobbying programs. After years of administrating the lobbyist registration and disclosure statutes I have concluded that the disclosure information required by statute is both limited to financial information and focused on reporting details that do not help the public understand the relationship between lobbyists and the making of public policy. Indeed, because the current lobbying expenditure information is provided to the Board without context related to the public decisions of concern to the lobbyist, this disclosure may even promote the false narrative that those lobbying disbursements are just a big pot of money thrown at elected officials, which fuels public cynicism of government decision making.

For example, lobbyists file two periodic reports of disbursements. The first covers the period of January 1 through May 31, the second June 1 through December 31. A report is filed for each client represented. The reports disclose disbursements made by lobbyists on behalf of the associations that they represent.<sup>1</sup> The disbursements are provided in nine separate categories, further delineated by whether the expenditure was to influence legislative, administrative, or metropolitan government official actions. The majority of the disbursement categories are provided in statute, and then expanded on in administrative rule. They include the amount spent on postage, telephone and telegraph bills, travel, and administrative overhead. A contract lobbyist who represents more than one client will need to estimate the percentage of each category spent to represent each registered client. I am unsure of the meaningful disclosure gained from knowing the cost of a lobbyist's cell phone plan, much less from a calculation that splits the cost of the plan among multiple clients.

The disbursement reports are also clearly an incomplete view of the money spent to lobby in Minnesota. Lobbyists are not required to disclose their compensation for lobbying on behalf of the client. The compensation paid to lobbyists is included in the annual lobbyist principal report, which is filed in March. The principal report provides a single number for all lobbying disbursements made on the principal's behalf by lobbyists, in other words the total of the disbursements already reported on the lobbyist disbursement reports, and the compensation paid to lobbyists. The difference between the disbursements reported by the lobbyists and the total for lobbying reported by the principals can be stark. For example, in 2018, total lobbying

<sup>1</sup> The designated lobbyist for a principal or employer also reports the disbursements made directly by the principal or employer.

disbursements reported by lobbyists came to \$9,570,158. In contrast, principals reported that they spent \$78,757,615 to lobby in Minnesota in 2018. In 2018, there were 4,202 lobbyist disbursement reports filed, all of which are available for viewing on the Board's website. However, because the lobbyist disbursement categories are mostly of marginal use or interest, and because the principal reports are clearly a more complete picture of total lobbying expenditures, the media rarely cover the release of the lobbying disbursement reports.

In contrast, the release of the lobbyist principal reports in March is of interest to the media, and by extension, appears to be of interest to the public. That is generally a good thing for public disclosure. However, as noted, principals report only a lump sum number. There is no information on either the lobbyist disbursement reports, or the principal reports, on the bills, ordinances, or administrative actions that were of interest to the principal during the reporting period. Therefore, there is little analysis that can be done with the information in the principal report except to measure total spending over time, and perhaps identify the top ten spenders on lobbying for the year. Deeper analysis, for example, on the specific legislation of interest to the principal, or to a group of principals with shared interests, is not possible. If the only disclosure available is about lobbying money, then it shouldn't be a surprise that the public concludes that lobbying is all about the money.

I have provided my view on the current state on lobbying disclosure in Minnesota to support the changes that I ask the Board to consider. These changes are in four areas; the information provided on lobbying subjects when the lobbyist registers, the information provided on the lobbyist disbursement reports, the information provided on the lobbyist principal reports, and the threshold of personal expenditures that require an individual to register with the Board. The recommendations attempt to provide more meaningful disclosure by leveraging what the lobbyist knows best, namely what the lobbyist was working on for the principal during the reporting period, and by using what the principal knows best, namely the total expenditures made by the principal in Minnesota.

### **Registration**

A lobbyist registers on behalf of each principal or association represented. At the time of registration, the lobbyist is required to provide a general description of the subjects on which the lobbyist expects to lobby. In concept that is fine. In practice the descriptions are either too broad (it got to the point that staff had to put "general legislation is not a subject" on the registration form) or so specific that it is difficult to use the information to categorize the association represented. For example, the lobbyist database currently contains 2,326 distinct lobbying subjects provided at time of registration. In order for the public to understand or research the interests of the 1,449 associations currently represented by lobbyists, the list of subject areas needs some standards. The draft language replaces the current open subject line with a two-step approach. The lobbyist will first select one or more general lobbying categories from a list developed and maintained by the Board. Second, for each general lobbying category the lobbyist will provide one or more specific subjects of interest. The specific subject of interest is an open field, the Board would not provide a list to choose from. Here are some possible examples of what this could look like:

<b>General Category (from Board list)</b>	<b>Specific Subject of Interest (from lobbyist)</b>
1.) Education	1.) Charter Schools
2.) Civil Law	2.) Tort Reform
3.) Taxes	3.) Commercial Property Tax
4.) Energy	4.) Wind power

This approach would allow the Board to index principals and lobbyists by general category, and to some extent by specific subject. This would make it possible to search for all principals interested in a general category, and relate that interest to lobbying expenditures and other principals with similar interests. Development of the list of general categories would be done in consultation with lobbyists so as to avoid obvious omissions. The specific subject of interest for lobbying would be too dynamic for a static list, and would best be described by the lobbyist.

### **Lobbyist Reporting**

A lobbyist reports for every principal or association represented, however, many lobbyists delegate the reporting requirement to another lobbyist. In addition, each principal or association must be represented by a designated lobbyist who reports the lobbying disbursements made directly by the principal or association. As mentioned earlier the disbursements are attributed to one of three lobbying types: legislative, administrative, and metropolitan governmental unit. The use of reporting lobbyists and designated lobbyists is not changed under the recommendations.

With one exception that applies only to the designated lobbyist, the recommendations will end the disclosure of lobbying disbursements by lobbyists. Instead, lobbyists will identify for each type of lobbying the official actions that were lobbied on during the reporting period but only if the effort on the official action represented at least 10% of the lobbying effort on behalf of the principal. Additionally, lobbying on a matter before the Public Utilities Commission, which is currently reported as administrative lobbying, is recognized as a separate type of lobbying. Finally, for administrative lobbying and lobbying of metropolitan governmental units, the lobbyist will also identify the specific state agency or metropolitan governmental unit that is the subject of the lobbying.

Here are some examples to make this clearer. In example 1, the lobbyist only does legislative lobbying, and had only three bills that each met the threshold of 10% of the lobbying effort on behalf of the principal. The report would list the three bills (if there is a companion bill the report will show both numbers) and the reasonable, good faith estimate of the percentage of effort placed on each bill.

#### Example 1:

<b>Legislation</b>	<b>Percentage</b>
SF 2009/HF 1344	40%
SF 1200/HF 1003	35%
HF 200	20%

Note that the total does not equal 100%. There were several other bills that the lobbyist was monitoring or may have even directly lobbied on, but none of those bills must be included on the report because the time spent lobbying on each of them was less than 10% of the total effort for the principal.

In example 2, the lobbyist is active in the legislature and this year is also lobbying a metropolitan governmental unit. Again, the totals do not need to total 100%.

Example 2:

<b>Legislation</b>	<b>Percentage</b>	
SF 1222/HF3000	40%	
<b>Metropolitan Gov Unit</b>	<b>Official Action</b>	<b>Percentage</b>
Minneapolis	City Ordinance 77B	30%

The “reasonable, good faith estimate” is a standard used with success for reporting some lobbying information in Wisconsin. The standard relies, as does the current reporting of disbursements, on the integrity of lobbyists to provide accurate reports of lobbying activity on behalf of their clients.

As noted above, the designated lobbyist currently reports expenditures made directly by the principal. Under the recommendations the designated lobbyist will continue to report paid advertising by the principal that urges the public to contact public or local officials to influence official action on an issue if the advertising costs more than \$2,000 during the reporting period. Asking the public to contact a public official on an issue is a type of grassroots lobbying, and under current statute is included in the lobbyist disbursement report. However, there is no itemization of the advertising costs or purpose of the advertisement, as you would find for example in a campaign finance report. I believe there is public interest in advertising campaigns for lobbying, especially when the public is the target of the advertising. The disclosure is triggered by a fairly high threshold of over \$2,000, but the disclosure will include the cost of the advertisement, information on the vendor, a description of the advertising purchased (for example, radio advertisements), and the specific lobbying subject of interest for the advertisement (for example, gas tax).

Attached are both the current lobbyist disbursement report, and a rough draft of a report that reflects the proposed changes. The changes are found in schedules A and F.

**Principal Reporting**

Currently principals report two lobbying expenditure amounts; the amount spent to influence rate setting, power plant and powerline siting, and granting of certificates of need by the Public Utilities Commission, and the amount spent on all other types of lobbying. The amount spent may be rounded to the nearest \$20,000.

The recommendations require total spending to be reported for each of the four types of lobbying; legislative, metropolitan governmental unit, administrative, and Public Utilities Commission. The amount spent may be rounded to the nearest \$10,000, so as to provide greater accuracy on the amount of lobbying disbursements, and to also capture smaller lobbying expenditures that are missed by the \$20,000 threshold.

**Citizen Lobbyist Registration**

The Board was addressed at the June 26, 2019, meeting by Kim Pettman, who is registered as a lobbyist with the Board. Ms. Pettman is registered to represent herself, and advocates on a number of issues. Ms. Pettman asked the Board to consider a two-tiered reporting system for lobbyists that would exclude individuals that are registered to represent themselves.

I considered that approach, but from a policy standpoint I was unable to find a reason why any registered lobbyist should be excluded from reporting subjects of interest and lobbying efforts. Currently an individual may need to register as a lobbyist, even if they are not compensated and

are representing only themselves, if they spend more than \$250 of their own money on lobbying efforts. That is a fairly low expenditure threshold, which is inconsistent with the current requirement that an individual register as a lobbyist if they are paid more than \$3,000 a year for lobbying. The recommendation raises the threshold for registration for individuals who are spending their own money for lobbying to more than \$3,000, so that the same threshold is used to trigger registration.

**Attachments**

Legislative recommendations on lobbying

Current designated lobbyist report and mock up of report with recommended changes

Current principal report and mock up of report with recommended changes

## **10A.01 DEFINITIONS**

Minnesota Statutes 2018, section 10A.01, subdivision 21, is amended to read:

Subd. 21. **Lobbyist.** (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$3,000 250 of the individual's personal funds, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

\* \* \* \*

Minnesota Statutes 2018, section 10A.01, is amended by adding subdivisions to read:

**Designated lobbyist.** "Designated lobbyist" means the lobbyist responsible for reporting the lobbying disbursements and activity of the principal or employer. An employer or principal may have only one designated lobbyist at any given time.

**General lobbying category.** "General lobbying category" means a broad area of interest for lobbying specified by the board.

**Specific subject of interest.** "Specific subject of interest" means a topic of lobbying interest for the principal or employer within a general lobbying category.

**Official action of metropolitan governmental units.** "Official action of metropolitan governmental units" means any action that requires a vote or approval by one or more elected local officials while acting in their official capacity; or an action by an appointed or employed local official to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

**Legislative action.** "Legislative action" means the discussion or development of prospective legislation; or the review, modification, adoption, or rejection of any bill, amendment, resolution, nomination, administrative rule, or report by a member of the legislature or employee of the legislature. "Legislative action" also means the action of the governor in approving or vetoing any bill or portion of a bill.

## **10A.03 LOBBYIST REGISTRATION**

Minnesota Statutes 2018, section 10A.03, subdivision 2, is amended to read:

Subd. 2. **Form.** The board must prescribe a registration form, which must include:

(1) the name, address, and e-mail address of the lobbyist;

(2) the principal place of business of the lobbyist;

(3) the name and address of each individual, association, political subdivision, or public higher education system, if any, by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears;

(4) the website address of each association, political subdivision, or public higher education system identified under clause (3), if the entity maintains a website; and

(5) ~~a general lobbying category or categories, description of the subject or subjects and the specific subjects of interest within each general lobbying category, on which the lobbyist expects to lobby for the principal or employer; and~~

~~(6) if the lobbyist lobbies on behalf of an association, the registration form must include the name and address of the officers and directors of the association.~~

Minnesota Statutes 2018, section 10A.03, is amended by adding subdivision 6 to read:

Subd. 6. General lobbying categories. A list of general lobbying categories must be specified by the board and updated periodically based on public comment. The board must publish on its website the current list of general lobbying categories. Chapter 14 does not apply to the specification, publication, or periodic updates of the list of general lobbying categories.

#### **10A.04 LOBBYIST REPORTS**

Minnesota Statutes 2018, section 10A.04, subdivision 3, is amended to read:

Subd. 3. Information to lobbyist. A principal, An employer, or employee lobbyist about whose activities are reported to the Board by another a lobbyist is required to report must provide the information required by subdivision 4 to the lobbyist no later than five days before the prescribed filing date.

Minnesota Statutes 2018, section 10A.04, subdivision 4, is amended to read:

Subd. 4. Content. (a) A report under this section must include information the board requires from the registration form and the information required by this subdivision for the reporting period.

~~(b) A lobbyist must report the lobbyist's total disbursements on lobbying, separately listing lobbying disbursements to influence legislative action, lobbying to influence administrative action, and lobbying to influence the official actions of a metropolitan governmental units and a breakdown of disbursements for each of those kinds of lobbying into categories specified by the board, including but not limited to the cost of publication and distribution of each publication used in lobbying; other printing; media, including the cost of production; postage; travel; fees, including allowances; entertainment; telephone and telegraph; and other expenses.~~

~~(b) A lobbyist must report each state agency that had administrative action that the principal or employer sought to influence during the reporting period. the lobbyist's total disbursements on lobbying, separately listing lobbying to influence legislative action, lobbying to influence administrative action, and lobbying to influence the official actions of a metropolitan governmental unit, and a breakdown of disbursements for each of those kinds of lobbying into categories specified by the board, including but not limited to the cost of publication and~~

~~distribution of each publication used in lobbying; other printing; media, including the cost of production; postage; travel; fees, including allowances; entertainment; telephone and telegraph; and other expenses.~~

(c) A lobbyist must report each metropolitan governmental unit that considered, or was asked to take, official action that the principal or employer sought to influence during the reporting period.

(d) A lobbyist must report each legislative bill number or description of legislation action, administrative rule revisor number or description of proposed administrative action, Public Utilities Commission docket number, or name or number sufficient to identify a metropolitan government action, that accounted for 10% or more of that lobbyist's effort on behalf of the principal or employer during the reporting period. The lobbyist must report a reasonable, good faith estimate of the total percentage of lobbying time spent on each of the actions listed in this paragraph.

(e) A lobbyist must report the amount and nature of each gift, item, or benefit, excluding contributions to a candidate, equal in value to \$5 or more, given or paid to any official, as defined in section 10A.071, subdivision 1, by the lobbyist or an employer or employee of the lobbyist. The list must include the name and address of each official to whom the gift, item, or benefit was given or paid and the date it was given or paid.

(ef) A lobbyist must report each original source of money in excess of \$500 in any year used for the purpose of lobbying to influence legislative action, administrative action, or the official action of a metropolitan governmental unit. The list must include the name, address, and employer, or, if self-employed, the occupation and principal place of business, of each payer of money in excess of \$500.

(g) The designated lobbyist must report disbursements made and obligations incurred that exceed \$2,000 for paid advertising used for the purpose of urging members of the public to contact public or local officials to influence official actions during the reporting period. Paid advertising includes the cost to boost the distribution of an advertisement on social media. If a disbursement made or obligation incurred for paid advertising exceeds \$2,000 the report must provide the date that the advertising was purchased, the name and address of the vendor, a description of the advertising purchased, and any specific subject of interest addressed by the advertisement.

(eh) On the report due June 15, the lobbyist must provide update or confirm a the general lobbying categories and specific description of the subjects of interest for the principal or employer that were lobbied on in the previous 12 months.

Minnesota Statutes 2018, section 10A.04, subdivision 6, is amended to read:

**Subd. 6. Principal reports.** (a) A principal must report to the board as required in this subdivision by March 15 for the preceding calendar year.

~~(b) Except as provided in paragraph (d),~~ The principal must report the total amount, rounded to the nearest \$2-10,000, spent by the principal during the preceding calendar year to influence legislative action, administrative action, and the official action of metropolitan governmental units, on each type of lobbying listed below:

(1) lobbying to influence legislative action;

(2) lobbying to influence administrative action, other than lobbying described in clause (3);

(3) lobbying to influence administrative action in cases of rate setting, power plant and powerline siting, and granting of certificates of need under section 216B.243; and

(4) lobbying to influence official action of metropolitan governmental units.

(c) Except as provided in paragraph (d), For each type of lobbying listed in paragraph (b), the principal must report under this subdivision a total amount that includes:

(1) the portion of all direct payments for compensation and benefits paid by the principal to lobbyists in this state;

(2) the portion of all expenditures for advertising, mailing, research, consulting, surveys, expert testimony, studies, reports, analysis, compilation and dissemination of information, social media and public relations campaigns, and legal counsel, used to support lobbying related to legislative action, administrative action, or the official action of metropolitan governmental units in this state; and

(3) a reasonable good faith estimate of the portion of all salaries and administrative overhead expenses attributable to activities of the principal relating to efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units in this state; and

(4) the portion of all lobbying disbursements not listed in clause (2) that were made or incurred on behalf of the principal by all lobbyists for the principal in this state.

(d) A principal that must report spending to influence administrative action in cases of rate setting, power plant and powerline siting, and granting of certificates of need under section 216B.243 must report those amounts as provided in this subdivision, except that they must be reported separately and not included in the totals required under paragraphs (b) and (c).

Minnesota Statutes 2018, section 10A.04, is amended by adding subdivision 10 to read:

**Subd. 10. Specific subjects of interest.** Each specific subject of interest must be sufficient to identify the expected areas of interest by the principal or employer. The specific subjects of interest for the principal or employer is identified by the lobbyist at the time the lobbyist registers with the Board, or as provided on the report due on June 15<sup>th</sup>.

#### **4511.0600 REPORTING DISBURSEMENTS**

Minnesota Rules, part 4511.0600, subpart 5, is repealed.

#### **4511.0800 ADMINISTRATIVE ACTION**

Minnesota Rules part 4511.0800 is repealed.

**Possible Recommendation to Political Contribution Refund Program**

## **Minnesota Statutes section 290.06**

### **Subd. 23. Refund of contributions to political parties and candidates.**

(a) A taxpayer may claim a refund equal to the amount of the taxpayer's contributions made in the calendar year to candidates and to a political party. The maximum refund for an individual must not exceed \$50 200 and for a married couple, filing jointly, must not exceed \$100 400. A refund of a contribution is allowed only if the taxpayer files a form required by the commissioner and attaches to the form a copy of an official refund receipt form issued by the candidate or party and signed by the candidate, the treasurer of the candidate's principal campaign committee, or the chair or treasurer of the party unit, after the contribution was received. The receipt forms must be numbered, and the data on the receipt that are not public must be made available to the campaign finance and public disclosure board upon its request. A claim must be filed with the commissioner no sooner than January 1 of the calendar year in which the contribution was made and no later than April 15 of the calendar year following the calendar year in which the contribution was made. A taxpayer may file only one claim per calendar year. Amounts paid by the commissioner after June 15 of the calendar year following the calendar year in which the contribution was made must include interest at the rate specified in section 270C.405.

(b) No refund is allowed under this subdivision for a contribution to a candidate unless the candidate:

(1) has signed an agreement to limit campaign expenditures as provided in section 10A.322;

(2) is seeking an office for which voluntary spending limits are specified in section 10A.25; and

(3) has designated a principal campaign committee.

This subdivision does not limit the campaign expenditures of a candidate who does not sign an agreement but accepts a contribution for which the contributor improperly claims a refund.

(c) For purposes of this subdivision, "political party" means a major political party as defined in section 200.02, subdivision 7, or a minor political party qualifying for inclusion on the income tax or property tax refund form under section 10A.31, subdivision 3a.

A "major party" or "minor party" includes the aggregate of that party's organization within each house of the legislature, the state party organization, and the party organization within congressional districts, counties, legislative districts, municipalities, and precincts.

"Candidate" means a candidate as defined in section 10A.01, subdivision 10, except a

candidate for judicial office.

"Contribution" means a gift of money.

(d) The commissioner shall make copies of the form available to the public and candidates upon request.

(e) The following data collected or maintained by the commissioner under this subdivision are private: the identities of individuals claiming a refund, the identities of candidates to whom those individuals have made contributions, and the amount of each contribution.

(f) The commissioner shall report to the campaign finance and public disclosure board by each August 1 a summary showing the total number and aggregate amount of political contribution refunds made on behalf of each candidate and each political party. These data are public.

(g) The amount necessary to pay claims for the refund provided in this section is appropriated from the general fund to the commissioner of revenue.

(h) For a taxpayer who files a claim for refund via the Internet or other electronic means, the commissioner may accept the number on the official receipt as documentation that a contribution was made rather than the actual receipt as required by paragraph (a).

## **10A.01 DEFINITIONS**

Minnesota Statutes 2018, section 10A.01, subdivision 21, is amended to read:

Subd. 21. **Lobbyist.** (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration of more than \$3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, (a) by communicating or urging others to communicate with public or local officials; **, or (b) by facilitating access to public or local officials;** or

(2) who spends more than \$3,000 250 of the individual's personal funds, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

\* \* \* \*

Minnesota Statutes 2018, section 10A.01, is amended by adding subdivisions to read:

**Designated lobbyist.** "Designated lobbyist" means the lobbyist responsible for reporting the lobbying disbursements and activity of the principal or employer. An employer or principal may have only one designated lobbyist at any given time.

**General lobbying category.** "General lobbying category" means a broad area of interest for lobbying specified by the board.

**Specific subject of interest.** "Specific subject of interest" means a topic of lobbying interest within a general lobbying category described with sufficient specificity to identify the expected areas of interest for the principal or employer.

**Official action of metropolitan governmental units.** "Official action of metropolitan governmental units" means any action that requires a vote or approval by one or more elected local officials while acting in their official capacity; or an action by an appointed or employed local official to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

**Legislative action.** "Legislative action" means the discussion or development of prospective legislation; or the review, modification, adoption, or rejection of any bill, amendment, resolution, nomination, administrative rule, or report by a member of the legislature or employee of the legislature. "Legislative action" also means the discussion or development of prospective legislation, or a request for support or opposition to introduced legislation, with a constitutional officer. Legislative action includes the action of the governor in approving or vetoing any bill or portion of a bill.

## **10A.03 LOBBYIST REGISTRATION**

Minnesota Statutes 2018, section 10A.03, subdivision 2, is amended to read:

Subd. 2. **Form.** The board must prescribe a registration form, which must include:

- (1) the name, address, and e-mail address of the lobbyist;
- (2) the principal place of business of the lobbyist;
- (3) the name and address of each individual, association, political subdivision, or public higher education system, if any, by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears;
- (4) the website address of each association, political subdivision, or public higher education system identified under clause (3), if the entity maintains a website; and
- (5) a general lobbying category or categories, description of the subject or subjects and the specific subjects of interest within each general lobbying category, on which the lobbyist expects to lobby for the principal or employer; and
- (6) if the lobbyist lobbies on behalf of an association, the registration form must include the name and address of the officers and directors of the association.

Minnesota Statutes 2018, section 10A.03, is amended by adding subdivision 6 to read:

Subd. 6. General lobbying categories. A list of general lobbying categories must be specified by the board and updated periodically based on public comment. The board must publish on its website the current list of general lobbying categories. Chapter 14 does not apply to the specification, publication, or periodic updates of the list of general lobbying categories.

## **10A.04 LOBBYIST REPORTS**

Minnesota Statutes 2018, section 10A.04, subdivision 3, is amended to read:

Subd. 3. Information to lobbyist. A principal, An employer, or employee lobbyist about whose activities are reported to the Board by another a lobbyist is required to report must provide the information required by subdivision 4 to the lobbyist no later than five days before the prescribed filing date.

Minnesota Statutes 2018, section 10A.04, subdivision 4, is amended to read:

Subd. 4. Content. (a) A report under this section must include information the board requires from the registration form and the information required by this subdivision for the reporting period.

(b) A lobbyist must report the lobbyist's total disbursements on lobbying, separately listing lobbying disbursements to influence legislative action, lobbying to influence administrative action, and lobbying to influence the official actions of a metropolitan governmental units and a breakdown of disbursements for each of those kinds of lobbying into categories specified by the board, including but not limited to the cost of publication and distribution of each publication used in lobbying; other printing; media, including the cost of production; postage; travel; fees, including allowances; entertainment; telephone and telegraph; and other expenses.

(b) A lobbyist must report each state agency that had administrative action that the principal or employer sought to influence during the reporting period. the lobbyist's total disbursements on lobbying, separately listing lobbying to influence legislative action, lobbying to

~~influence administrative action, and lobbying to influence the official actions of a metropolitan governmental unit, and a breakdown of disbursements for each of those kinds of lobbying into categories specified by the board, including but not limited to the cost of publication and distribution of each publication used in lobbying; other printing; media, including the cost of production; postage; travel; fees, including allowances; entertainment; telephone and telegraph; and other expenses.~~

(c) A lobbyist must report each metropolitan governmental unit that considered, or was asked to take, official action that the principal or employer sought to influence during the reporting period.

(d) A lobbyist must report each legislative action that accounted for 25% or more of that lobbyist's effort on behalf of the principal or employer during the reporting period. The legislative action must be identified by specific subject of interest for prospective legislation, by legislative bill number for introduced legislation, or, if the legislation has been included in an omnibus bill, by bill number and section containing the legislation action. The lobbyist must report a reasonable, good faith estimate of the total percentage of lobbying time spent on each of the actions listed in this paragraph.

(e) A lobbyist must report each administrative action that accounted for 25% or more of the lobbyist's effort on behalf of the principal or employer during the reporting period. The administrative action must be identified by the revisor number assigned to it or a description of the proposed administrative action if a revisor number has not been assigned. The lobbyist must report a reasonable, good faith estimate of the total percentage of lobbying time spent on each of the actions listed in this paragraph.

(f) A lobbyist must report the Public Utilities Commission docket number for each rate setting, each power plant and powerline siting, and each granting of certificate of need that accounted for 25% or more of that lobbyist's effort on behalf of the principal or employer during the reporting period. The lobbyist must report a reasonable, good faith estimate of the total percentage of lobbying time spent on each of the actions listed in this paragraph.

(g) A lobbyist must report each official action of a metropolitan governmental unit that accounted for 25% or more of that lobbyist's effort on behalf of the principal or employer during the reporting period. The official action must be identified by the name of the specific metropolitan governmental unit and the ordinance number or name of the official action. The lobbyist must report a reasonable, good faith estimate of the total percentage of lobbying time spent on each of the actions listed in this paragraph.

(eh) A lobbyist must report the amount and nature of each gift, item, or benefit, excluding contributions to a candidate, equal in value to \$5 or more, given or paid to any official, as defined in section 10A.071, subdivision 1, by the lobbyist or an employer or employee of the lobbyist. The list must include the name and address of each official to whom the gift, item, or benefit was given or paid and the date it was given or paid.

(el) A lobbyist must report each original source of money in excess of \$500 in any year used for the purpose of lobbying to influence legislative action, administrative action, or the official action of a metropolitan governmental unit. The list must include the name, address, and employer, or, if self-employed, the occupation and principal place of business, of each payer of money in excess of \$500.

(j) The designated lobbyist must report disbursements made and obligations incurred that exceed \$2,000 for paid advertising used for the purpose of urging members of the public to contact public or local officials to influence official actions during the reporting period. Paid advertising includes the cost to boost the distribution of an advertisement on social media. If a disbursement made or obligation incurred for paid advertising exceeds \$2,000 the report must provide the date that the advertising was purchased, the name and address of the vendor, a description of the advertising purchased, and any specific subject of interest addressed by the advertisement.

(ek) On the report due June 15, the lobbyist must provide update or confirm a-the general lobbying categories and specific description of the subjects of interest for the principal or employer that were lobbied on in the previous 12 months.

Minnesota Statutes 2018, section 10A.04, subdivision 6, is amended to read:

Subd. 6. **Principal reports.** (a) A principal must report to the board as required in this subdivision by March 15 for the preceding calendar year.

(b) Except as provided in paragraph (d), ~~t~~The principal must report the total amount, rounded to the nearest \$2-10,000, spent by the principal during the preceding calendar year to influence legislative action, administrative action, and the official action of metropolitan governmental units. on each type of lobbying listed below:

(1) lobbying to influence legislative action;

(2) lobbying to influence administrative action, other than lobbying described in clause (3);

(3) lobbying to influence administrative action in cases of rate setting, power plant and; powerline siting, and granting of certificates of need under section 216B.243; and

(4) lobbying to influence official action of metropolitan governmental units.

(c) Except as provided in paragraph (d), ~~For each type of lobbying listed in paragraph (b),~~ the principal must report under this subdivision a total amount that includes:

(1) the portion of all direct payments for compensation and benefits paid by the principal to lobbyists in this state;

(2) the portion of all expenditures for advertising, mailing, research, consulting, surveys, expert testimony, studies, reports, analysis, compilation and dissemination of information, social media and public relations campaigns, and legal counsel, used to support lobbying related to legislative action, administrative action, or the official action of metropolitan governmental units in this state;-and

(3) a reasonable good faith estimate of the portion of all salaries and administrative overhead expenses attributable to activities of the principal relating to efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units in this state.; and

(4) the portion of all lobbying disbursements not listed in clause (2) that were made or incurred on behalf of the principal by all lobbyists for the principal in this state.

~~(d) A principal that must report spending to influence administrative action in cases of rate setting, power plant and powerline siting, and granting of certificates of need under section 216B.243 must report those amounts as provided in this subdivision, except that they must be reported separately and not included in the totals required under paragraphs (b) and (c).~~

Minnesota Statutes 2018, section 10A.04, is amended by adding subdivision 10 to read:

**Subd. 10. Specific subjects of interest.** The specific subjects of interest for the principal or employer is identified by the lobbyist at the time the lobbyist registers with the Board, or as provided on the report due on June 15<sup>th</sup>.

#### **4511.0600 REPORTING DISBURSEMENTS**

Minnesota Rules, part 4511.0600, subpart 5, is repealed.

#### **4511.0800 ADMINISTRATIVE ACTION**

Minnesota Rules part 4511.0800 is repealed.

## **Minnesota Statutes section 290.06**

### **Subd. 23. Refund of contributions to political parties and candidates.**

(a) A taxpayer may claim a refund equal to the amount of the taxpayer's contributions made in the calendar year to candidates and to a political party. The maximum refund for an individual must not exceed \$50 200 and for a married couple, filing jointly, must not exceed \$100 400. A refund of a contribution is allowed only if the taxpayer files a form required by the commissioner and attaches to the form a copy of an official refund receipt form issued by the candidate or party and signed by the candidate, the treasurer of the candidate's principal campaign committee, or the chair or treasurer of the party unit, after the contribution was received. The receipt forms must be numbered, and the data on the receipt that are not public must be made available to the campaign finance and public disclosure board upon its request. A claim must be filed with the commissioner no sooner than January 1 of the calendar year in which the contribution was made and no later than April 15 of the calendar year following the calendar year in which the contribution was made. A taxpayer may file only one claim per calendar year. Amounts paid by the commissioner after June 15 of the calendar year following the calendar year in which the contribution was made must include interest at the rate specified in section 270C.405.

(b) No refund is allowed under this subdivision for a contribution to a candidate unless the candidate:

(1) has signed an agreement to limit campaign expenditures as provided in section 10A.322;

(2) is seeking an office for which voluntary spending limits are specified in section 10A.25; and

(3) has designated a principal campaign committee.

This subdivision does not limit the campaign expenditures of a candidate who does not sign an agreement but accepts a contribution for which the contributor improperly claims a refund.

(c) For purposes of this subdivision, "political party" means a major political party as defined in section 200.02, subdivision 7, or a minor political party qualifying for inclusion on the income tax or property tax refund form under section 10A.31, subdivision 3a.

A "major party" or "minor party" includes the aggregate of that party's organization within each house of the legislature, the state party organization, and the party organization within congressional districts, counties, legislative districts, municipalities, and precincts.

"Candidate" means a candidate as defined in section 10A.01, subdivision 10, except a

candidate for judicial office.

"Contribution" means a gift of money.

(d) The commissioner shall make copies of the form available to the public and candidates upon request.

(e) The following data collected or maintained by the commissioner under this subdivision are private: the identities of individuals claiming a refund, the identities of candidates to whom those individuals have made contributions, and the amount of each contribution.

(f) The commissioner shall report to the campaign finance and public disclosure board by each August 1 a summary showing the total number and aggregate amount of political contribution refunds made on behalf of each candidate and each political party. These data are public.

(g) The amount necessary to pay claims for the refund provided in this section is appropriated from the general fund to the commissioner of revenue.

(h) For a taxpayer who files a claim for refund via the Internet or other electronic means, the commissioner may accept the number on the official receipt as documentation that a contribution was made rather than the actual receipt as required by paragraph (a).

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**  
**January 2019**

**ACTIVE FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures  Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$1,000 LF \$1,000 CP  \$50 LF	3/6/18	8/10/18			Board is working on the matter. Placed on hold.
Katy Humphrey, Kelli Latuska	Duluth DFL	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	3/6/18	8/10/18			Board is working on the matter. Placed on hold. 3/5/19
Christopher John Meyer	Meyer for Minnesota	Fees and Penalty for late filing of 2016 Year-End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	7/28/17	9/6/17	1/24/2020		Personal service was obtained 9/30/19
Dan Schoen		2017 Annual Statement of Economic Interest	\$100 LF \$1,000 CP	1/28/19	3/27/19			Placed on hold by Board.

## **CLOSED FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Brenden Ellingboe	Ellingboe (Brenden) for House	Unfiled 2015 Year- End Report of Receipts and Expenditures	\$1,000 LF \$1,000 CP	11/29/16	5/26/17			The Board has received the report