

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

.....  
**January 4, 2023**  
**Blazing Star Room**  
**Centennial Office Building**  
.....

**MINUTES**

The meeting was called to order by Chair Rashid.

Members present: Asp, Flynn (by Webex), Leppik (by Webex), Rashid, Soule, Swanson (by Webex)

Others present: Sigurdson (arrived during discussion of legislative recommendations), Engelhardt (arrived during discussion of legislative recommendations), Hager, Olson, staff; Hartshorn, counsel (by Webex)

**MINUTES** (December 15, 2022)

The following motion was made:

Member Leppik's motion: To approve the December 15, 2022, minutes as drafted.

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

**ELECTION OF BOARD CHAIR AND VICE CHAIR**

Member Rashid reported that the nomination committee discussed the nomination of Member Soule and Member Asp to be Chair and Vice Chair, respectively, for 2023.

The following motion was made:

Member Rashid's motion: To elect Member Soule as Chair, and Member Asp as Vice Chair, for 2023.

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

**CHAIR'S REPORT**

**2023 meeting schedule**

The next Board meeting is scheduled for 9:30 a.m. on Wednesday, February 8, 2023.

## **2023 LEGISLATIVE RECOMMENDATIONS**

Mr. Sigurdson provided members with a memorandum that is attached to and made a part of these minutes. Chair Soule recapped the Board's review of legislative proposals during its December 2022 meeting. Mr. Olson stated that Board staff has provided updated language for the definition of expressly advocating that is more detailed than the language considered by the Board in December 2022 and during past years. Mr. Olson explained the 2019 proposal of former Board member Robert Moilanen, which would increase the maximum refund available through the political contribution refund program to \$200 per individual or \$400 per married couple. Mr. Olson said that the Board has been provided a summary of the legislation authored by Representative Greenman in 2021 that would, among other things, replace the public subsidy program, including the political contribution refund program, with a matching contribution program and a Democracy Dollar program whereby individuals could assign vouchers to candidates of their choice and thereby help fund those candidates without having to contribute any of their own money.

In response to a question from Member Swanson, Mr. Sigurdson stated that the term domestic partner is not defined elsewhere within Minnesota Statutes. Member Swanson suggested changing "follow" to "comply with" within the proposed change to section 10A.38, which would add a paragraph (d). Member Swanson suggested adding the word "or" before "county" within the proposed change to section 10A.275, which would add a new paragraph (4).

The following motion was made:

Member Rashid's motion: To approve the legislative recommendations considered by the Board in December 2022, with the exception of the recommendation concerning the definition of expressly advocating, with the two changes suggested by Member Swanson.

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

Mr. Sigurdson said that the updated language for the definition of expressly advocating is intended to provide more information make it easier to identify express advocacy. Member Rashid asked about the inclusion of the phrase "or encourages some other kind of action." Chair Soule said that that language appears to be in contrast to the language "encourages actions to elect or defeat a candidate or local candidate" that immediately precedes that phrase. After discussion it was suggested that the phrase "or encourages some other kind of action" be deleted. Members discussed the difference between the use of phrases of express advocacy and communications that, based on the reasonable minds standard, clearly encourages actions to elect or defeat a candidate or local candidate. In response to a question from Member Asp, Mr. Sigurdson said that expanding the definition of expressly advocating will increase the amount of disclosure required and will require some organizations that are currently not registered to register with the Board.

The following motion was made:

Member Rashid's motion: To approve the revised recommended language for the definition of expressly advocating with the deletion of the phrase "or encourages some other kind of action."

Vote on motion: A roll call vote was taken. Members Flynn, Leppik, Rashid, Soule, and Swanson voted in the affirmative. Member Asp voted in the negative.

The following motion was made:

Member Swanson's motion: To approve the recommendation to increase the maximum political contribution refund amount to \$200 for individuals and \$400 for married couples.

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

Member Flynn spoke about Representative Greenman's bill from 2021 that would impact the Board. Member Flynn also suggested that the Board consider recommending increasing the threshold within Minnesota Statutes section 10A.13, requiring treasurers to record the name and address of any contributor who has given more than \$20, and possibly indexing that threshold to inflation. Mr. Hager explained that the \$20 accounting threshold has not changed since 1974 and if adjusted for inflation, the amount would be approximately \$115-\$120 in today's dollars. In response to a question from Chair Soule, Mr. Sigurdson stated that staff can examine the issue and provide more information to the Board at a future meeting.

Mr. Sigurdson said that he spoke with legal counsel for the Legislature and a problem with deleting the newly effective language expanding the definition of a lobbyist in Minnesota Statutes section 10A.01, subdivision 21, is that there is now a cross-reference to that definition within Minnesota Statutes Chapter 3. Mr. Sigurdson explained that as a result, the definition may need to be modified to avoid undermining the related provision within Chapter 3, rather than simply deleting the new language.

## **ENFORCEMENT REPORT**

### **A. Discussion Items**

#### **1. Balance adjustment request – Maresh (William) for House (18312)**

Mr. Hager stated that the Maresh committee's 2020 year-end report of receipts and expenditures listed an ending cash balance of \$9,626.19 while its bank account had a balance of \$9,615.20 at the end of that year, a difference of \$10.99. Mr. Hager said that the committee's 2021 year-end report listed an ending cash balance of \$10,961.44 while its bank account had a balance of \$10,677.68 at the end of

that year, a difference of \$283.76. Mr. Hager explained that the candidate and the committee's treasurer have reviewed the committee's financial records but are unable to reconcile the discrepancy. Mr. Hager stated that the committee has entered its 2022 transactions within Campaign Finance Reporter and the difference between the ending cash balance in the software and the committee's actual cash balance is \$281.06, which is almost the same as the balance discrepancy that carried over from 2021. Mr. Hager said that the committee is thereby asking that its 2021 ending cash balance be adjusted downward by \$281.06, from \$10,961.44 to \$10,680.38, and the committee intends for its 2022 year-end report to be a termination report.

Member Asp's motion: To approve the requested balance adjustment.

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

**B. Waiver Requests**

Russell Starksen, treasurer of the 50th Senate District RPM (Old), appeared before the Board by Webex regarding request number 1 listed below. Mr. Starksen stated that the party unit is a small group and this was a learning experience.

David Zoll, counsel for the Neighbors for Zaynab Mohamed committee, appeared before the Board by Webex regarding request number 5 listed below. Mr. Zoll sought a reduction of the late filing fees incurred for 24-hour large contribution notices. Mr. Zoll stated that the candidate was involved in a major car accident, the committee's treasurer at the time was inactive, and the candidate's campaign manager was terminated the same day as the car accident. Mr. Zoll stated that the committee's treasurer was replaced and he requested a reduction of the amount owed to a total of \$450.

Entity	Late Fee/ Civil Penalty	Report Due	Factors and Recommended Action	Board Member's Motion	Motion	Vote on Motion
1. Old 50th Senate District RPM (20863)	\$450 LFF	2022 Pre- Primary	Report due July 25, 2022, and received by the Board August 5, 2022. Report was late due to computer issues and health issues of treasurer's mother during this time. Worked with Board staff to resolve issues. Cash balance as of October 24, 2022 was \$517. RECOMMENDED ACTION: Waive	Flynn	Approve staff recommendation	All members voted in the affirmative

<p>2. Hornstein (Frank)        Volunteer Committee        (15671)</p>	<p>\$100        LFF</p>	<p>2022        Pre-        General</p>	<p>Report due October 31, 2022, and received November 2, 2022. Treasurer thought it had been received by the Board timely as there were two messages on the screen, one saying it was uploaded successfully and one saying it failed. When realized it did not go through worked with Board staff to submit. Cash balance as of October 24, 2022, was \$6,030. RECOMMENDED ACTION: Waive</p>	<p>Flynn</p>	<p>Approve staff recommendation</p>	<p>All members voted in the affirmative</p>
<p>3. Justin Emmerich        (Senate candidate)</p>	<p>\$5 LFF</p>	<p>Original        EIS</p>	<p>Was due June 24, 2022, and filed July 15, 2022. Sent in mail on June 16, 2022 but was lost. As soon as learned of the issue worked with Board staff to file. RECOMMENDED ACTION: Waive</p>	<p>Flynn</p>	<p>Approve staff recommendation</p>	<p>All members voted in the affirmative</p>
<p>4. 60th Senate District        DFL (Old) (20473)</p>	<p>\$1,000        LFF        \$1,000        CP</p>	<p>2022        Pre-        General</p>	<p>Report due October 31, 2022, and filed December 19, 2022, by the treasurer of the 60th Senate District DFL (New). The old party unit is in the process of terminating due to redistricting. The treasurer for the new party unit attempted to work with the treasurer of the old party unit but she did not file the report and ceased communicating so he filed the report himself based on the information he was provided. Balance as of October 24, 2022, was \$1,766, following transfer of \$12,660 to the new party unit. RECOMMENDED ACTION: Waive</p>	<p>Flynn</p>	<p>Approve staff recommendation</p>	<p>All members voted in the affirmative</p>

5. Neighbors for Zaynab (18730)	\$9,000 LFFs	9x Pre-Primary 24 Notices	Notices due 4x on July 29, 2022, one on August 5, 2022, one on August 6, 2022, and 3x on August 7, 2022, were never filed. The committee's treasurer was inactive during this time and the Chair was removed on July 28, 2022. The request is based upon the candidate being in a car accident and having a serious concussion preventing her from looking at screens. Cash balance as of October 24, 2022, was \$43,231. RECOMMENDED ACTION: Reduce to \$1,000 total	Flynn	Approve staff recommendation	Asp abstained. All other members voted in the affirmative
6. Ashley Burg (2542), Affidavit Only Candidate	\$100 LFF \$1,000 CP	Original EIS	EIS due June 14, 2022, and filed December 10, 2022. Numerous attempts were made to contact Ms. Burg, including a certified letter sent October 14, 2022. The matter was previously referred to the AG at the November 2022 Board meeting. Was an affidavit only first-time candidate who overlooked the requirement. RECOMMENDED ACTION: Waive CP only	Asp	Approve staff recommendation	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 stated that a default judgment motion is currently being drafted for the Martinez-Perez matter.

**EXECUTIVE SESSION**

Chair Soule recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair reported the following matters into regular session:

Dismissal:

- In the Matter of the Complaint of 3B House District Republican Party of Minnesota regarding the Mary Murphy Volunteer Committee

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Sigurdson". The signature is written in a cursive style with a large, stylized initial "J".

Jeff Sigurdson  
Executive Director

Attachments:

Memorandum regarding legislative proposals  
Statutory language for legislative recommendations  
Legal report



# MINNESOTA CAMPAIGN FINANCE BOARD

**Date:** December 28, 2022

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re: Legislative proposals**

This memo serves two purposes. First, it provides the Board an opportunity to review draft statutory language for the proposals adopted at the December meeting. I want to make sure that Board members are comfortable with the statutory language before I send it to the Revisors office to be jacketed as a bill. Last month I provided with the statutory language previously recommended by the Board changing the definition of expressly advocating. However, after reviewing the approach used in other states to incorporate the functional equivalent standard into the definition of independent expenditures, staff believes that there is easier to understand language available for use in the recommendation. Staff would like Board direction on which version of the definition of expressly advocating to use.

If the draft language is acceptable by the Board I will then contact the Revisors office and have the language drafted into multiple bills. I recommend a separate bill for each program area: lobbyist, campaign finance, and economic interest. It's possible that the committee chairs may want to combine the bills, but that is easier to do than separating out the legislation by program if the committee chairs believe the recommendations are too numerous to hear at one time. A description of the purpose of each recommendation and the draft statutory change for the recommendation is provided as an attachment to this memo.

Additionally, Member Swanson requested that I bring for Board consideration a legislative recommendation developed by former member Bob Moilanen in 2019 that would increase the political contribution refund amount. Member Flynn requested I bring a summary of the campaign finance legislation sponsored by Representative Greenman in 2021, as that legislation may be reconsidered this year and would heavily impact Board operations. These issues are addressed below.

## **Increasing the political contribution refund amount**

The current limit to the political contribution refund (PCR) program is \$50 per person, or \$100 per couple, per calendar year. The Department of Revenue tracks PCR requests by the social security number of the donor, and will not honor refund requests beyond the maximum amount. Candidates who sign the public subsidy agreement and major and minor political party units are



eligible to issue PCR receipts. Only Minnesota residents may submit a PCR application for a refund to the Department of Revenue.

There is no specific limit to the overall amount of money that can be distributed by the Department of Revenue through the PCR program. In 2020 (the last election year for which numbers are available) the Department of Revenue issued about \$1,326,000 in refunds for donations made to candidates, and about \$2,190,000 for donations made to political party units. In 2021 about \$618,000 in refunds were issued for contributions made to candidates, and \$1,578,000 for contributions made to party units. The statutory language regulating the PCR program is found in Minnesota Statutes section 290.06, subdivision 23.

Mr. Moilanen believed that it was important for candidates to receive significant contributions from residents of the state, in particular from small donors. To increase donations from small donors the recommendation would have increased the maximum refund amount to \$200 per individual, or \$400 per married couple. The proposal was discussed by the Board at multiple meetings in 2019 and early 2020, but it did not secure the support of four Board members, and was not included in the Board's legislative recommendations. Below is the statutory language that would result in the change supported by Mr. Moilanen.

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.

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### **House File 9, as introduced in 2021**

House File 9 was introduced in 2021 by Representative Greenman. The bill received committee hearings in the House, but was not heard in the Senate. The bill has several provisions outside of Chapter 10A which I will not review. Relevant to the Board, the provisions of the bill would replace the current public subsidy program with a new approach. The new campaign finance program had two primary features: it would create a small donor contribution match program, and it would create a "Democracy Dollars Coupon" program.

Under the small donor match program, the Board issues payments (a state match) to qualified candidates for contributions received from individuals. The state match will be six times the amount of a contribution of up to \$100 if the donation was made by an individual who lives within the district, and up to three times the amount for a contribution of up to \$100 which was donated by an individual who lives outside the district. The state central committee of a major or minor political party is eligible for a state match of donations of one time the amount for contributions received from individuals who reside in the state. To be eligible for the match program the candidate would need to sign a public subsidy agreement limiting the candidate's campaign expenditures. The legislation would also limit the total amount of contributions from one individual that could be used for a state match to \$500.

Under the Democracy Dollars Coupon program two \$25 coupons are sent to each registered voter in the state each year. The coupons may be given to qualified candidates and political party units, which then redeem the coupons with the Board for payment. The Office of the Secretary of State is responsible to provide the coupons to all registered voters, and eligible non-registered voters who request the coupons. Only candidates for the legislature and for constitutional office are eligible to redeem the coupons. The Board is required to verify the eligibility of coupons submitted for payment, and issue payments to candidates at least two times per month. There is a cap on the amount of money available for payments through the coupon program. The amount available for the coupon program is limited to 8% of the total value of coupons issued the first year, with the amount available for the coupon program adjusted annually thereafter.

The impact on Board operations to administer the small donor match and Democracy Donor Coupon programs is of course significant. The fiscal note developed in 2021 required a staff increase for the Board of seven full time positions, and would require Board staff to move to a larger office space. In retrospect, I believe I underestimated the technology costs needed to administer the program, and additional IT staffing and other resources may also be needed.

### **Attachment**

Statutory language for legislative recommendations

## Economic Interest Statement Policy Recommendations

**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.

### 10A.09 Statement of Economic Interest

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, or the individual's spouse or domestic partner, 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, or the individual's spouse or domestic partner, 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).

**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.

**10A.09 Statement of Economic Interest**

(9) a listing of any contract, professional license, lease, or franchise 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 the government agency on which the individual serves as a public or local official.

**Disclosure of assets owned by the public official's spouse or domestic partner.** Increase disclosure on the economic interest statement to include the financial interests of the public official's spouse or domestic partner. Under current statute a public official must disclose certain assets owned in whole or in part by the official. Assets owned solely by the official's spouse or domestic partner are not disclosed. Many other states have concluded that the financial interests of the public official's spouse could create a conflict of interest for the public official, and therefore require disclosure of those holdings.

**10A.01 Definitions**

Subd. 5. **Associated business.** "Associated business" means an association, corporation, partnership, limited liability company, limited liability partnership, or other organized legal entity from which the individual, or the individual's spouse or domestic partner, 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, or whose securities the individual, or the individual's spouse or domestic partner, holds worth more than \$10,000 at fair market value.

**10A.09 Statement 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) the individual's name, address, occupation, and principal place of business;
- (2) a listing of the name of each associated business and the nature of that association;

(3) a listing of all real property within the state, excluding homestead property, in which the individual, or the individual's spouse or domestic partner, 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;

(4) a listing of all real property within the state in which a partnership of which the individual, or the individual's spouse or domestic partner, 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, or the individual's spouse or domestic partner, receives more than \$250 in any month during the reporting period as an employee, if the individual, or the individual's spouse or domestic partner, 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, or the individual's spouse or domestic partner, 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 the individual's spouse or domestic partner, at any time during the reporting period; and

(9) a listing of the name of any state department or agency listed in section 15.01 or 15.06, or any political subdivision, with which the individual, the individual's spouse, the individual's domestic partner, the individual's employer, or the employer of the individual's spouse or domestic partner has a contract.

(b) The business or professional categories for purposes of paragraph (a), clauses (6) and (7), must be the general topic headings used by the federal Internal Revenue Service for purposes of reporting self-employment income on Schedule C. This paragraph does not require an individual to report any specific code number from that schedule. Any additional principal business or professional activity category may only be adopted if the category is enacted by law.

(c) ~~The listings required in paragraph (a), clauses (2) through (9), must not identify whether the individual or the individual's spouse or domestic partner is associated with or owns the listed item. For the purpose of an original statement of economic interest, "compensation in any month" includes only compensation received in the calendar month immediately preceding the date of appointment as a public official or filing as a candidate.~~

## Campaign Finance Program Legislative Recommendations

**Provide regulation of contributions made with bitcoins and other virtual currency.** Staff has 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 virtual currency as something of value. The proposal will provide a statutory basis for disclosing and regulating the conversion of virtual currency into United States currency.

### 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.

**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 for a clearly identified Minnesota candidate, does not in many cases need to be reported to the Board. The Board proposal expands the definition of independent expenditure to include communications that do not use so called “magic words” but could have no reasonable purpose other than to influence voting in Minnesota.

Language proposed in 2021, modified slightly to include certain Hennepin County candidates:

### 10A.01 Definitions

Subd. 16a. **Expressly advocating.** "Expressly advocating" means:

(1) that a communication clearly identifies a candidate or a local 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

(i) the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(ii) reasonable minds could not differ as to whether it encourages actions to elect or defeat

one or more clearly identified candidate(s).

Revised language:

### **10A.01 Definitions**

Subd. 16a. **Expressly advocating.** "Expressly advocating" means that a communication clearly identifies a candidate or a local candidate and:

- (1) urges the election or defeat of a candidate or local candidate and uses words or phrases of express advocacy, such as, but not limited to, vote for, elect, support, cast your ballot for, Smith for House, vote against, defeat, or reject; or
- (2) taken as a whole and with limited reference to external events, such as the proximity to the election, may only be interpreted by a reasonable person as containing advocacy of the election or defeat of a candidate or local candidate, because the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning, and reasonable minds could not differ as to whether it encourages actions to elect or defeat a candidate or local candidate, or encourages some other kind of action.

### **Recognize the use of a fair booth as a multicandidate political party expenditure.**

Multicandidate political party expenditures are specified in Minn. Stat. § 10A.275, and must benefit three or more candidates (or individuals on the ballot). A multicandidate political party expenditure is reported by the party unit as a general expenditure, and not counted or reported as a contribution to any candidate. Examples of multicandidate political party expenditures include official sample party ballots and phone bank solicitations in support of three or more individuals on the ballot. Currently, a political party that distributes candidate literature at a county or state fair booth, or that allows candidates to use the fair booth as a venue to meet potential voters, is making an in-kind contribution to those candidates. Determining the fair market value of the in-kind contribution is difficult, and in most cases will not exceed the \$200 threshold for disclosure. The proposed change would add the use of a fair booth by three or more individuals on the ballot to the list of multicandidate political party expenditures.

### **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 (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 call, voice mail, text message, multimedia message, internet chat message, or email when the communication includes the names of three or more individuals whose names are to appear on the ballot;

(4) expenditures for a booth at a community event, county or state fair, that benefits three or more individuals whose names are to appear on the ballot;

- (45) expenditures for a political party fundraising effort on behalf of three or more candidates; or
- (56) expenditures for party committee staff services that benefit three or more candidates.

**Probable Cause determination issued within 60 days of prima facie determination, time frame may be extended by vote of the Board.** Current statute provides that within 45 days of issuing a prima facie determination that a complaint stated a violation of Chapter 10A or 211B, the Board must make a probable cause determination as to whether it is more likely or not that an alleged violation occurred. The probable cause determination is the first opportunity for the subject of the complaint to respond to the allegations, and for complaints that are dismissed, the probable cause determination is the most important step in the complaint process. The subject of the complaint may want to be represented by counsel, and the process of hiring representation and putting together a response often cannot be done in within the 45 days available. Further, that 45 days also includes the time needed by Board staff to analyze the response and draft a probable cause determination and provide it to the Board seven days before the meeting at which the determination will be considered. If the subject of the complaint needs additional time to prepare a response, staff contacts the complainant to determine if they object to extending the deadline for issuing a probable cause determination. If there is no objection, the Board extends the deadline, typically to the next monthly Board meeting. Under current statute, if the Board makes a probable cause determination that an investigation is needed, then the Board is required to either issue findings to conclude the investigation within 60 days, or if more time is needed to complete a thorough investigation, may vote to extend the time frame for concluding the investigation. The proposed change would extend the 45 days to issue a probable cause determination to the same 60 days available for findings, and clarify that the ability to extend the time frame by Board vote applies to making a probable cause determination.

## **10A.022 Violations and Enforcement**

### **Subd. 3. Investigation authority; complaint process.**

(d) If a determination is made that the complaint alleges a prima facie violation, the board shall, within ~~45~~60 days of the prima facie determination, make findings and conclusions as to whether probable cause exists to believe the alleged violation that warrants a formal investigation has occurred. Any party filing a complaint and any party against whom a complaint is filed must be given an opportunity to be heard by the board prior to the board's determination as to whether probable cause exists to believe a violation that warrants a formal investigation has occurred.

(e) Upon a determination by the board that probable cause exists to believe a violation that warrants a formal investigation has occurred, the board must undertake an investigation under subdivision 2 and must issue an order at the conclusion of the investigation, except that if the complaint alleges a violation of section 10A.25 or 10A.27, the board must either enter a conciliation agreement or make public findings and conclusions as to whether a violation has occurred and must issue an order within 60 days after the probable cause determination has been made. Prior to making findings and conclusions in an investigation, the board must offer the subject of the complaint an opportunity to answer the allegations of the complaint in writing and to appear before the board to address the matter. The deadline for action on a written complaint, including but not limited to issuance of a probable cause determination in accordance with paragraph (d), entering into a conciliation agreement, or issuance of public findings, may be extended by majority vote of the board.



**Add costs related to a recount and the costs of running a transition office as new noncampaign disbursements.** There are currently twenty-seven noncampaign disbursements provided in statute for candidate committees. Noncampaign disbursements are an approved use of campaign committee funds under Minn. Stat. § 211B.12, and if the candidate signed the public subsidy agreement, the cost of the disbursement does not count against the candidate's campaign spending limit. The Board is given the authority to recognize other noncampaign disbursements in Minn. Stat. § 10A.01, subd. 26, which classifies as noncampaign disbursements "other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question". In Advisory Opinion 415 the Board concluded that a recount of ballots was a part of the election process, and that a recount of ballots will ascertain the result of the election, but does not influence voting at the election. Therefore, the use of candidate committee campaign funds to support a recount could be reported as a noncampaign disbursement. Although advisory opinions are referenced for guidance by many committees, an opinion provides safe harbor only to the individual or association that requested the opinion. Adding costs associated with a recount as a noncampaign disbursement in statute will provide all candidate committees with equal access to the conclusion reached in the advisory opinion.

The Board also issued advisory opinion 391, which provides that a newly elected constitutional office candidate could pay certain costs related to transition to the new officeholder from campaign committee funds, and report the costs as a noncampaign disbursement. The proposal would again move the guidance of the advisory opinion into statute so that it may be used by all newly elected constitutional candidates. An administrative rule, part 4503.0900, subpart 1, paragraph F, is repealed as it limits transition costs to the office of governor.

## **10A.01 Definitions**

**Subd. 26. Noncampaign disbursement.** (a) "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

...

(28) during a period starting January 1 in the year following a general election and ending on December 31 of the year of general election, total payments of up to \$3,000 for security expenses for a candidate, including home security hardware, maintenance of home security hardware, identity theft monitoring services, and credit monitoring services;

(29) costs to support a candidate's principal campaign committee's participation in a recount of ballots affecting that candidate's election; and

(30) costs of running a transition office for a winning state constitutional office candidate during the first three months after election.

## **REPEALER.**

Minnesota Rules, part 4503.0900, subpart 1, paragraph F, is repealed.

**Provide specific distance for placement of notice required for sale of goods or services for fund-raising purposes.** Minn. Stat. § 10A.271 requires that a political committee or fund, political party unit, or candidate committee that raises funds through the sale of goods or services provide notice to potential customers that the proceeds from the purchase are a political contribution, and what committee or funds will receive the contribution. The statute currently provides that notice may be provided by a sign placed “in immediate proximity” to the point of sale. Immediate proximity is not a defined term, and could be reasonably interpreted in more than one way. The recommendation is to provide a set distance, within three feet, of the point of sale. Additional language clarifying how the requirement is satisfied when the sale is via a website is also provided.

### **10A.271 Goods and Services for Fundraising Purposes**

Subdivision 1. **Notice to contributors.** A political committee, political fund, political party unit, or principal campaign committee that raises funds through the sale of goods or services must disclose to potential customers that the proceeds from the purchase are a political contribution and to whom the contribution is made. If goods or services are sold in person, the notice may must be provided verbally at the time of purchase, or through the prominent display of a sign providing the notice in immediate proximity to within three feet of, and facing, the point of sale at the location where the goods or services are sold. If goods or services are sold using a website or other electronic means, the notice must be prominently displayed on the page used by potential customers to make a purchase or enter payment information.

**Provide penalty for ballot question committees and funds that make contributions to a candidate’s committee.** Minn. Stat. § 10A.121, currently prohibits independent expenditure committees and funds and ballot question committees and funds from making contributions to candidates. However, the penalty provided in that statute for contributing to a candidate committee does not extend to ballot question committees and funds, which is inconsistent because ballot question committees may also receive corporate contributions.

### **10A.121 Independent Expenditure and Ballot Question Political Committees and Funds**

Subd. 2. Penalty. (a) An independent expenditure political committee, ~~or independent expenditure political fund, ballot question political committee, or ballot question political fund~~ is subject to a civil penalty of up to four times the amount of the contribution or approved expenditure if it does the following:

(1) makes a contribution to a candidate, local candidate, party unit, political committee, or political fund other than an independent expenditure political committee, ~~or an independent expenditure political fund, ballot question political committee, or ballot question political fund~~; or

(2) makes an approved expenditure.

(b) No other penalty provided in law may be imposed for conduct that is subject to a civil penalty under this section.

**Expand requirement to provide registration number with contributions to include Hennepin County candidates.** Minn. Stat. § 10A.15, subd. 5, requires a lobbyist, political committee or fund, or party unit to provide their registration number with their contributions to state level candidates. Now that contributions to certain Hennepin County candidates are also reported by these registered committees and funds, it would be useful to expand the candidates covered to include those same Hennepin County candidates.

## 10A.15 Contributions

Subd. 5. **Registration number on checks.** A contribution made to a candidate or local candidate by a lobbyist, political committee, political fund, or party unit must show the name of the lobbyist, political committee, political fund, or party unit and the number under which it is registered with the board.

### **Clarify report periods for political committees, political funds, and party units that make contributions to impact Hennepin County elections during a non-state election year.**

Political committees, political funds, and party units that contribute to or make independent expenditures regarding certain Hennepin County candidates, or make ballot question expenditures in Hennepin County during an odd-numbered year, are required to file additional reports with the Board. However, the current schedule provided in Minn. Stat. § 10A.20, subd. 2a, does not explicitly state whether the pre-primary report is required of an entity that only seeks to influence elections in a municipality with no municipal primary election. Minneapolis and Bloomington use ranked-choice voting and therefore do not hold primary elections for municipal candidates. Similarly, ballot questions are not voted on at primary elections. The statute would be clarified to state that a “pre-primary” report is required even if the candidate or issue is not on a primary ballot.

## 10A.20 Campaign Reports

**Subd. 2a. Local election reports.** (a) This subdivision applies to a political committee, political fund, or political party unit that during a non-general election year:

(1) spends in aggregate more than \$200 to influence the nomination or election of local candidates;

(2) spends in aggregate more than \$200 to make independent expenditures on behalf of local candidates; or

(3) spends in aggregate more than \$200 to promote or defeat ballot questions defined in section 10A.01, subdivision 7, clause (2), (3), or (4).

(b) In addition to the reports required by subdivision 2, the entities listed in paragraph (a) must file the following reports in each non-general election year:

(1) a first-quarter report covering the calendar year through March 31, which is due April 14;

(2) a report covering the calendar year through May 31, which is due June 14;

(3) a pre-primary-election report due 15 days before the local primary election date specified in section 205.065;

(4) a pre-general-election report due 42 days before the local general election; and

(5) a pre-general-election report due ten days before a local general election.

The reporting obligations in this paragraph begin with the first report due after the reporting period in which the entity reaches the spending threshold specified in paragraph (a). The pre-primary report required under subd. 2a(b)(3) is required for all entities required to report under paragraph (a), regardless of whether the candidate or issue is on the primary ballot.

**Provide a penalty for a violation of Minn. Stat. § 10A.38.** Candidates who sign the public subsidy agreement are generally required to close caption broadcast or cable television advertisements, and must provide the script for radio advertisements on the candidate’s campaign

website. However, there are is not a penalty provided for violating the statute, which leaves in doubt its effectiveness. The recommendation would provide a civil penalty of up to \$1,000 per violation of the statute.

### **10A.38 Captioning of Campaign Advertisements**

(a) This section applies to a campaign advertisement by a candidate who is governed by an agreement under section 10A.322.

(b) "Campaign advertisement" means a professionally produced visual or audio recording of two minutes or less produced by the candidate for the purpose of influencing the nomination or election of a candidate.

(c) A campaign advertisement that is disseminated as an advertisement by broadcast or cable television must include closed captioning for deaf and hard-of-hearing viewers, unless the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so. A campaign advertisement that is disseminated as an advertisement to the public on the candidate's website must include closed captioning for deaf and hard-of-hearing viewers, unless the candidate has posted on the website a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so. A campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's website a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so.

(d) Civil Penalty. A candidate who fails to follow the requirements of paragraph (c), is subject to a civil penalty imposed by the board of up to \$1,000.

## Lobbyist Program Recommendations

**Lobbyist Program Reporting.** The recommendations to change the focus of the disclosure provided by the lobbying program was introduced as HF 2173 in 2021, an amended copy of which is attached. As review, the lobbying proposal would eliminate the need to report a series of administrative costs related to lobbying. In place of administrative costs, the recommendations would require disclosure of the specific subjects lobbied on during the reporting period. Also, for the first time, the lobbyist would disclose any metropolitan governmental unit lobbied, any specific administrative rule that was subject to lobbying, and any specific project before the Minnesota Public Utilities Commission on which lobbying occurred.

**Modify definition of lobbyist.** The definition of lobbyist has been based on an action: communication with a public or local official for the purpose of attempting to influence an official action by that official. At the 2021 special legislative session the definition was amended to include any individual who earns more than \$3,000 a year “from a business whose primary source of revenue is derived from facilitating government relations or government affairs services between two third parties”. Under this new expanded definition (which takes effect January 3, 2023) an individual may need to register as a lobbyist even though their job does not ever include communication with a public official. Or at least it might; staff is unsure what “services between two third parties” means. The goal of the change in 2021 was to strengthen the ban on legislators working as a lobbyist, and that issue was addressed in the same legislation with a modification to Chapter 3, which specifically prohibits legislators from working as a registered lobbyist, or working for firms that are in the government relations space. The recommendation would be to delete the change to the definition in Chapter 10A only.

### 10A.01 Definitions

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:

(i) 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

~~(ii) from a business whose primary source of revenue is derived from facilitating government relations or government affairs services between two third parties; or~~

(2) who spends more than \$250, 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.

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State of Minnesota HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2173

03/11/2021 Authored by Nelson, M., The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act
1.2 relating to lobbyists; modifying lobbyist registration and reporting; creating
1.3 definitions; amending Minnesota Statutes 2020, sections 10A.01, subdivision 21,
1.4 by adding subdivisions; 10A.025, subdivision 4; 10A.03, subdivision 2, by adding
1.5 a subdivision; 10A.04, subdivisions 3, 4, 6, 9; repealing Minnesota Rules, part
1.6 4511.0600, subpart 5.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 12a. Designated lobbyist. "Designated lobbyist" means the lobbyist responsible
1.11 for reporting the lobbying disbursements and activity of the entity the lobbyist represents.

1.12 Sec. 2. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision to
1.13 read:

1.14 Subd. 17d. General lobbying category. "General lobbying category" means an area of
1.15 interest for lobbying for an entity that is on a list of categories specified by the board.

1.16 Sec. 3. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision to
1.17 read:

1.18 Subd. 19a. Legislative action. "Legislative action" means any of the following:

1.19 (1) the development of prospective legislation, including the development of amendment
1.20 language to prospective legislation;

2.1 (2) the review, modification, adoption, or rejection by a member of the legislature or an  
 2.2 employee of the legislature, if applicable, of any (i) bill, (ii) amendment, (iii) resolution,  
 2.3 (iv) confirmation considered by the legislature, or (v) report;

2.4 (3) the development of, in conjunction with a constitutional officer, prospective legislation  
 2.5 or a request for support or opposition to introduced legislation; and

2.6 (4) the action of the governor in approving or vetoing any act of the legislature or portion  
 2.7 of an act of the legislature.

2.8 Sec. 4. Minnesota Statutes 2020, section 10A.01, subdivision 21, is amended to read:

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

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

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

2.19 (b) "Lobbyist" does not include:

2.20 (1) a public official;

2.21 (2) an employee of the state, including an employee of any of the public higher education  
 2.22 systems;

2.23 (3) an elected local official;

2.24 (4) a nonelected local official or an employee of a political subdivision acting in an  
 2.25 official capacity, unless the nonelected official or employee of a political subdivision spends  
 2.26 more than 50 hours in any month attempting to influence legislative or administrative action,  
 2.27 or the official action of a metropolitan governmental unit other than the political subdivision  
 2.28 employing the official or employee, by communicating or urging others to communicate  
 2.29 with public or local officials, including time spent monitoring legislative or administrative  
 2.30 action, or the official action of a metropolitan governmental unit, and related research,  
 2.31 analysis, and compilation and dissemination of information relating to legislative or  
 2.32 administrative policy in this state, or to the policies of metropolitan governmental units;

3.1 (5) a party or the party's representative appearing in a proceeding before a state board,  
 3.2 commission, or agency of the executive branch unless the board, commission, or agency is  
 3.3 taking administrative action;

3.4 (6) an individual while engaged in selling goods or services to be paid for by public  
 3.5 funds;

3.6 (7) a news medium or its employees or agents while engaged in the publishing or  
 3.7 broadcasting of news items, editorial comments, or paid advertisements which directly or  
 3.8 indirectly urge official action;

3.9 (8) a paid expert witness whose testimony is requested by the body before which the  
 3.10 witness is appearing, but only to the extent of preparing or delivering testimony; or

3.11 (9) a party or the party's representative appearing to present a claim to the legislature  
 3.12 and communicating to legislators only by the filing of a claim form and supporting documents  
 3.13 and by appearing at public hearings on the claim.

3.14 (c) An individual who volunteers personal time to work without pay or other consideration  
 3.15 on a lobbying campaign, and who does not spend more than the limit in paragraph (a), clause  
 3.16 (2), need not register as a lobbyist.

3.17 (d) An individual who provides administrative support to a lobbyist and whose salary  
 3.18 and administrative expenses attributable to lobbying activities are reported as lobbying  
 3.19 expenses by the lobbyist, but who does not communicate or urge others to communicate  
 3.20 with public or local officials, need not register as a lobbyist.

3.21 Sec. 5. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision to  
 3.22 read:

3.23 Subd. 26b. Official action of metropolitan governmental units. "Official action of  
 3.24 metropolitan governmental units" means any action that requires a vote or approval by one  
 3.25 or more elected local officials while acting in their official capacity; or an action by an  
 3.26 appointed or employed local official to make, to recommend, or to vote on as a member of  
 3.27 the governing body, major decisions regarding the expenditure or investment of public  
 3.28 money.

3.29 Sec. 6. Minnesota Statutes 2020, section 10A.01, is amended by adding a subdivision to  
 3.30 read:

3.31 Subd. 35c. Specific subject of interest. "Specific subject of interest" means a particular  
 3.32 topic or area of lobbying interest within a general lobbying category.



4.1 Sec. 7. Minnesota Statutes 2020, section 10A.025, subdivision 4, is amended to read:

4.2 Subd. 4. **Changes and corrections.** Material changes in information previously submitted  
4.3 and corrections to a report or statement must be reported in writing to the board within ten  
4.4 days following the date of the event prompting the change or the date upon which the person  
4.5 filing became aware of the inaccuracy. The change or correction must identify the form and  
4.6 the paragraph containing the information to be changed or corrected. A request from the  
4.7 board to a lobbyist to provide more detailed information about a specific subject of interest  
4.8 disclosed on a lobbyist disbursement report is a change or correction governed by this  
4.9 subdivision.

4.10 A person who willfully fails to report a material change or correction is subject to a civil  
4.11 penalty imposed by the board of up to \$3,000. A willful violation of this subdivision is a  
4.12 gross misdemeanor.

4.13 The board must send a written notice to any individual who fails to file a report required  
4.14 by this subdivision. If the individual fails to file the required report within ten business days  
4.15 after the notice was sent, the board may impose a late filing fee of \$25 per day up to \$1,000  
4.16 starting on the 11th day after the notice was sent. The board may send an additional notice  
4.17 by certified mail to an individual who fails to file a report within ten business days after the  
4.18 first notice was sent by the board. The certified notice must state that if the individual does  
4.19 not file the requested report within ten business days after the certified notice was sent, the  
4.20 individual may be subject to a civil penalty for failure to file a report. An individual who  
4.21 fails to file a report required by this subdivision within ten business days after the certified  
4.22 notice was sent by the board is subject to a civil penalty imposed by the board of up to  
4.23 \$1,000.

4.24 Sec. 8. Minnesota Statutes 2020, section 10A.03, subdivision 2, is amended to read:

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

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

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

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

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

5.1 (5) ~~a~~ the general description of the subject or subjects lobbying categories on which the  
 5.2 lobbyist expects to lobby; on behalf of a represented entity; and

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

5.5 Sec. 9. Minnesota Statutes 2020, section 10A.03, is amended by adding a subdivision to  
 5.6 read:

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

5.12 Sec. 10. Minnesota Statutes 2020, section 10A.04, subdivision 3, is amended to read:

5.13 Subd. 3. Information to lobbyist. An employer or employee about entity or lobbyist  
 5.14 whose activities a are reported to the board by another lobbyist is required to report must  
 5.15 provide the information required by subdivision 4 to the lobbyist no later than five days  
 5.16 before the prescribed filing date.

5.17 Sec. 11. Minnesota Statutes 2020, section 10A.04, subdivision 4, is amended to read:

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

5.21 (b) A lobbyist must report the specific subjects of interest for an entity represented by  
 5.22 the lobbyist on each report submitted under this section. A lobbyist must describe a specific  
 5.23 subject of interest in the report with enough information to show the particular issue of  
 5.24 importance to the entity represented.

5.25 (b)(c) A lobbyist must report the lobbyist's total disbursements on lobbying, separately  
 5.26 listing lobbying to influence legislative action, lobbying to influence administrative action,  
 5.27 and lobbying to influence the official actions of a metropolitan governmental unit, and a  
 5.28 breakdown of disbursements for each of those kinds of lobbying into categories specified  
 5.29 by the board, including but not limited to the cost of publication and distribution of each  
 5.30 publication used in lobbying; other printing; media, including the cost of production; postage;  
 5.31 travel; fees, including allowances; entertainment; telephone and telegraph; and other  
 5.32 expenses. every state agency that had administrative action that the represented entity sought

6.1 to influence during the reporting period. The lobbyist must report the specific subjects of  
 6.2 interest for each administrative action and the revisor rule draft number assigned to the  
 6.3 administrative rulemaking.

6.4 (d) A lobbyist must report every metropolitan governmental unit that considered official  
 6.5 action that the represented entity sought to influence during the reporting period. The lobbyist  
 6.6 must report the specific subjects of interest for each action.

6.7 (e) A lobbyist must report general lobbying categories and up to four specific subjects  
 6.8 of interest related to each general lobbying category on which the lobbyist attempted to  
 6.9 influence legislative action during the reporting period. If the lobbyist attempted to influence  
 6.10 legislative action on more than four specific subjects of interest for a general lobbying  
 6.11 category, the lobbyist, in consultation with the represented entity, must determine which  
 6.12 four specific subjects of interest were the entity's highest priorities during the reporting  
 6.13 period and report only those four subjects. If a reported specific subject of interest was  
 6.14 contained in legislation that the lobbyist attempted to influence that passed at least one body  
 6.15 of the legislature, the lobbyist must identify that legislation by bill number.

6.16 (f) A lobbyist must report the Public Utilities Commission project name for each rate  
 6.17 setting, power plant and powerline siting, or granting of certification of need before the  
 6.18 Public Utilities Commission that the represented entity sought to influence during the  
 6.19 reporting period.

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

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

6.30 (i) The designated lobbyist must report disbursements made, and obligations incurred,  
 6.31 that exceed \$2,000 for paid advertising used for the purpose of urging members of the public  
 6.32 to contact public or local officials to influence official actions during the reporting period.  
 6.33 Paid advertising includes the cost to increase the distribution of an advertisement on social  
 6.34 media. The designated lobbyist must provide in the report the date that the advertising was

7.1 purchased, the name and address of the vendor, a description of the advertising purchased,  
 7.2 and any specific subject or subjects of interest addressed by the advertisement.

7.3 ~~(e)-(j) On the report due June 15, the a lobbyist must provide a disclose the general~~  
 7.4 ~~description of the subjects lobbying categories that were lobbied on in the previous 12-~~  
 7.5 ~~months reporting period.~~

7.6 Sec. 12. Minnesota Statutes 2020, section 10A.04, subdivision 6, is amended to read:

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

7.9 (b) ~~Except as provided in paragraph (d),~~ The principal must report the total amount,  
 7.10 rounded to the nearest ~~\$20,000~~ \$10,000, spent by the principal during the preceding calendar  
 7.11 year ~~to influence legislative action, administrative action, and the official action of~~  
 7.12 ~~metropolitan governmental units.~~ on each type of lobbying listed below:

7.13 (1) lobbying to influence legislative action;

7.14 (2) lobbying to influence administrative action, other than lobbying described in clause 7.15  
 7.15 (3);

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

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

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

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

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

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

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

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

8.9 Sec. 13. Minnesota Statutes 2020, section 10A.04, subdivision 9, is amended to read:

8.10 Subd. 9. **Reporting by multiple lobbyists representing the same entity.** Clauses (1)  
8.11 to (6) apply when a single individual, association, political subdivision, or public higher  
8.12 education system is represented by more than one lobbyist.

8.13 (1) The entity must appoint one designated lobbyist to report lobbyist disbursements  
8.14 made by the entity. An entity represented by more than one lobbyist may only have one  
8.15 designated lobbyist at any given time. The designated lobbyist must indicate that status on  
8.16 the periodic reports of lobbyist disbursements.

8.17 (2) A reporting lobbyist may consent to report on behalf of one or more other lobbyists  
8.18 for the same entity, in which case, the other lobbyists are persons whose activities the  
8.19 reporting lobbyist must disclose and are subject to the disclosure requirements of subdivision  
8.20 3. Lobbyist disbursement reports filed by a reporting lobbyist must include the names and  
8.21 registration numbers of the other lobbyists whose activities are included in the report.

8.22 (3) Lobbyists whose activities are accounted for by a reporting lobbyist are not required  
8.23 to file lobbyist disbursement reports.

8.24 (4) A lobbyist whose lobbying disbursements are provided to the board through a  
8.25 reporting lobbyist must supply all relevant information on disbursements to the reporting  
8.26 lobbyist no later than five days before the prescribed filing date.

8.27 (5) The reporting periods and due dates for a reporting lobbyist are those provided in  
8.28 subdivision 2. The late filing provisions in subdivision 5 apply to reports required by this  
8.29 subdivision.

8.30 (6) The reporting lobbyist must indicate the names and registration numbers of any  
8.31 lobbyists who did not provide their lobbying disbursements for inclusion in a report. The  
8.32 late filing provisions in subdivision 5 apply to lobbyists who fail to report information to  
8.33 the reporting lobbyist.

9.1 Sec. 14. **REPEALER.**

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

**4511.0600 REPORTING DISBURSEMENTS.**

Subp. 5. **Specific disbursement categories.** Lobbying disbursements must be reported based on the categories in items A to I.

A. "Lobbying materials" includes the cost of production, purchase, or other acquisition of materials that directly support lobbying.

B. "Media costs" includes the cost of media space or time, including website design and maintenance, used for lobbying activities. The cost of preparation of materials for use in the media is reported in the lobbying materials category.

C. "Telephone and communications" includes costs for local and long-distance telephone services, electronic mail, pagers, cellular telephones, facsimile distribution services, telegraph, and other communications services.

D. "Postage and distribution" includes costs of postage from the United States Postal Service as well as other distribution costs associated with lobbying activities.

E. "Fees and allowances" includes fees for consulting, surveys, polls, legal counsel, or other services as well as expenses associated with those services.

F. "Entertainment" includes costs of all entertainment associated with any situation where lobbying activities take place.

G. "Food and beverages" includes costs of all food and beverages associated with any situation where lobbying activities take place.

H. "Travel and lodging" includes costs of all travel and lodging associated with any lobbying activity, excluding the costs of the lobbyist's own travel to accomplish the lobbying activity.

I. "Other disbursements" includes general administration and overhead and any other lobbyist disbursements not reported in other categories.

**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD  
JANUARY 2023**

**ACTIVE FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
	Environment America dba Environment Minnesota Contacts: Timothy Schaefer, Chuck Caldart	2021 Annual Report of Lobbyist Principal, due 3/15/22	\$1,000 LFF \$1,000 CP	12/6/22				
Martinez-Perez, Ashley, Candidate	Ashley Martinez-Perez for MN House	2020 pre-general report of receipts and expenditures due 10/26/20, filed 10/28/20  2020 year end report of receipts and expenditures due 1/31/22, not filed	\$100 LFF  \$1,000 LFF	6/13/22	8/12/22			Currently drafting default judgment motion.
	Trace, LLC Contacts: Ashley Moore, Patrick Hynes	2021 Annual Report of Lobbyist Principal, due 3/15/22	\$1,000 LFF \$1,000 CP	12/6/22				



**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
Burg, Ashley, Candidate		Candidate Statement of Economic Interest, due 6/14/22	\$100 LFF \$1,000 CP	12/6/22				Burg filed her EIS and requested a waiver of LFF and CP. Board requested matter be closed.
Ohlmann, Stephanie, Lobbyist	Protect Minnesota Contact: Rashmi Seneviratne	Lobbyist Disbursement Report: period 1/1- 5/31/22, due 6/15/22	\$1,000 LFF	12/6/22				Ohlmann resolved the matter. Board requested matter be closed.