

Minnesota Attorney General: Administrative Rules Proceedings

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Attorney General

Mark Suby
Special Assistant
Attorney General

June 29, 1978

Lee E. Sheehy
Special Assistant
Attorney General

296-1293

In the Matter of the Proposed Temporary Rules of the Ethical Practices Board Relating to Economic Interest Disclosure

The temporary rules and temporary rules repeal in the above captioned matter are approved expect for the following:

1. First sentence of 1.0105(A): The use of the word "may" improperly grants the agency unfettered discretion.

Other matters for your clients consideration but which do not relate to this office's review for form and legality are as follows:

(a) 1.0100(B): The addition of the word "supplemental" between the words "filing" and "statement" would seem to clarify that provision.

(b) 1.0101: Addition of the clause "or candidate" after the word "public official" would conform this requirement with the agency's apparent intention as reflected elsewhere in the rules.

If you have questions, do not hesitate to contact me.

LES:mb

Enclosure

cc: B. Allen Clutter

#435

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 6/15/78 Temporary Rule ✓

Resubmitted and Received _____

DUE DATE 6/20/78

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved _____ Date Sent Back to Agency _____

- -

1. Rules as Adopted _____
2. Rules as Proposed _____
3. Certificate of Board's Authorizing Resolution, where applicable _____
4. Order for Hearing _____
5. Notice of Hearing _____
   (i) Sufficiency _____
6. Secretary of State's List _____
7. Certificate of Acquisition of Secretary of State's List _____
8. Affidavit of Mailing _____
   (i) At least 30 days prior to hearing _____
9. Statement of Need and Evidence _____
10. Hearing Examiner's Report _____
11. Agency's Findings of Fact _____
12. Certificate of Board's Resolution Adopting Rules, where applicable _____
13. Order Adopting _____
14. Report of Chief Hearing Examiner _____
    (i) Finding of No Substantial Change _____
    (ii) Permission to Incorporate by Reference, where applicable _____
15. Certificate of Compliance with Rulemaking Procedures _____
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable _____
17. Petition by Public, where applicable _____.

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Jerk Suby
Special Assistant
Attorney General

DATE: June 22, 1978

FROM : Lee B. Sheehy
Special Assistant
Attorney General

PHONE: 296-1238

SUBJECT: Proposed Ethical Practices Board Temporary Rules

As we discussed, the following rules in the above-captioned matter are disapproved at this time for the following reasons:

1. 1.0002(c): The contradiction between the proposed definition of "calendar year" and statutory provisions including Minn. Stat. 10A.32, Subd. 3(b) (1978).

2. 1.0006: The use of the word "may" creates unbridled agency discretion. The word "shall" must be used. The rule also fails to articulate policy criteria, if any are appropriate, which the agency will consider in making its decision.

3. Portion of 1.0008(A): Delegation of authorization power to the deputy treasurer improperly varies Minn. Stat. 10A.17, Subd. 2. (1978).

4. 1.0008(B): The use of the word "may" and lack of policy criteria, if any are appropriate, is improper for the reasons set forth in paragraph No. 1 above.

5. First sentences of 1.0027(A): The use of the "may" and lack of policy criteria, if any are appropriate, is improper for the reasons set forth in paragraph No. 1 above.

6. 1.0044: It is not a "rule" within the meaning of Minn. Stat. § 15.0411, Subd. 3 (1977).

All other rules and severable portions of rules are approved as to form and legality for purposes of this office's review pursuant to Minn. Stat. § 15.0412, Subd. 5 (1977).

Other matters and changes which the agency may wish to consider but which are not a part of our review for form and legality are as follows:

(a) The repeal of existing rules is also temporary, and permanent repeal must be a part of your formal full-scale rulemaking process.

June 22, 1976

(b) 1.0003: You may wish to add the word "political" before the word "fund" to conform this rule to the others.

(c) 1.0021: The word "which" seems improper in the rule as amended.

(d) 1.0034(3): You may wish to add the word "political" to conform this rule to others.

(e) 1.0037(A): The "t" is missing in the second line.

If you have any questions, do not hesitate to call me.

LES:mb

cc: Representative Michael J. George
Duane Harves
Marshall Whitlock
Allen Clutter III

MINNESOTA STATE

ETHICAL PRACTICES BOARD

Rules and Regulations

C O N T E N T S

Campaign Financing

Chapter One

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B. "Business Day"

C. "Calendar Year"

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E. "Fundraising Event"

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H. "Unpaid Bills"

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MINNESOTA STATE ETHICAL PRACTICES BOARD

Rules and Regulations

Relating to Campaign Financing

Chapter One

9MCAR 1.0001-9MCAR 1.00464

Supersedes and repeals EPB Rules 1-39. Pursuant to Minn. Session Laws, Chapter 463, Section 108, these temporary rules are adopted to give effect to the campaign financing provisions of Minn. Stat. Chapter 10A, the Ethics In Government Act, as amended by Minnesota Session Laws 1978, Chapter 463 and Chapter 793, and shall be effective until permanent rules are adopted pursuant to Minn. Stat. Chapter 15 or until October 1, 1979, whichever occurs first.

9MCAR 1.0001 APPLICABILITY OF RULES

These rules apply to principal campaign committees, political committees, political funds, individuals and associations that raise or expend in excess of $100 in a calendar year to influence the nomination or election of a candidate for the office of governor, lieutenant governor, attorney general, state treasurer, secretary of state, state auditor, state senator, state representative, justice of the state supreme court or judge of state district court.

9MCAR 1.0002 DEFINITIONS

A. "Act" means the Ethics In Government Act, Minn. Stat. Chapter 10A as amended by Minnesota Session Laws, 1978, Chapters 463 and 793.

~~B. "Board" means the Minnesota State Ethical Practices Board.~~

B. "Business Day" means 8:00 a.m. to 4:30 p.m. Monday through Friday except for official state holidays.

C. "Calendar Year" in 1978, for purposes of campaign expenditure and contribution limits, means February 28 through December 31, 1978.

D. "File", "Filed", and "Filing" means delivery to the office of the Board

by 4:30 p.m. on the prescribed filing date or postmarked two days prior to the filing date.

E. "Fundraising Event" means any dinner, luncheon, rally, coffee party, cocktail party, or other similar gathering of three or more individuals where contributions are solicited or received to influence the nomination or election of a candidate.

F. "Money" means cash on deposit in banks and other depositories, checks, negotiable instruments and other paper commonly accepted by a bank as a deposit, and transfers through electronic funds transfers.

G. "Periodic Report" means the Report of Receipts and Expenditures required to be filed with the Board at prescribed filing dates.

H. "Unpaid Bills" means advance of credit.

9MCAR 1.0003 AGREEMENT TO MAKE LOANS

An agreement to make a loan to a political committee or fund shall be made in writing, signed by the borrower (and endorsers, if any) and reported on the appropriate schedule.

9MCAR 1.0004 ALLOCATION OF APPROVED EXPENDITURES

Except for a political party expenditure as provided in Minn. Stat. 10A.275, the treasurer of a political committee or political fund making an approved expenditure on behalf of more than one candidate shall allocate the expenditure among such candidates on a reasonable proportionate basis and report the allocation to each candidate on periodic reports.

9MCAR 1.0005 ALLOCATION OF MONEY FROM GENERAL ACCOUNT REFUSED BY A CANDIDATE

Monies refused by a candidate from the general account of the State Election Campaign Fund shall be reapportioned to all the office accounts as provided by Minn. Stat. Chapter 10A.31, subd. 5 (a)-(e) and distributed to all qualifying candidates.

9MCAR 1.0006 AMENDMENTS

The Board or its staff may request a candidate or treasurer of a political committee or political fund to submit an amendment to complete or to correct a statement or periodic report previously filed provided the Board request is in writing. Such amendments shall be filed within 10 business days after receipt of a notice by a candidate or treasurer. This provision does not alter the obligation of the treasurer to file an amended statement or periodic report within 10 days of the time an individual bec omes aware of an inaccuracy or omission. The Board may grant an extension of the filing deadline upon written request.

9MCAR 1.0007 ANONYMOUS CONTRIBUTIONS

Any single contribution in excess of $20 for which no donor can be identified by the committee or fund shall be forwarded in its entirety to the Board within 14 days after its receipt. When forwarding such an anonymous contribution, the treasurer of the committee or fund shall report to the Board the amount of the contribution and the date on which it was received.

9MCAR 1.0008 APPROVED EXPENDITURES AND DETERMINATION BY THE BOARD

A. No approved expenditure in excess of $20 on behalf of a candidate shall be made until the individual or association receives a written authorization from the treasurer, deputy treasurer, or candidate of the principal campaign committee containing the following information: Date; Amount of expenditure; Name of individual/committee/fund making the expenditure; Purpose of the expenditure; Candidate on whose behalf expenditure is made; Office sought; Expenditure authorized by signature of treasurer, deputy treasurer, or candidate of principal campaign committee.

B. The Board may determine, on a case by case basis, when an expenditure, as defined by Minn. Stat. 10A.01, subd. 10a, on behalf of a candidate by an individual or association, was an approved expenditure made without the required written authorization of the treasurer, deputy treasurer or candidate of the

principal campaign committee, pursuant to Minn. Stat. 10A.17, subd. 2.

9MCAR 1.0009 ASSOCIATION NEWSLETTERS ON BEHALF OF A CANDIDATE

Unless the association is making an independent expenditure, the proportionate cost of preparation and distribution of a newsletter which advocates the nomination or election of a candidate is a donation in kind and must be approved by the candidate if the cost exceeds $20 per candidate.

9MCAR 1.0010 CAMPAIGN HEADQUARTERS

A reasonable proportion of the cost of a political party's headquarters which serves as the headquarters of a candidate must be allocated to the candidate and reported as a campaign expenditure by the principal campaign committee of the candidate.

9MCAR 1.0011 CAMPAIGN LITERATURE

Campaign literature paid for and distributed by a candidate or a principal campaign committee of a candidate running for office which contains pictures of, or incidental references to another candidate or office holder will not be considered an approved and authorized expenditure on behalf of the other candidate provided the candidacy of the other candidate is not mentioned and no direct or indirect appeal for support of the other candidate is made, or if there is an independent expenditure disclaimer.

9MCAR 1.0012 CERTIFICATION

A. The signature of the treasurer or deputy treasurer of record shall be sufficient certification on forms prescribed by the Board. Notarization is not required.

B. A candidate may sign forms that the treasurer or deputy treasurer of the committee is required to file.

9MCAR 1.0013 CHANGE OF OFFICE SOUGHT BY CANDIDATE

A. Contribution and expenditure limits. When a candidate, who sought nomination or election to one office, subsequently seeks the nomination or election to

another office in the same election year, expenditures incurred and contributions received to influence the nomination or election to the first office will not be counted toward the campaign contribution and expenditure limits to the subsequent office sought.

B. Registration requirement. A candidate who seeks another office must designate a separate principal campaign committee and a separate depository for funds for the office sought.

C. Tax credit subsidy & public financing agreements. A candidate may sign a tax subsidy agreement for the calendar year for each office sought until December 31. A candidate may sign a public financing agreement for each office sought until September 1 of the general election year. Signing a public financing agreement ~~for another office~~ by September 1 automatically rescinds a previously filed agreement~~.~~ for another office.

9MCAR 1.0014 COMPLAINTS OF VIOLATIONS

A. Any person who believes a violation of the act or of these rules has occurred may submit an oral or written complaint to the Board.

B. There is no prescribed form for a written complaint, but all such complaints shall be typewritten or handwritten legibly. The name and address of the person making the complaint shall be typewritten or hand printed on the complaint and it shall be signed by such person. A complaint shall name the alleged violator and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints will not be available for public inspection or copying until after the Board makes a finding. No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator or is unsigned~~.~~ by the complainant.

C. The Board need not investigate an oral complaint. No investigation shall be undertaken if an oral complaint is frivolous on its face, too indefinite,

does not identify the violation, or does not identify the complainant. There is no prescribed format for an oral complaint, but all oral complaints must describe in sufficient detail the alleged violator and violation of the act or rules.

D. Any portion of a meeting during which the Board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting shall be closed to the public. The minutes of such a meeting shall be kept confidential.

9MCAR 1.0015 CONTRIBUTIONS BETWEEN PRINCIPAL CAMPAIGN COMMITTEES OF THE SAME CANDIDATE

A. Exclusive of personal funds of a candidate as reported on the periodic reports, the candidate may permit his principal campaign committee to accept contributions up to the applicable contribution limit for a political committee from another principal campaign committee formed by that candidate in seeking another office to further his nomination or election to the other office.

B. If the other principal campaign committee is a federally registered committee, then the provisions of Minn. Stat. 10A.22, subd. 7 apply as well as the contribution limit of the receiving committee.

9MCAR 1.0016 CONTRIBUTION DISCLOSURE - JUDGESHIP

A candidate for a district or supreme court judgeship shall be considered a statewide candidate for purposes of the contribution disclosure requirements set forth in Minn. Stat. 10A.20, subd. 3(b).

9MCAR 1.0017 CONTRIBUTIONS FROM A NON REGISTERED POLITICAL COMMITTEE AND FUND

A political committee or political fund shall not accept a contribution of more than $100 from an association not registered with the Board, including federally registered committees and funds, unless the association registers with the Board within 14 days after making the contribution or provides the recipient political committee or political fund with all information required by Minn.

Stat. 10A.20.

9MCAR 1.0018 CONTRIBUTION LIMITS - POLITICAL PARTY DEFINITION

For purposes of determining an aggregate political party contribution limit, the organization of a political party does not include a political party ward organization, a social club of a political party in a congressional district, legislative district, municipality or precinct, an auxiliary committee of a political party unit defined by Minn. Stat. 10A.27, subd. 4, or any association which uses a political party name and is not listed in Minn. Stat. 10A.27, subd. 4.

9MCAR 1.0019 EMPLOYEE VOLUNTARY CONTRIBUTION PLAN

If an individual employee of a corporation doing business in Minnesota makes a voluntary contribution to a state candidate through a ~~program~~ plan made available by ~~a~~ that corporation and the employee retains sole and exclusive control of accumulated funds in the employee's name, the corporation providing ~~the employee benefit~~ such a plan on a nonpartisan basis is not required to register and report as a political committee or political fund. ~~The~~ A political committee or political fund ~~shall report and disclose~~ in receipt of the contribution from the individual shall report on the periodic report as required by Minn. Stat. Chapter 10A.

9MCAR 1.0020 EXPENSES INCURRED TO REPAY LOANS

The expenses of raising money to repay outstanding loans from a previous calendar year are reportable as campaign expenditures in the year in which expenses are incurred.

9MCAR 1.0021 FORGIVENESS AND PAYMENT OF A LOAN

~~A. If a political committee or political fund forgives a loan owed to it, the amount becomes a contribution for the period during which the loan was first made.~~

~~B.~~ When a loan to a principal campaign committee is forgiven or repaid by an individual, political committee, or political fund, in accordance with Minn.

Stat. 10A.32, subd. 3(b), a candidate who accepts money from the State Election Campaign Fund and whose aggregate contribution limit is exceeded, shall return to the Board with the required periodic report amendment ~~to the~~ or periodic report, a check or money order, payable to the State Treasurer for the amount which ~~must be returned~~ in excess of the aggregate contribution limit~~.~~ but not to exceed the amount received from the State Election Campaign Fund.

9MCAR 1.0022 FORGIVENESS AND PAYMENT OF UNPAID BILLS

~~A. If a political committee or political fund forgives any unpaid bill in excess of $20 owed to it, the amount is a donation in kind to the recipient for the period in which the unpaid bill was incurred.~~

~~B.~~ When a donation in kind in excess of $20 results from the forgiveness of an unpaid bill or payment of an unpaid bill by an individual, political committee or political fund other than the principal campaign committee causes the aggregate contribution limit of a candidate who accepts money from the State Election Campaign Fund to be exceeded, in accordance with Minn. Stat. 10A.32, subd. 3(b), a candidate shall return the amount due, but not to exceed the amount received from the State Election Campaign Fund, by a check or money order made out to the State Treasurer with the required amendment ~~to the~~ or periodic report.

9MCAR 1.0023 FUNDRAISING EVENT

A. The expenses of a fundraising event held by the state or local committee of a political party for one or two candidates are a donation in kind and, except for food and beverage consumed at the fundraising event, shall be reported as a campaign expenditure by the candidate or candidates under the following conditions:

1. The fundraising event is expressly or implicitly approved by the candidate, his treasurer, or agent to be held "on behalf of" the candidate; and

2. The candidate or candidates are "clearly identified" in advertisements, tickets, or any advance publicity for the fundraising event; and

3. The candidate receives proceeds, if any, from the fundraising event.

"Clearly identified" means that: (a) the name of the candidate is used; or (b) a photograph or drawing of the candidate appears; or (c) the identity of the candidate is apparent by unambiguous reference.

B. A separate committee may be established by two or more candidates to report the contributions and expenditures as required by the act for a fundraising event held jointly. The expenses of the fundraising event shall be allocated among the candidates on a reasonable proportionate basis as donations in kind~~.~~, and, except for food and beverage consumed at a fundraising event, as campaign expenditures. A transfer of funds to a candidate combined with the value of donations in kind from that committee, may not exceed the applicable contribution limit ~~to~~ for ~~a political committee.~~ an individual, political committee, or political fund set forth in Minn. Stat. 10A.27, subdivision 1.

9MCAR 1.0024 INACTIVE REGISTERED COMMITTEES AND FUNDS

A registered committee or fund which receives no income and makes no expenditures or non-campaign disbursements during a reporting period may so indicate in the space provided on the periodic report and shall thereby satisfy the reporting requirement.

9MCAR 1.0025 JOINT CHECKS

When a contribution is given on a check written on a joint account, it shall be deemed a contribution by the signator(s) of the check unless otherwise specified by the signator(s). When a contribution is given on a check written on a joint account and specified as a joint contribution, it shall be deemed a separate contribution by each of the holders of the joint account in a proportional amount.

9MCAR 1.0026 JOINT LIMITS FOR GOVERNOR AND LT. GOVERNOR

A. A candidate seeking the endorsement for Lt. Governor who signs a tax credit subsidy agreement does not bind either the candidate for Governor or

his/her candidacy to campaign expenditure limits following their joining of candidacies. Following their joint endorsement or filing for office, the candidates must jointly sign the public financing agreement and/or the tax subsidy agreement if they wish to participate in public financing.

B. Candidates for Governor and Lt. Governor may cause their separate principal campaign committees to be combined as one with no limit on the amount of funds transferred between the two committees. Such action may be taken regardless of whether the action results in either principal campaign committee terminated with outstanding unpaid bills or loans provided that the unpaid bills or loans are assumed and continuously reported until paid or forgiven by the remaining committee.

9MCAR 1.0027 LATE FILING FEES

A. The Board may grant a waiver of a late filing fee for sickness or injury of the filer, or other compelling reason. A written request for a waiver must be submitted not later than the fifth business day after filing the late statement or periodic report.

B. A late filing fee will be charged through the day preceding the day of filing of a late statement or late periodic report.

C. The Board shall send a delinquency notice by certified mail to the treasurer of a political committee or political fund within ten business days after a filing date. A copy of the notice shall be sent by first class mail to the candidate and the chairman of a political committee or political fund. If a certified letter is returned by the post office to the Board as refused, then the letter shall be deemed to have been received by the addressee~~,~~ on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the Board as undelivered ~~or refused~~ shall be forwarded by first class mail to the treasurer. An undelivered notice of late filing shall be considered received by the recipient five

business days after the first class mailing.

9MCAR 1.0028 MEDIA ADVERTISEMENTS - CANDIDATES

If a candidate participates in, but does not pay for, a media advertisement paid for by ~~another candidate advocating~~ a principal campaign committee other than his own which advocates the nomination or election of other candidates or federal candidates, no portion of the cost of the advertisement shall be considered an approved expenditure on behalf of the participating candidate ~~who participates~~ provided his candidacy is not mentioned and no direct or indirect appeal for support for his candidacy is made.

9MCAR 1.0029 NONCAMPAIGN DISBURSEMENTS - CONSTITUENT SERVICES

A. Expenses paid by the principal campaign committee of a candidate in a non-election year and before adjournment sine die of the legislature in an election year for the office held, for constituent services including newsletters, public opinion questionnaires, aides to legislators for constituent services during a legislative session, stationery not printed at government expense, postage, and rent for district offices shall be reported as a constituent service noncampaign disbursement~~s~~. Only that portion of the expense actually used or consumed for services to constituents shall be reported as a noncampaign disbursement~~s~~.

B. Costs of constituent services paid from personal funds of an officeholder ~~and provided during non election years and through the day of~~ incurred before adjournment sine die of the legislature in ~~an~~ the election year for the office held are not required to be reported by the principal campaign committee of the ~~candidate.~~ officeholder.

C. Costs of providing constituent services ~~for~~ by an officeholder who is a candidate after adjournment sine die of the legislature in the election year for the office held and sought are reportable by the principal campaign committee as campaign expenditures.

D. Constituent services provided after adjournment sine die in the year of an election for an officeholder who is a candidate which is paid for from the personal funds of the officeholder shall be considered a donation in kind and reported as such by the principal campaign committee of the candidate.

9MCAR 1.0030 NONCAMPAIGN DISBURSEMENTS - MISCELLANEOUS

Other expenses which are to be reported as miscellaneous noncampaign disbursements if paid for by the principal campaign committee of the candidate include~~:~~; but not be limited to: costs for child care for the candidate's children when campaigning; fees paid to attend a campaign school; costs of a post election party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first; interest on loans paid by a principal campaign committee on outstanding loans; and filing fees if permitted by other Minnesota law.

9MCAR 1.0031 ORGANIZATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS

~~A.--Any-group-of-two-or-more-persons-which-receives-a-contribution-or-makes an-expenditure,-or-a-transfer-of-funds,-in-aggregate,-in-excess-of-$100-to influence-the-nomination-for-election-or-election-of-candidates-for-statewide or-legislative-office-or-makes-any-independent-expenditures-in-excess-of-$100 must-register-a-political-committee-or-political-fund.--If-the-group-has-as its-major-purpose-the-influencing-of-election-of-a-candidate-or-candidates,-it shall-register-as-a-political-committee.--If-the-group-is-an-association-which has-a-major-purpose-other-than-the-influencing-of-election,-it-shall-establish a-political-fund.--When-a-person-or-group-merely-solicits-contributions-with-the approval-of-the-candidate,-a-treasurer,-deputy-treasurer-or-an-agent-of-a political-committee-or-political-fund-which-are-made-directly-to-a-reporting committee-or-fund,-such-person-or-group-is-not-required-to-establish-an-additional-committee-or-fund.~~

A. Any group of two or more persons which receives contributions or which

makes expenditures, transfers of funds, or independent expenditures in aggregate in excess of $100 to influence the nomination or election of one or more candidates for statewide or legislative office must register as a political committee or political fund. If the group's major purpose is to influence the nomination or election of one or more candidates, it shall register as a political committee. If the group is an association whose major purpose is one other than to influence nominations or elections, it shall establish a political fund. When a person or group merely solicits contributions with the approval of a candidate or the treasurer, deputy treasurer or agent of a political committee or political fund and when those contributions are made directly to the reporting committee or fund, that person or group need not establish a separate political committee or political fund.

B. A candidate may be his own chairman and/or treasurer.

C. All monetary assets of a committee or fund shall be kept in designated depositories in accounts named in accordance with Minn. Stat. 10A.15, subd. 3.

D. The funds of a political committee or the contents of a political fund shall not be commingled with any other funds or with the personal funds of a candidate, any officer or member of the committee or fund.

9MCAR 1.0032 PAYMENT OF COMPENSATION FOR PERSONAL SERVICES

The gross value of compensation, in excess of $20, for personal services of an individual or group which are rendered to a candidate, political committee or political fund is reported as a donation in kind from the individual or association that makes the payment.

~~9MCAR 1.0033 PREPAID CAMPAIGN EXPENSES~~

~~Goods and services to influence the nomination or election of a candidate, purchased in one year but used in a subsequent year are charged against the expenditure limit in the year used.~~

9MCAR 1.00343 PUBLIC FINANCING

A candidate or officeholder who signs an agreement to participate in the State Election Campaign Fund is bound by the expenditure limits in an election year and non-election year whether or not the candidate actually receives funds from the State Election Campaign Fund.

9MCAR 1.00354 RECORDING CONTRIBUTIONS

A. Every individual, political committee or fund that receives a contribution in excess of $20 shall record the name, address, and employer, or, if self employed, the occupation of the contributor of each such contribution.

B. Promptly after receipt of any contribution or on demand of the treasurer, the contribution together with any required record shall be transmitted to the treasurer.

9MCAR 1.00365 REPORTING AND DISCLOSING EARMARKED CONTRIBUTIONS

A. Each individual, political committee or political fund which receives an earmarked contribution of more than $20 shall record (1) the name, address, and if employed, employer of, or, if self-employed, the occupation of the donor who originally made the earmarked contribution; (2) the name and address of the candidate, political committee or political fund for whom the contribution is earmarked; (3) the political committee or political fund through which the earmarked contribution is directed; and (4) the amount of each earmarked contribution.

B. An earmarked contribution is reported in periodic reports as miscellaneous income by the political committee or political fund through which the contribution is directed to a candidate. When transferred to the candidate by the political committee or political fund the information in 9MCAR 1.00365 A shall accompany the transfer, although the earmarked contribution shall be disclosed on periodic reports by the political committee or political fund only when in excess of $100.

C. The treasurer of a principal campaign committee of a candidate shall

disclose on periodic reports the name, address, and, if employed, employer of, or, if self-employed, the occupation of the donor of an earmarked contribution, the individual, political committee or political fund through which the contribution was directed, and the fact that the contribution was earmarked when the total aggregate contributions from the same source in a calendar year reach the disclosure thresholds of Minn. Stat. 10A.20, subd. 3(b).

9MCAR 1.00376 REPORTING UNPAID BILLS OUTSTANDING AS CAMPAIGN EXPENDITURES

A. For the purpose of reporting campaign expenditures at the end of a calendar year, any unpaid bills, for campaign expenditures used or consumed during the calendar year, owed by the reporting principal campaign committee on December 31 shall be reported as campaign expenditures for the calendar year ending December 31.

B. An unpaid bill paid is reportable as a noncampaign disbursement in the succeeding year except as provided in 9MCAR 1.0022.

9MCAR 1.00387 RESPONSIBILITIES OF TREASURERS

A. A treasurer may transfer records and receipts to a new treasurer relieving that reasurer of record retention responsibility by written notification to the Board by either the new treasurer or the candidate. Such notice shall include date, name and address of the new treasurer.

B. A copy of a cancelled check with an invoice stating the purpose of the expenditure will be treated as a receipted bill.

~~C.--The-treasurer-shall-report-all-contributions-received-or-deposited within-a-reporting-period.~~

9MCAR 1.00398 SAMPLE BALLOT PREPARED BY A CANDIDATE

If a candidate chooses to prepare and distribute his own sample ballot and includes the names of other candidates ~~without-their-approval-and-authorization,~~ the ballot must contain the proper disclaimer required for independent expenditures~~.~~, unless it is an approved expenditure as defined in Minn. Stat.

10A.01, subd. 10a. For purposes of campaign expenditure reporting, the total cost of the preparation, printing and distribution of the sample ballot shall be assessed against the candidate causing the ballot to be prepared and distributed.

9MCAR 1.004~~0~~39 SIGNING TAX CREDIT SUBSIDY AGREEMENT

A candidate may sign a tax credit subsidy agreement at any time after registration of his principal campaign committee for the office sought or held ~~to~~ through December 31. No agreement signed on or after January 1, shall be applicable to a preceding calendar year.

~~9MCAR 1.0041 TAX CREDITS FOR POLITICAL PARTY CONTRIBUTION~~

~~A political party organization may make a contribution to a candidate who has not signed a tax credit agreement.~~

9MCAR 1.00420 TAX CREDIT SUBSIDY AGREEMENT AND PUBLIC FINANCING AGREEMENT

A candidate must sign a separate agreement in order to participate in each public financing program.

9MCAR 1.00431 TAX CREDIT SUBSIDY RECEIPTS - SPECIAL ELECTIONS

Candidates shall not issue Official Tax Credit Receipts for special elections.

9MCAR 1.00442 TERMINATION OF REGISTRATION

A. A Termination Report shall cover the period from the closing date of the last previous report filed through the date of termination.

B. Any terminated political committee or political fund which subsequently becomes subject to the registration and reporting requirements of the act is required to reregister.

9MCAR 1.00453 SEVERABILITY

If any rule or any part thereof is held invalid, such invalidity shall not effect any other provision of the rule or rules which can be given effect without the invalid provision. To this end, the provisions of these rules are declared to be severable.

9MCAR 1.00464 VACATED ADVISORY OPINIONS

The following advisory opinions adopted by the Board pertaining to campaign financing are no longer valid upon adoption of permanent rules. However, the essence of many of the opinions have been incorporated into these rules. Advisory Opinions #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 17, 18, 19, 21, 24, ~~26,-26a,~~ 27, 30, 31, 34, 39, and 42.

MINNESOTA STATE

ETHICAL PRACTICES BOARD

Rules and Regulations

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Campaign Financing

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MINNESOTA STATE ETHICAL PRACTICES BOARD

Rules and Regulations

Relating to Campaign Financing

Chapter One

9MCAR 1.0001-9MCAR 1.00464

Supersedes and repeals EPB Rules 1-39. Pursuant to Minn. Session Laws, Chapter 463, Section 108, these temporary rules are adopted to give effect to the campaign financing provisions of Minn. Stat. Chapter 10A, the Ethics In Government Act, as amended by Minnesota Session Laws 1978, Chapter 463 and Chapter 793, and shall be effective until permanent rules are adopted pursuant to Minn. Stat. Chapter 15 or until October 1, 1979, whichever occurs first.

9MCAR 1.0001 APPLICABILITY OF RULES

These rules apply to principal campaign committees, political committees, political funds, individuals and associations that raise or expend in excess of $100 in a calendar year to influence the nomination or election of a candidate for the office of governor, lieutenant governor, attorney general, state treasurer, secretary of state, state auditor, state senator, state representative, justice of the state supreme court or judge of state district court.

9MCAR 1.0002 DEFINITIONS

A. "Act" means the Ethics In Government Act, Minn. Stat. Chapter 10A as amended by Minnesota Session Laws, 1978, Chapters 463 and 793.

~~B. "Board" means the Minnesota State Ethical Practices Board.~~

B. "Business Day" means 8:00 a.m. to 4:30 p.m. Monday through Friday except for official state holidays.

C. "Calendar Year" in 1978, for purposes of campaign expenditure and contribution limits, means February 28 through December 31, 1978.

D. "File", "Filed", and "Filing" means delivery to the office of the Board

by 4:30 p.m. on the prescribed filing date or postmarked two days prior to the filing date.

E. "Fundraising Event" means any dinner, luncheon, rally, coffee party, cocktail party, or other similar gathering of three or more individuals where contributions are solicited or received to influence the nomination or election of a candidate.

F. "Money" means cash on deposit in banks and other depositories, checks, negotiable instruments and other paper commonly accepted by a bank as a deposit, and transfers through electronic funds transfers.

G. "Periodic Report" means the Report of Receipts and Expenditures required to be filed with the Board at prescribed filing dates.

H. "Unpaid Bills" means advance of credit.

9MCAR 1.0003 AGREEMENT TO MAKE LOANS

An agreement to make a loan to a political committee or fund shall be made in writing, signed by the borrower (and endorsers, if any) and reported on the appropriate schedule.

9MCAR 1.0004 ALLOCATION OF APPROVED EXPENDITURES

Except for a political party expenditure as provided in Minn. Stat. 10A.275, the treasurer of a political committee or political fund making an approved expenditure on behalf of more than one candidate shall allocate the expenditure among such candidates on a reasonable proportionate basis and report the allocation to each candidate on periodic reports.

9MCAR 1.0005 ALLOCATION OF MONEY FROM GENERAL ACCOUNT REFUSED BY A CANDIDATE

Monies refused by a candidate from the general account of the State Election Campaign Fund shall be reapportioned to all the office accounts as provided by Minn. Stat. Chapter 10A.31, subd. 5 (a)-(e) and distributed to all qualifying candidates.

9MCAR 1.0006 AMENDMENTS

The Board or its staff may request a candidate or treasurer of a political committee or political fund to submit an amendment to complete or to correct a statement or periodic report previously filed provided the Board request is in writing. Such amendments shall be filed within 10 business days after receipt of a notice by a candidate or treasurer. This provision does not alter the obligation of the treasurer to file an amended statement or periodic report within 10 days of the time an individual bec omes aware of an inaccuracy or omission. The Board may grant an extension of the filing deadline upon written request.

9MCAR 1.0007 ANONYMOUS CONTRIBUTIONS

Any single contribution in excess of $20 for which no donor can be identified by the committee or fund shall be forwarded in its entirety to the Board within 14 days after its receipt. When forwarding such an anonymous contribution, the treasurer of the committee or fund shall report to the Board the amount of the contribution and the date on which it was received.

9MCAR 1.0008 APPROVED EXPENDITURES AND DETERMINATION BY THE BOARD

A. No approved expenditure in excess of $20 on behalf of a candidate shall be made until the individual or association receives a written authorization from the treasurer, deputy treasurer, or candidate of the principal campaign committee containing the following information: Date; Amount of expenditure; Name of individual/committee/fund making the expenditure; Purpose of the expenditure; Candidate on whose behalf expenditure is made; Office sought; Expenditure authorized by signature of treasurer, deputy treasurer, or candidate of principal campaign committee.

B. The Board may determine, on a case by case basis, when an expenditure, as defined by Minn. Stat. 10A.01, subd. 10a, on behalf of a candidate by an individual or association, was an approved expenditure made without the required written authorization of the treasurer, deputy treasurer or candidate of the

principal campaign committee, pursuant to Minn. Stat. 10A.17, subd. 2.

9MCAR 1.0009 ASSOCIATION NEWSLETTERS ON BEHALF OF A CANDIDATE

Unless the association is making an independent expenditure, the proportionate cost of preparation and distribution of a newsletter which advocates the nomination or election of a candidate is a donation in kind and must be approved by the candidate if the cost exceeds $20 per candidate.

9MCAR 1.0010 CAMPAIGN HEADQUARTERS

A reasonable proportion of the cost of a political party's headquarters which serves as the headquarters of a candidate must be allocated to the candidate and reported as a campaign expenditure by the principal campaign committee of the candidate.

9MCAR 1.0011 CAMPAIGN LITERATURE

Campaign literature paid for and distributed by a candidate or a principal campaign committee of a candidate running for office which contains pictures of, or incidental references to another candidate or office holder will not be considered an approved and authorized expenditure on behalf of the other candidate provided the candidacy of the other candidate is not mentioned and no direct or indirect appeal for support of the other candidate is made, or if there is an independent expenditure disclaimer.

9MCAR 1.0012 CERTIFICATION

A. The signature of the treasurer or deputy treasurer of record shall be sufficient certification on forms prescribed by the Board. Notarization is not required.

B. A candidate may sign forms that the treasurer or deputy treasurer of the committee is required to file.

9MCAR 1.0013 CHANGE OF OFFICE SOUGHT BY CANDIDATE

A. Contribution and expenditure limits. When a candidate, who sought nomination or election to one office, subsequently seeks the nomination or election to

another office in the same election year, expenditures incurred and contributions received to influence the nomination or election to the first office will not be counted toward the campaign contribution and expenditure limits to the subsequent office sought.

B. Registration requirement. A candidate who seeks another office must designate a separate principal campaign committee and a separate depository for funds for the office sought.

C. Tax credit subsidy & public financing agreements. A candidate may sign a tax subsidy agreement for the calendar year for each office sought until December 31. A candidate may sign a public financing agreement for each office sought until September 1 of the general election year. Signing a public financing agreement ~~for another office~~ by September 1 automatically rescinds a previously filed agreement~~.~~ for another office.

9MCAR 1.0014 COMPLAINTS OF VIOLATIONS

A. Any person who believes a violation of the act or of these rules has occurred may submit an oral or written complaint to the Board.

B. There is no prescribed form for a written complaint, but all such complaints shall be typewritten or handwritten legibly. The name and address of the person making the complaint shall be typewritten or hand printed on the complaint and it shall be signed by such person. A complaint shall name the alleged violator and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints will not be available for public inspection or copying until after the Board makes a finding. No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator or is unsigned~~.~~ by the complainant.

Data privacy ?

1st & 2nd sentences contradictory

C. The Board need not investigate an oral complaint. No investigation shall be undertaken if an oral complaint is frivolous on its face, too indefinite,

does not identify the violation, or does not identify the complainant. There is no prescribed format for an oral complaint, but all oral complaints must describe in sufficient detail the alleged violator and violation of the act or rules. C. Identify self?

D. Any portion of a meeting during which the Board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting shall be closed to the public. The minutes of such a meeting shall be kept confidential.

9MCAR 1.0015 CONTRIBUTIONS BETWEEN PRINCIPAL CAMPAIGN COMMITTEES OF THE SAME CANDIDATE

A. Exclusive of personal funds of a candidate as reported on the periodic reports, the candidate may permit his principal campaign committee to accept contributions up to the applicable contribution limit for a political committee from another principal campaign committee formed by that candidate in seeking another office to further his nomination or election to the other office.

B. If the other principal campaign committee is a federally registered committee, then the provisions of Minn. Stat. 10A.22, subd. 7 apply as well as the contribution limit of the receiving committee.

9MCAR 1.0016 CONTRIBUTION DISCLOSURE - JUDGESHIP

A candidate for a district or supreme court judgeship shall be considered a statewide candidate for purposes of the contribution disclosure requirements set forth in Minn. Stat. 10A.20, subd. 3(b).

9MCAR 1.0017 CONTRIBUTIONS FROM A NON REGISTERED POLITICAL COMMITTEE AND FUND

A political committee or political fund shall not accept a contribution of more than $100 from an association not registered with the Board, including federally registered committees and funds, unless the association registers with the Board within 14 days after making the contribution or provides the recipient political committee or political fund with all information required by Minn.

Stat. 10A.20.

9MCAR 1.0018 CONTRIBUTION LIMITS - POLITICAL PARTY DEFINITION

For purposes of determining an aggregate political party contribution limit, the organization of a political party does not include a political party ward organization, a social club of a political party in a congressional district, legislative district, municipality or precinct, an auxiliary committee of a political party unit defined by Minn. Stat. 10A.27, subd. 4, or any association which uses a political party name and is not listed in Minn. Stat. 10A.27, subd. 4.

9MCAR 1.0019 EMPLOYEE VOLUNTARY CONTRIBUTION PLAN

If an individual employee of a corporation doing business in Minnesota makes a voluntary contribution to a state candidate through a ~~program~~ plan made available by ~~a~~ that corporation and the employee retains sole and exclusive control of accumulated funds in the employee's name, the corporation providing ~~the employee benefit~~ such a plan on a nonpartisan basis is not required to register and report as a political committee or political fund. ~~The~~ A political committee or political fund ~~shall report and disclose~~ in receipt of the contribution from the individual shall report on the periodic report as required by Minn. Stat. Cnapter 10A.

9MCAR 1.0020 EXPENSES INCURRED TO REPAY LOANS

The expenses of raising money to repay outstanding loans from a previous calendar year are reportable as campaign expenditures in the year in which expenses are incurred.

9MCAR 1.0021 FORGIVENESS AND PAYMENT OF A LOAN

~~A. If a political committee or political fund forgives a loan owed to it, the amount becomes a contribution for the period during which the loan was first made.~~

~~B.~~ When a loan to a principal campaign committee is forgiven or repaid by an individual, political committee, or political fund, in accordance with Minn.

Stat. 10A.32, subd. 3(b), a candidate who accepts money from the State Election Campaign Fund and whose aggregate contribution limit is exceeded, shall return to the Board with the required periodic report amendment ~~to the~~ or periodic report, a check or money order, payable to the State Treasurer for the amount which ~~must be returned~~ in excess of the aggregate contribution limit~~.~~ but not to exceed the amount received from the State Election Campaign Fund.

9MCAR 1.0022 FORGIVENESS AND PAYMENT OF UNPAID BILLS

~~A.--If a political committee or political fund forgives any unpaid bill in excess of $20 owed to it, the amount is a donation in kind to the recipient for the period in which the unpaid bill was incurred.~~

~~B.~~ When a donation in kind in excess of $20 results from the forgiveness of an unpaid bill or payment of an unpaid bill by an individual, political committee or political fund other than the principal campaign committee causes the aggregate contribution limit of a candidate who accepts money from the State Election Campaign Fund to be exceeded, in accordance with Minn. Stat. 10A.32, subd. 3(b), a candidate shall return the amount due, but not to exceed the amount received from the State Election Campaign Fund, by a check or money order made out to the State Treasurer with the required amendment ~~to the~~ or periodic report.

9MCAR 1.0023 FUNDRAISING EVENT

A. The expenses of a fundraising event held by the state or local committee of a political party for one or two candidates are a donation in kind and, except for food and beverage consumed at the fundraising event, shall be reported as a campaign expenditure by the candidate or candidates under the following conditions:

1. The fundraising event is expressly or implicitly approved by the candidate, his treasurer, or agent to be held "on behalf of" the candidate; and

2. The candidate or candidates are "clearly identified" in advertisements, tickets, or any advance publicity for the fundraising event; and

3. The candidate receives proceeds, if any, from the fundraising event.

"Clearly identified" means that: (a) the name of the candidate is used; or (b) a photograph or drawing of the candidate appears; or (c) the identity of the candidate is apparent by unambiguous reference.

B. A separate committee may be established by two or more candidates to report the contributions and expenditures as required by the act for a fundraising event held jointly. The expenses of the fundraising event shall be allocated among the candidates on a reasonable proportionate basis as donations in kind~~.~~, and, except for food and beverage consumed at a fundraising event, as campaign expenditures. A transfer of funds to a candidate combined with the value of donations in kind from that committee, may not exceed the applicable contribution limit ~~to~~ for ~~a political committee.~~ an individual, political committee, or political fund set forth in Minn. Stat. 10A.27, subdivision 1.

9MCAR 1.0024 INACTIVE REGISTERED COMMITTEES AND FUNDS

A registered committee or fund which receives no income and makes no expenditures or non-campaign disbursements during a reporting period may so indicate in the space provided on the periodic report and shall thereby satisfy the reporting requirement.

9MCAR 1.0025 JOINT CHECKS

When a contribution is given on a check written on a joint account, it shall be deemed a contribution by the signator(s) of the check unless otherwise specified by the signator(s). When a contribution is given on a check written on a joint account and specified as a joint contribution, it shall be deemed a separate contribution by each of the holders of the joint account in a proportional amount.

9MCAR 1.0026 JOINT LIMITS FOR GOVERNOR AND LT. GOVERNOR

A. A candidate seeking the endorsement for Lt. Governor who signs a tax credit subsidy agreement does not bind either the candidate for Governor or

his/her candidacy to campaign expenditure limits following their joining of candidacies. Following their joint endorsement or filing for office, the candidates must jointly sign the public financing agreement and/or the tax subsidy agreement if they wish to participate in public financing.

Contra. to nature of ticket?

B. Candidates for Governor and Lt. Governor may cause their separate principal campaign committees to be combined as one with no limit on the amount of funds transferred between the two committees. Such action may be taken regardless of whether the action results in either principal campaign committee terminated with outstanding unpaid bills or loans provided that the unpaid bills or loans are assumed and continuously reported until paid or forgiven by the remaining committee.

9MCAR 1.0027 LATE FILING FEES

A. The Board may grant a waiver of a late filing fee for sickness or injury of the filer, or other compelling reason. A written request for a waiver must be submitted not later than the fifth business day after filing the late statement or periodic report.

B. A late filing fee will be charged through the day preceding the day of filing of a late statement or late periodic report.

C. The Board shall send a delinquency notice by certified mail to the treasurer of a political committee or political fund within ten business days after a filing date. A copy of the notice shall be sent by first class mail to the candidate and the chairman of a political committee or political fund. If a certified letter is returned by the post office to the Board as refused, then the letter shall be deemed to have been received by the addressee~~.~~ on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the Board as undelivered ~~or refused~~ shall be forwarded by first class mail to the treasurer. An undelivered notice of late filing shall be considered received by the recipient five

business days after the first class mailing.

9MCAR 1.0028 MEDIA ADVERTISEMENTS - CANDIDATES

If a candidate participates in, but does not pay for, a media advertisement paid for by ~~another candidate advocating~~ a principal campaign committee other than his own which advocates the nomination or election of other candidates or federal candidates, no portion of the cost of the advertisement shall be considered an approved expenditure on behalf of the participating candidate ~~who participates~~ provided his candidacy is not mentioned and no direct or indirect appeal for support for his candidacy is made.

9MCAR 1.0029 NONCAMPAIGN DISBURSEMENTS - CONSTITUENT SERVICES

A. Expenses paid by the principal campaign committee of a candidate in a non-election year and before adjournment sine die of the legislature in an election year for the office held, for constituent services including newsletters, public opinion questionnaires, aides to legislators for constituent services during a legislative session, stationery not printed at government expense, postage, and rent for district offices shall be reported as a constituent service noncampaign disbursements. Only that portion of the expense actually used or consumed for services to constituents shall be reported as a noncampaign disbursements.

B. Costs of constituent services paid from personal funds of an officeholder ~~and provided during non-election years and through the day of~~ incurred before adjournment sine die of the legislature in ~~an~~ the election year for the office held are not required to be reported by the principal campaign committee of the ~~candidate.~~ officeholder.

C. Costs of providing constituent services ~~for~~ by an officeholder who is a candidate after adjournment sine die of the legislature in the election year for the office held and sought are reportable by the principal campaign committee as campaign expenditures.

D. Constituent services provided after adjournment sine die in the year of an election for an officeholder who is a candidate which is paid for from the personal funds of the officeholder shall be considered a donation in kind and reported as such by the principal campaign committee of the candidate.

9MCAR 1.0030 NONCAMPAIGN DISBURSEMENTS - MISCELLANEOUS

Other expenses which are to be reported as miscellaneous noncampaign disbursements if paid for by the principal campaign committee of the candidate include; but not be limited to: costs for child care for the candidate's children when campaigning; fees paid to attend a campaign school; costs of a post election party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first; interest on loans paid by a principal campaign committee on outstanding loans; and filing fees if permitted by other Minnesota law.

9MCAR 1.0031 ORGANIZATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS

~~A. Any group of two or more persons which receives a contribution or makes an expenditure, or a transfer of funds, in aggregate, in excess of $100 to influence the nomination for election or election of candidates for statewide or legislative office or makes any independent expenditures in excess of $100 must register a political committee or political fund. If the group has as its major purpose the influencing of election of a candidate or candidates, it shall register as a political committee. If the group is an association which has a major purpose other than the influencing of election, it shall establish a political fund. When a person or group merely solicits contributions with the approval of the candidate, a treasurer, deputy treasurer or an agent of a political committee or political fund which are made directly to a reporting committee or fund, such person or group is not required to establish an additional committee or fund.~~

A. Any group of two or more persons which receives contributions or which

makes expenditures, transfers of funds, or independent expenditures in aggregate in excess of $100 to influence the nomination or election of one or more candidates for statewide or legislative office must register as a political committee or political fund. If the group's major purpose is to influence the nomination or election of one or more candidates, it shall register as a political committee. If the group is an association whose major purpose is one other than to influence nominations or elections, it shall establish a political fund. When a person or group merely solicits contributions with the approval of a candidate or the treasurer, deputy treasurer or agent of a political committee or political fund and when those contributions are made directly to the reporting committee or fund, that person or group need not establish a separate political committee or political fund.

B. A candidate may be his own chairman and/or treasurer.

C. All monetary assets of a committee or fund shall be kept in designated depositories in accounts named in accordance with Minn. Stat. 10A.15, subd. 3.

D. The funds of a political committee or the contents of a political fund shall not be commingled with any other funds or with the personal funds of a candidate, any officer or member of the committee or fund.

9MCAR 1.0032 PAYMENT OF COMPENSATION FOR PERSONAL SERVICES

The gross value of compensation, in excess of $20, for personal services of an individual or group which are rendered to a candidate, political committee or political fund is reported as a donation in kind from the individual or association that makes the payment.

~~9MCAR 1.0033 PREPAID CAMPAIGN EXPENSES~~

~~Goods and services to influence the nomination or election of a candidate, purchased in one year but used in a subsequent year are charged against the expenditure limit in the year used.~~

9MCAR 1.00343 PUBLIC FINANCING

A candidate or officeholder who signs an agreement to participate in the State Election Campaign Fund is bound by the expenditure limits in an election year and non-election year whether or not the candidate actually receives funds from the State Election Campaign Fund.

9MCAR 1.00354 RECORDING CONTRIBUTIONS

A. Every individual, political committee or fund that receives a contribution in excess of $20 shall record the name, address, and employer, or, if self employed, the occupation of the contributor of each such contribution.

B. Promptly after receipt of any contribution or on demand of the treasurer, the contribution together with any required record shall be transmitted to the treasurer.

9MCAR 1.00365 REPORTING AND DISCLOSING EARMARKED CONTRIBUTIONS

A. Each individual, political committee or political fund which receives an earmarked contribution of more than $20 shall record (1) the name, address, and if employed, employer of, or, if self-employed, the occupation of the donor who originally made the earmarked contribution; (2) the name and address of the candidate, political committee or political fund for whom the contribution is earmarked; (3) the political committee or political fund through which the earmarked contribution is directed; and (4) the amount of each earmarked contribution.

B. An earmarked contribution is reported in periodic reports as miscellaneous income by the political committee or political fund through which the contribution is directed to a candidate. When transferred to the candidate by the political committee or political fund the information in 9MCAR 1.00365 A shall accompany the transfer, although the earmarked contribution shall be disclosed on periodic reports by the political committee or political fund only when in excess of $100.

C. The treasurer of a principal campaign committee of a candidate shall

disclose on periodic reports the name, address, and, if employed, employer of, or, if self-employed, the occupation of the donor of an earmarked contribution, the individual, political committee or political fund through which the contribution was directed, and the fact that the contribution was earmarked when the total aggregate contributions from the same source in a calendar year reach the disclosure thresholds of Minn. Stat. 10A.20, subd. 3(b).

9MCAR 1.00376 REPORTING UNPAID BILLS OUTSTANDING AS CAMPAIGN EXPENDITURES

A. For the purpose of reporting campaign expenditures at the end of a calendar year, any unpaid bills, for campaign expenditures used or consumed during the calendar year, owed by the reporting principal campaign committee on December 31 shall be reported as campaign expenditures for the calendar year ending December 31.

B. An unpaid bill paid is reportable as a noncampaign disbursement in the succeeding year except as provided in 9MCAR 1.0022.

9MCAR 1.00387 RESPONSIBILITIES OF TREASURERS

A. A treasurer may transfer records and receipts to a new treasurer relieving that reasurer of record retention responsibility by written notification to the Board by either the new treasurer or the candidate. Such notice shall include date, name and address of the new treasurer.

B. A copy of a cancelled check with an invoice stating the purpose of the expenditure will be treated as a receipted bill.

~~C.--The-treasurer-shall-report-all-contributions-received-or-deposited within-a-reporting-period.~~

9MCAR 1.00398 SAMPLE BALLOT PREPARED BY A CANDIDATE

If a candidate chooses to prepare and distribute his own sample ballot and includes the names of other candidates ~~without-their-approval-and-authorization,~~ the ballot must contain the proper disclaimer required for independent expenditures~~.~~, unless it is an approved expenditure as defined in Minn. Stat.

10A.01, subd. 10a. For purposes of campaign expenditure reporting, the total cost of the preparation, printing and distribution of the sample ballot shall be assessed against the candidate causing the ballot to be prepared and distributed.

9MCAR 1.004039 SIGNING TAX CREDIT SUBSIDY AGREEMENT

A candidate may sign a tax credit subsidy agreement at any time after registration of his principal campaign committee for the office sought or held ~~to~~ through December 31. No agreement signed on or after January 1, shall be applicable to a preceding calendar year.

~~9MCAR 1.0041 TAX CREDITS FOR POLITICAL PARTY CONTRIBUTION~~

~~A political party organization may make a contribution to a candidate who has not signed a tax credit agreement.~~

9MCAR 1.00420 TAX CREDIT SUBSIDY AGREEMENT AND PUBLIC FINANCING AGREEMENT

A candidate must sign a separate agreement in order to participate in each public financing program.

9MCAR 1.00431 TAX CREDIT SUBSIDY RECEIPTS - SPECIAL ELECTIONS

Candidates shall not issue Official Tax Credit Receipts for special elections.

9MCAR 1.00442 TERMINATION OF REGISTRATION

A. A Termination Report shall cover the period from the closing date of the last previous report filed through the date of termination.

B. Any terminated political committee or political fund which subsequently becomes subject to the registration and reporting requirements of the act is required to reregister.

9MCAR 1.00453 SEVERABILITY

If any rule or any part thereof is held invalid, such invalidity shall not effect any other provision of the rule or rules which can be given effect without the invalid provision. To this end, the provisions of these rules are declared to be severable.

9MCAR 1.00464 VACATED ADVISORY OPINIONS

The following advisory opinions adopted by the Board pertaining to campaign financing are no longer valid upon adoption of permanent rules. However, the essence of many of the opinions have been incorporated into these rules. Advisory Opinions #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 17, 18, 19, 21, 24, ~~26, 26a,~~ 27, 30, 31, 34, 39, and 42.

↓ outside scope of temp rules



Minnesota

Ethics In Government

Chapter 10A

As Amended 1978

CHAPTER 10A
ETHICS IN GOVERNMENT*

Sec.

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10A.01 DEFINITIONS, Subdivision 1. For the purposes of sections 10A.01 to 10A.34, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. "Administrative action" means an action by any official, board, commission or agency of the executive branch to adopt, amend, or repeal a rule or to adjudicate a contested case pursuant to Chapter 15. "Administrative action" does not include the application or administration of an adopted rule, except in cases of rate setting, power

*This act applies to campaigns for legislator, governor and lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, judge of district court and the justice of the supreme court. For informantion regarding Chapter 10A, contact Minnesota State Ethical Practices Board, St. Paul, Minnesota.

plant and powerline siting and granting of certificates of need under Chapter 116H.

Subd. 3. "Association" means business, corporation, firm, partnership, committee, labor organization, club, or any other group of two or more persons, which includes more than an immediate family, acting in concert.

Subd. 4. "Board" means the State Ethical Practices Board.

Subd. 5. "Business with which he is associated" means any association in connection with which the individual is compensated in excess of $50 except for actual and reasonable expenses in any month as a director, officer, owner, member, partner, employer or employee, or is a holder of securities worth $2,500 or more at fair market value.

Subd. 6. "Candidate" means an individual who seeks nomination or election to any statewide or legislative office for which reporting is not required under federal laws. The term candidate shall also include an individual who seeks nomination or election to supreme court and district court judgeships of the state. An individual shall be deemed to seek nomination or election if he has taken the action necessary under the law of the State of Minnesota to qualify himself for nomination or election, has received contributions or made expenditures in excess of $100, or has given his implicit or explicit consent for any other person to receive contributions or make expenditures in excess of $100, for the purpose of bringing about this nomination or election. A candidate remains a candidate until his principal campaign committee is dissolved as provided in section 10A.24.

Subd. 7. "Contributions" means a transfer of funds or a donation in kind.

Contribution includes any loan or advance of credit to a political committee, political fund, or principal campaign committee, which loan or advance of credit is (a) forgiven, or (b) paid by an entity other than the political committee, political fund, or principal campaign committee to which the loan or advance of credit is made. If an advance of credit or a loan is forgiven or paid as provided in this subdivision, it is a contribution in the year in which the loan or advance of credit is made.

A contribution made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

"Contribution" does not include services provided without compensation by an individual volunteering his time on behalf of a candidate, political committee or political fund, or the publishing or broadcasting of news items or editorial comments by the news media.

Subd. 7a. "Transfer of funds" or "transfer" means money or negotiable instruments given by an individual or association to a political

committee, political fund, or principal campaign committee for the purpose of influencing the nomination or election of a candidate.

Subd. 7b. "Donation in kind" means anything of value other than money or negotiable instruments given by an individual or association to a political committee, political fund, or principal campaign committee for the purpose of influencing the nomination or election of a candidate. Donation in kind includes an approved expenditure.

Subd. 8. "Depository" means any bank, savings and loan association or credit union, organized under federal or state law and transacting business within Minnesota.

Subd. 9. "Election" means a primary, special primary, general or special election.

Subd. 10. "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate.

An expenditure is considered to be made in the year in which the goods or services for which it was made are used or consumed.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (a), expenditure includes the dollar value of donation in kind.

"Expenditure" does not include:

(a) Noncampaign disbursements as defined in subd. 10c of this section;

(b) Transfers as defined in subd. 7a of this section;

(c) Services provided without compensation by an individual volunteering his time on behalf of a candidate, political committee, or political fund;

(d) The publishing or broadcasting of news items or editorial comments by the news media.

Subd. 10a. "Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of that candidate, which expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of that candidate, his principal campaign committee or his agent. An approved expenditure is a contribution to that candidate.

Subd. 10b. "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, which expenditure is made without the express or implied consent, authorization, or cooperation of any candidate, his principal

campaign committee or his agent and is not made in concert with or at the request or suggestion of any candidate, his principal campaign committee or his agent. An independent expenditure is not a contribution.

Subd. 10c. "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, by a political committee, political fund, or principal campaign committee for any purpose other than to influence the nomination or election of a candidate.

Noncampaign disbursement includes:

(a) Payment for accounting and legal services;

(b) Return of a contribution to the source;

(c) Repayment of a loan made to the political committee, political fund, or principal campaign committee by that committee or fund;

(d) Return of moneys from the state elections campaign fund;

(e) Payment for food and beverages consumed at a fundraising event;

(f) Services for a constituent by a member of the legislature or a constitutional officer in the executive branch, performed from the beginning of the term of office to adjourment sine die of the legislature in the election year for the office held; and

(g) A donation in kind given to the political committee, political fund, or principal campaign committee for purposes listed in clauses (e) and (f). The board shall determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

Subd. 11. "Lobbyist" means any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in section 500.24, subdivision 1, who does not spend over $250, excluding his own travel expenses, in any year in communicating with public officials.

Subd. 12. "Major political party" means a political party as defined in section 200.02, subdivision 7.

Subd. 13. "Minor political party" means any party other than a major political party:

(a) Under whose name in the last applicable general election a candidate filed for legislative office and received not less than 10 percent of the vote for that office, or filed for statewide office; or

(b) Which files a petition with the secretary of state containing the names of 2,000 individuals registered to vote in Minnesota and declaring that the signers desire that the party be eligible to receive money from the state elections campaign fund in the same manner as a major political party.

For the purposes of chapter 10A, all individuals who are eligible to vote in areas where there is no permanent system of registration shall be considered registered voters.

Subd. 14. (Repealed, 1976 c 307 s 35)

Subd. 15. "Political committee" means any association as defined in subdivision 3 whose major purpose is to influence the nomination or election of a candidate.

"Political committee" includes a major political party as defined in subdivision 12, a minor political party as defined in subdivision 13, and any principal campaign committee formed pursuant to section 10A.19.

Subd. 16. "Political fund" means any accumulation of dues or voluntary contributions by an association other than a political committee, which accumulation is collected or expended for the purpose of influencing the nomination or election of a candidate.

Subd. 17. "Political party" means either a major political party or a minor political party.

Subd. 18. "Public official" means any:

(a) Member of the legislature;

(b) Constitutional officer in the executive branch and his chief administrative deputy;

(c) Member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;

(d) Commissioner, deputy comissioner or assistant comissioner of any state department as designated pursuant to section 15.01;

(e) Individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;

(f) Executive secretary of the state board of investment;

(g) Executive director of the Indian affairs intertribal board;

(h) Commissioner of the iron range resources and rehabilitation board;

(i) Director of mediation services;

(j) Deputy of any official listed in clauses (e) to (i);

(k) Judge of workers' compensation;

(l) Hearing examiner in the state office of hearing examiners or department of economic security;

(m) Solicitor general or deputy, assistant or special assistant attorney general;

(n) Individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher or attorney in the office of senate research, senate counsel, or house research; or

(o) Member or chief administrative officer of the metropolitan council, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission.

Subd. 19. "Office holder" means an individual who holds any statewide or legislative office, except a federal office for which candidates are required to report under federal laws, state supreme court justice or district court judge.

Subd. 20. "Advance of credit" means any money owed for goods provided or services rendered. An advance of credit is an expenditure or a noncampaign disbursement in the year in which the goods or services are used or consumed. Advance of credit does not mean loan as defined in section 17 of this act.

Subd. 21. "Loan" means an advance of money or anything of value made to a political committee, political fund, or principal campaign committee.

Subd. 22. "Financial institution" means a lending institution chartered by an agency of the federal government or regulated by the commissioner of banks.

(1974 c 470 s 1; 1976 c 307 s 1.43, 35; 1978 c 463 s 1-18)

10A.02 BOARD OF ETHICAL PRACTICES. Subdivision 1 There is hereby created a state ethical practices board composed of six members. The members shall be appointed by the governor with the advice and consent of three-fifths of both the senate and the house of representatives acting separately. If either house fails to confirm the appointment of a board member within 45 legislative days after his appointment, or by adjournment sine die, whichever occurs first, the appointment shall terminate on the day following the 45th legislative day or on adjournment sine die, whichever occurs first. If either house votes not to confirm an appointment, the appointment terminates on the day following the vote not to confirm. One member shall be a former member of the legislature from a major political party different from that of the governor; one member shall be a former member of the legislature from the same political party as the governor; two members shall be persons who have not been public officials, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the date of their appointment; and the other two members shall not support the same political party. No more than three of the members of the Board shall support the same political party.

Subd. 2. Any appointment to fill a vacancy shall be made only for the unexpired term of a member who is being replaced and the appointee shall meet the same stated qualifications as the member being replaced. The membership terms, compensation, and removal of members on the board shall be as provided in section 15.0575, except that the extension of terms and the filling of vacancies shall be subject to the advice and consent of the legislature in the same manner as provided in subdivision 1.

Subd. 3. The concurring vote of four members of the Board shall be required to decide any matter before the Board.

Subd. 4. The Board shall elect from among its members a chairman, a vice-chairman and a secretary. The secretary shall keep a record of all proceedings and actions by the Board. Meetings of the Board shall be at the call of the chairman or at the call of any four members of the Board acting together.

Subd. 5. The Board shall appoint an executive director who shall be in the unclassified service. The Board may also employ and prescribe

the duties of other permanent or temporary employees in the unclassified service as may be necessary to administer section 10A.01 to 10A.34, subject to appropriation. The executive director and all other employees shall serve at the pleasure of the Board. Expenses of the Board shall be approved by the chairman or such other member as the rules of the Board may provide and the expenses shall then be paid in the same manner as other state expenses are paid.

Subd. 6. (Repealed 1976, c 134 s 79)

Subd. 7. All members and employees of the Board shall be subject to any provisions of law regulating political activity by state employees. In addition, no member or employee of the Board shall be a candidate for, or holder of, (a) a national, state, congressional district, legislative district, county or precinct office in a political party, or (b) an elected public office for which party designation is required by statute.

Subd. 8. The Board shall:

(a) Report at the close of each fiscal year to the legislature, the governor and the public concerning the action it has taken, the names, salaries, and duties of all individuals in its employ and the money it has disbursed. The Board shall include and identify in its report any other reports it has made during the fiscal year. It may indicate apparent abuses and offer legislative recommendations;

(b) Prescribe forms for statements and reports required to be filed under sections 10A.01 to 10A.34 and make the forms available to individuals required to file them;

(c) Make available to the individuals required to file the reports and statements a manual setting forth the recommended uniform methods of bookkeeping and reporting;

(d) Develop a filing, coding and cross-indexing system consistent with the purposes of sections 10A.01 to 10A.34;

(e) Make the reports and statements filed with it available for public inspection and copying by the end of the second day following the day on which they were received. Any individual may copy a report or statement by hand or by duplicating machine and the Board shall provide duplicating services at cost for this purpose. No information copied from reports and statements shall be sold or utilized by any individual or association for any commercial purpose;

(f) Notwithstanding the provisions of section 138.163, preserve reports and statements for a period of five years from the date of receipt;

(g) Compile and maintain a current list and summary of all statements or parts of statements pertaining to each candidate; and

(h) Prepare and publish reports as it may deem appropriate.

Subd. 9. The executive director of the Board or his staff shall inspect all material filed with the Board as promptly as is necessary to comply with the provisions of sections 10A.01 to 10A.34. The executive director shall immediately notify the individual required to file a document with the Board if a written complaint is filed with the Board by any registered voter alleging, or it otherwise appears, that a document filed with the Board is inaccurate or does not comply with the provisions of section 10A.01 to 10A.34 or that the individual has failed to file a document required by sections 10A.01 to 10A.34.

Subd. 10. The Board may make audits and investigations with respect to statements and reports which are filed or which should have been filed under the provisions of sections 10A.01 to 10A.34. In all matters relating to its official duties, the Board shall have the power to issue subpoenas and cause them to be served. If a person does not comply with a subpoena, the Board may apply to the district court of Ramsey county for issuance of an order compelling obedience to the subpoena. A person failing to obey the order is punishable by the court as for contempt.

Subd. 11. The Board may investigate any alleged violation of chapter 10A. The Board shall investigate any violation which is alleged in a written complaint filed with the Board and, except for alleged violations of section 10A.25 or 10A.27, shall within 30 days after the filing of the complaint make a public finding of whether or not there is probable cause to believe a violation has occurred. In the case of a written complaint alleging a violation of section 10A.25 or 10A.27, the Board shall either enter a conciliation agreement or make a public finding of whether or not there is probable cause, within 60 days of the filing of the complaint. The deadline for action on any written complaint may be extended by majority vote of the Board. Within a reasonable time after beginning an investigation of an individual or association, the Board shall notify that individual or association of the fact of the investigation. The Board shall make no finding of whether or not there is probable cause to believe a violation has occurred without notifying the individual or association of the nature of the allegations and affording an opportunity to answer those allegations. Any hearing or action of the Board concerning any complaint or investigation other than a finding concerning probable cause or a conciliation agreement shall be confidential. Until the Board makes a public finding concerning probable cause or enters a conciliation agreement:

(a) No member, employee or agent of the Board shall disclose to any individual any information obtained by that member, employee or agent concerning any complaint or investigation except as required to carry out the investigation or take action in the matter as authorized by chapter 10A;

(b) No individual who files or is the subject of any written complaint or supplies information to the Board concerning a complaint or investigation shall disclose to any other individual any information supplied to or received from the Board concerning the complaint or investigation; and

(c) Notwithstanding the provisions of clause (b), any individual subject to the provisions of that clause may reveal any information to his attorney or another individual from whom he seeks advice or guidance in the matter, or to any other individual who is subject to the provisions of clause (b) with respect to the same complaint or investigation; provided that any individual to whom information concerning a complaint or investigation is revealed as provided in this clause shall not disclose that information to any other individual. Any individual who discloses information contrary to the provisions of this subdivision shall be guilty of a misdemeanor. Except as provided in section 10A.28, after the Board makes a public finding of probable cause the Board shall report that finding to the appropriate law enforcement authorities.

Subd. 11a. If, after making a public finding concerning probable cause or entering a conciliation agreement, the Board determines that the record of the investigation contains statements, documents or other matter which if disclosed would unfairly injure the reputation of an innocent individual, the Board may:

(a) Retain any such statement, document or other matter as a private record, as "private" is defined in section 15.162, subdivision 5a, for a period of one year after which it shall be destroyed; or

(b) Return any such statement, document or other matter to the individual who supplied it to the Board.

Subd. 12. The Board may issue and publish advisory opinions on the requirements of sections 10A.01 to 10A.34 based upon real or hypothetical situations. An application for an advisory opinion may be made only by an individual or association who wishes to use the opinion to guide his or its own conduct. The Board shall issue written opinions on all such questions submitted to it within 30 days after receipt of written application, unless a majority of the Board agrees to extend the time limit. An advisory opinion shall lapse the day the regular session of the legislature adjourns in the second year following the date of the opinion.

Subd. 13. The provisions of chapter 15 apply to the Board. The Board may promulgate rules to carry out the purposes of sections 10A.01 to 10A.34.

(1974 c 470 s 2; 1976 c 307 s 5-8; 1978 c 463 s 19-27, c 793 s 36)

10A.03 LOBBYIST REGISTRATION. Subdivision 1. Each lobbyist shall file a registration form with the Board within five days after he becomes a lobbyist.

Subd. 2. The registration form shall be prescribed by the Board and shall include (a) the name and address of the lobbyist, (b) the principal place of business of the lobbyist, (c) the name and address of each person, if any, by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears, and (d) a general description of the subject or subjects on which the lobbyist expects to lobby. If the lobbyist lobbies on behalf of an association the registration form shall include the name and address of the officers and directors of the association.

Subd. 3. The Board shall notify by certified mail or personal service any lobbyist who fails to file a registration form within five days after he becomes a lobbyist. If a lobbyist fails to file a form within seven days after receiving this notice, the Board may impose a late filing fee at $5 per day, not to exceed $100, commencing with the eighth day after receiving notice. The Board shall further notify by certified mail or personal service any lobbyist who fails to file a form within 21 days of receiving a first notice that the lobbyist may be subject to a criminal penalty for failure to file the form. A lobbyist who knowingly fails to file a form within seven days after receiving a second notice from the Board is guilty of a misdemeanor.

(1974 c 470 s 3; 1978 c 463 s 28-29)

10A.04 LOBBYIST REPORTS. Subdivision 1. Each lobbyist shall file reports of his activities with the Board as long as he lobbies. A lobbyist may file a termination statement at any time after he ceases lobbying.

Subd. 2. Each report shall cover the time from the last day of the period covered by the last report to 15 days prior to the current filing date. The reports shall be filed with the Board by the following dates:

(a) January 15;

(b) April 15;

(c) July 15; and

(d) October 15.

Subd. 3. Each person or association about whose activities a lobbyist is required to report shall provide the information required by sections 10A.03 to 10A.05 to the lobbyist no later than five days before the prescribed filing date.

Subd. 4. The report shall include such information as the Board may require from the registration form and the following information for the reporting period:

(a) The lobbyists' total disbursements on lobbying and a breakdown of those disbursements 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) The amount and nature of each honorarium, gift, loan, item or benefit, excluding contributions to a candidate, equal in value to $20 or more, given or paid to any public official by the lobbyist or any employer or any employee of the lobbyist. The list shall include the name and address of each public official to whom the honorarium, gift, loan, item or benefit was given or paid and the date it was given or paid; and

(c) Each original source of funds in excess of $500 in any year used for the purpose of lobbying. The list shall include the name, address and employer, or, if self employed, the occupation and principal place of business, of each payer of funds in excess of $500.

Subd. 4a. If in a reporting period the lobbyists' reportable disbursements total not over $100 and no honorarium, gift, loan, item or benefit equal in value to $20 or more was given or paid to any public official, a statement to that effect in lieu of the report may be filed for that report. The unreported disbursements shall be included in the report for the following period, unless the total for that period, including the carryover, is not over $100. The October 15 report shall include all previously unreported disbursements, even though the total for the year is not over $100.

Subd. 5. The Board shall notify by certified mail or personal service any lobbyist who fails after seven days after a filing date imposed by this section to file a report or statement required by this section. If a lobbyist fails to file a report within seven days after receiving this notice, the Board may impose a late filing fee of $5 per day, not to exceed $100, commencing with the eighth day after receiving notice. The Board shall further notify by certified mail or personal service any lobbyist who fails to file a report within 21 days after receiving a first notice that the lobbyist may be subject to a criminal penalty for failure to file the report. A lobbyist who knowingly fails to file such a report or statement within seven days after receiving a second notice from the Board is guilty of a misdemeanor.

(1974 c 470 s 4; 1976 c 307 s 9, 10; 1978 c 463 s 30-32)

10A.05 LOBBYIST REPORT. Within 30 days after each lobbyist filing date set by section 10A.04, the executive director of the Board shall report to the governor, and the presiding officer of each house of the legislature, the names of the lobbyists registered who were not previously reported, the names of the persons or associations whom they represent as lobbyists and the subject or subjects on which they are lobbying.

(1974 c 470 s 5)

10A.06 CONTINGENT FEES PROHIBITED. No person shall employ a lobbyist for compensation which is dependent upon the result

or outcome of any legislative or administrative action. Any person who violates the provisions of this section is guilty of a gross misdemeanor.

(1974 c 470 s 6)

10A.07 CONFLICTS OF INTEREST. Subdivision 1. Any public official who in the discharge of his official duties would be required to take an action or make a decision which would substantially affect his financial interests or those of a business with which he is associated, unless the effect on him is no greater than on other members of his business classification, profession or occupation, shall take the following actions:

(a) He shall prepare a written statement describing the matter requiring action or decision and the nature of his potential conflict of interest;

(b) He shall deliver copies of the statement to the Board and to his immediate superior, if any;

(c) If he is a member of the legislature, he shall deliver a copy of the statement to the presiding officer of the house in which he serves; and

(d) If a potential conflict of interest presents itself and there is insufficient time to comply with the provisions of clauses (a) to (c), the public official shall verbally inform his superior of the official body in which he serves, or committee thereof, of the potential conflict. He shall file a written statement with the Board within one week after the potential conflict presents itself.

Subd. 2. If the public official is not a member of the legislature, his superior shall assign the matter, if possible, to another employee who does not have a potential conflict of interest. If he has no immediate superior, the public official shall remove himself, if possible, in a manner prescribed by the Board from influence over the action or decision in question. If the public official is a member of the legislature, the house in which he serves may, at his request, excuse him from taking part in the action or decision in question.

(1974 c 470 s 7; 1978 c 463 s 33)

10A.08 REPRESENTATION DISCLOSURE. Any public official who represents a client for a fee before any individual, board, commission or agency that has rule making authority in a hearing conducted under chapter 15, shall disclose his participation in the action to the Board within 14 days after his appearance. The Board shall notify by certified mail or personal service any public official who fails to disclose his participation within 14 days after his appearance. If the public official fails to disclose his participation within seven days of this notice, the Board may impose a late filing fee of $5 per day, not to exceed $100, commencing on the eighth day after receiving notice.

(1974 c 470 s 8; 1978 c 463 s 34)

10A.09 STATEMENTS OF ECONOMIC INTEREST. Subdivision 1. Except for a candidate for elective office in the judicial branch, an individual shall file a statement of economic interest with the Board:

(a) Within 60 days of accepting employment as a public official; or

(b) Within 14 days after filing an affidavit of candidacy or petition to appear on the ballot for an elective public office; or

(c) In the case of a public official requiring the advice and consent of the senate, prior to the submisison of his name to the senate, and in any event, within 60 days after he undertakes the duties of his office.

Subd. 2. 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 official required by this section to file a statement of economic interest, shall notify the Board of the name of the individual required to file a statement and the date of the affidavit, petition or nomination.

Subd. 3. The Board shall notify the secretary of state or the appropriate county auditor and, when necessary in the case of appointive office, the presiding officer of the house that will approve or disapprove the nomination, of the name of the individual who has filed a statement of economic interest with the Board and the date on which the statement was filed.

Subd. 4. (Repealed 1978 c 463)

Subd. 5. A statement of economic interest required by this section shall be on a form prescribed by the Board. The individual filing shall provide the following information:

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

(b) The name of each business with which he is associated and the nature of that association; and

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

(d) A listing of all real property within the state in which a partnership of which he 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 his share of the partnership interest is valued in excess of $2,500 or (ii) an option to buy, which property has a fair market value of $50,000 or more. Any listing under clause (c) or (d) shall

indicate the street address and the municipality or the section, township, range and approximate acreage, whichever applies, and the county wherein the property is located.

Subd. 6. Each individual who is required to file a statement of economic interest shall file a supplementary statement on April 15 of each year that he remains in office. The statement shall include a space for each category of information in which the individual may indicate that no change in information has occurred since the previous statement. The supplementary statement shall include the amount of each honorarium in excess of $50 received since the previous statement, together with the name and address of the source of the honorarium. A statement of economic interest submitted by an officeholder shall be filed with the statement he submitted as a candidate.

Subd. 7. The Board shall notify by certified mail or personal service any individual who fails within the prescribed time to file a statment of economic interest required by section 10A.09. If an individual fails to file a statement within seven days after receiving this notice, the Board may impose a late filing fee of $5 per day, not to exceed $100, commencing on the eighth day after receiving notice. The Board shall further notify by certified mail or personal service any individual who fails to file a statement within 21 days after receiving a first notice that the individual may be subject to a criminal penalty for failure to file a statement. An individual who fails to file a statement within seven days after a second notice is guilty of a misdemeanor.

Subd. 8. Any public official, except a member of the legislature or a constitutional officer, who is required to file a statement of economic interest and fails to do so by the prescribed deadline shall be suspended without pay by the Board in the manner prescribed in the contested case procedures in chapter 15.

(1974 c 470 s 9; 1976 c 307 s 11; 1978 c 463 s 35-37)

10A.10 PENALTY FOR FALSE STATEMENT. A report or statement required to be filed by sections 10A.02 to 10A.09 shall be signed and certified as true by the individual required to file the report. Any individual who signs and certifies to be true a report or statement which he knows contains false information or who knowingly omits required information is guilty of a gross misdemeanor.

(1974 c 470 s 10; 1978 c 463 s 38)

10A.11 ORGANIZATION OF POLITICAL COMMITTEES. Subdivision 1. Every political committee shall have a chairman and a treasurer. Nothing in chapter 10A shall prohibit them from being the same individual.

Subd. 2. No contribution shall be accepted and no expediture shall be made by or on behalf of a political committee at a time when there is a vacancy in the office of treasurer.

Subd. 3. The treasurer of a political committee may appoint as many deputy treasurers as necessary and shall be responsible for their accounts.

Subd. 4. The treasurer of a political committee may designate not more than two depositories in each county in which a campaign is conducted.

Subd. 5. No funds of political committee shall be commingled with any personal funds of officers, members or associates of the committee.

Subd. 6. (Repealed 1978 c 463)

Subd. 7. Any person who knowingly violates the provisions of this section is guilty of a misdemeanor.

(1974 c 470 s 11; 1978 c 463 s 39)

10A.12 POLITICAL FUNDS. Subdivision 1. No association other than a political committee shall transfer more than $100 in aggregate in any one year to candidates or political committees or make any approved or independent expenditures unless the transfer or expenditure is made from a political fund.

Subd. 2. The contents of a political fund shall not be commingled with any other funds or with the personal funds of any officer or member of the fund.

Subd. 3. Each association which has a political fund shall elect or appoint a treasurer of the political fund.

Subd. 4. No contributions to the political fund shall be accepted and no expenditures or transfers from the political fund shall be made while the office of treasurer of the political fund is vacant.

Subd. 5. Notwithstanding subdivision 1, any association may, if not prohibited by other law, deposit in its political fund money derived from dues or membership fees. Pursuant to section 10A.20, the treasurer of the fund shall disclose the name of any member whose dues, membership fees and contributions deposited in the political fund together exceed $50 in any one year.

Subd. 6. Any person who knowingly violates the provisions of this section is guilty of a misdemeanor.

(1974 c 470 s 12; 1978 c 463 s 40-42)

10A.13 ACCOUNTS WHICH MUST BE KEPT. Subdivision 1. The treasurer of a political committee or political fund shall keep an account of:

(a) The sum of all contributions except any donation in kind valued at $20 or less, made to the political committee or political fund;

(b) The name and address of each source of a transfer made to the political committee or political fund in excess of $20, together with the date and amount of each;

(c) The name and address of each source of a donation in kind valued in excess of $20, together with the date and amount;

(d) Each expenditure made by the committee or fund, together with the date and amount;

(e) Each approved expenditure made on behalf of the committee or fund, together with the date and amount; and

(f) The name and address of each political committee or political fund to which transfers in excess of $20 have been made, together with the date and amount.

Any individual who knowingly violates any provision of this subdivision is guilty of a misdemeanor.

Subd. 2. The treasurer shall obtain a receipted bill, stating the particulars, for every expenditure in excess of $100 made by, or approved expenditure in excess of $100 made on behalf of, a political committee or political fund, and for any expenditure or approved expenditure in a lesser amount if the aggregate amount of lesser expenditures and approved expenditures made to the same individual or association during any year exceeds $100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for four years.

(1974 c 470 s 13; 1978 c 463 s 43)

10A.14 REGISTRATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS. Subdivision 1. The treasurer of a political committee or political fund shall register with the Board by filing a statement of organization no later than 14 days after the date upon which the committee or fund has received contributions or made expenditures in excess of $100.

Subd. 2. The statement of organization shall include:

(a) The name and address of the political committee or political fund;

(b) The name and address of any supporting association of a political fund;

(c) The name and address of the chairman, the treasurer, and any deputy treasurers;

(d) A listing of all depositories or safety deposit boxes used;

(e) A statement as to whether the committee is a principal campaign committee; and

(f) For political parties only, a list of categories of substate units as defined in section 10A.27, subdivision 4.

Subd. 3. (Repealed 1976 c 307 s 35)

Subd. 4. The Board shall notify by certified mail or personal service any individual who fails to file a statement required by this

section. If an individual fails to file a statement within seven days after receiving a notice, the Board may impose a late filing fee of $5 per day, not to exceed $100, commencing with the eighth day after receiving notice. The Board shall further notify by certified mail or personal service any individual who fails to file a statement within 21 days after receiving a first notice that such individual may be subject to a criminal penalty for failure to file the report. An individual who knowingly fails to file the statement within seven days after receiving a second notice from the Board is guilty of a misdemeanor.

(1974 c 470 s 14; 1976 c 307 s 12, 35; 1978 c 463 s 44-46)

10A.15 CONTRIBUTIONS. Subdivision 1. No anonymous contribution in excess of $20 shall be retained by any political committee or political fund, but shall be forwarded to the Board and deposited in the general account of the state elections campaign fund.

Subd. 2. Every individual who receives a contribution in excess of $20 for a political committee or political fund shall, on demand of the treasurer, inform the treasurer of the name and, if known, the address of the source of the contribution, together with the amount of the contribution and the date it was received.

Subd. 3. All transfers received by or on behalf of any candidate, political committee or political fund shall be deposited in an account designated "Campaign Fund of . . . (name of candidate, committee or fund)". All transfers shall be deposited promptly upon receipt and, except for transfers received during the last three days of any reporting period as described in section 10A.20, shall be deposited during the reporting period in which they were received. Any transfer received during the last three days of a reporting period shall be deposited within 72 hours of receipt and shall be reported as received during the reporting period whether or not deposited within that period. Any deposited transfer may be returned to the contributor within 60 days of deposit. A transfer deposited and not returned within 60 days of that deposit shall be deemed for the purposes of chapter 10A, to be accepted by the candidate, political committee or political fund.

Subd. 3a. No treasurer of a principal campaign committee of a candidate shall deposit any transfer which on its face exceeds the limit on contributions to that candidate prescribed by section 10A.27 unless, at the time of deposit, the treasurer issues a check to the source for the amount of the excess.

Subd. 4. Any individual violating the provisions of this section is guilty of a misdemeanor.

(1974 c 470 s 15; 1978 c 463 s 47)

10A.16 EARMARKING. Any individual, political committee or political fund which receives a contribution from any source with the express or implied condition that the contribution or any part of it be

directed to a particular candidate shall disclose to the ultimate recipient, and in the reports required by section 10A.20, the original source of the contribution, the fact that the contribution is earmarked and the candidate to whom it is directed. The ultimate recipient of any contribution so earmarked shall also disclose the original source and the individual, political committee, or political fund through which it is directed. This section applies only to contributions required to be disclosed by section 10A.20, subdivision 3, clause (b). Any individual, political committee, or political fund who knowingly accepts any earmarked contribution and fails to make the required disclosure is guilty of a gross misdemeanor.

(1974 c 470 s 16; 1978 c 463 s 48)

10A.17 EXPENDITURES. Subdivision 1. No expenditure shall be made by a political committee, political fund, or principal campaign committee unless it is authorized by the treasurer or deputy treasurer of that committee or fund.

Subd. 2. No individual or association may make an approved expenditure of more than $20 until he receives written authorization as to the amount that may be spent and the purpose of the expenditure from the treasurer of the principal campaign committee of the candidate who approved the expenditure.

Subd. 3. The treasurer or deputy treasurer of a political committee may sign vouchers for petty cash of not more than $100 per week for statewide elections or $20 per week for legislative elections to be used for miscellaneous expenditures.

Subd. 4. Any individual, political committee, or political fund who independently solicits or accepts contributions or makes independent expenditures on behalf of any candidate shall publicly disclose that the candidate has not approved the expenditure. All written communications with those from whom contributions are independently solicited or accepted or to whom independent expenditures are made on behalf of a candidate, shall contain a statement in conspicuous type that the activity is not approved by the candidate nor is he responsible for it. Similar language shall be included in all oral communications, in conspicuous type on the front page of all literature and advertisements published or posted, and at the end of all broadcast advertisements made by that individual, political committee or political fund on the candidate's behalf.

Subd. 5. Any person who knowingly violates the provisions of subdivision 2 or 4, or who falsely claims that the candidate has not approved the expenditure or activity is guilty of a misdemeanor.

Subd. 6. (Repealed 1978 c 463 s 49)

(1974 c 470 s 17; 1978 c 463 s 49)

10A.18 BILLS WHEN RENDERED AND PAID. Every person who has a bill, charge or claim against any political committee or

political fund for any expenditure shall render in writing to the treasurer of the committee or fund the bill, charge or claim within 60 days after the material or service is provided. Failure to so present the bill, charge or claim is a misdemeanor.

(1974 c 470 s 18)

10A.19 PRINCIPAL CAMPAIGN COMMITTEE. Subdivision 1. No candidate shall accept contributions from any source, other than himself, in aggregate in excess of $100 or any moneys from the state elections campaign fund unless he designates and causes to be formed a single principal campaign committee.

Subd. 2. A candidate may at any time without cause remove and replace the chairman, treasurer, deputy treasurer or any other officer of the candidate's principal campaign committee.

(1974 c 470 s 19; 1976 c 307 s 13; 1978 c 463 s 50)

10A.20 CAMPAIGN REPORTS. Subdivision 1. The treasurer of every committee and political fund shall begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of $100 and shall continue to file until the committee or fund is terminated.

Subd. 2.The reports shall be filed with the Board on or before January 31 of each year. In each year in which the name of the candidate being supported is on the ballot, additional reports shall be filed ten days before a primary and a general election, seven days before a special primary and a special election and 30 days after a special election.

If a scheduled filing date falls on a Saturday, Sunday or legal holiday, the filing date shall be the next regular business day.

Subd. 3. Each report under this section shall disclose:

(a) The amount of liquid assets on hand at the beginning of the reporting period;

(b) The name, address and employer, or occupation if self-employed, of each individual, political committee or political fund who within the year has made one or more transfers or donations in kind to the political committee or political fund, including the purchase of tickets for all fund raising efforts, which in aggregate exceed $50 for legislative candidates or $100 for statewide candidates, together with the amount and date of each transfer or donation in kind, and the aggregate amount of transfers and donations in kind within the year from each source so disclosed. A donation in kind shall be disclosed at its fair market value. An approved expenditure is listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors shall be listed in alphabetical order;

(c) The sum of contributions to the political committee or political fund during the reporting period;

(d) Each loan made or received by the political committee or political fund within the year in aggregate in excess of $100, continuously reported until repaid or forgiven, together with the name, address, occupation and the principal place of business, if any, of the lender and any endorser and the date and amount of the loan. If any loan made to the principal compaign committee of a candidate is forgiven at any time or repaid by any entity other than that principal campaign committee, it shall be reported as a contribution for the year in which the loan was made;

(e) Each receipt in excess of $100 not otherwise listed under clauses (b) to (d);

(f) The sum of all receipts of the political committee or political fund during the reporting period;

(g) The name and address of each individual or association to whom aggregate expenditures, including approved expenditures, have been made by or on behalf of the political committee or political fund within the year in excess of $100, together with the amount, date and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made and, in the case of independent expenditures made in opposition to a candidate, the name, address and office sought for each such candidate;

(h) The sum of all expenditures made by or on behalf of the political committee or political fund during the reporting period;

(i) The amount and nature of any advance of credit incurred by the political committee or political fund, continuously reported until paid or forgiven. If any advance of credit incurred by the principal campaign committee of a candidate is forgiven at any time by the creditor or paid by any entity other than that principal campaign committee, it shall be reported as a donation in kind for the year in which the advance of credit was incurred;

(j) The name and address of each political committee, political fund, or principal campaign committee to which aggregate transfers in excess of $100 have been made within the year, together with the amount and date of each transfer;

(k) The sum of all transfers made by the political committee, political fund, or principal campaign committee during the reporting period;

(l) For principal campaign committees only, the sum of non-campaign disbursements made in each category listed in section 10 of this act during the reporting period; and

(m) The sum of all noncampaign disbursements made by the political committee, political fund, or principal campaign committee during the reporting period.

Subd. 3a. The reports of a principal campaign committee of a legislative candidate required by this section shall list in a prominent place on the first page of every report each county in which the legislative district lies.

Subd. 4. A report shall cover the period from the last day covered by the previous report to seven days prior to the filing date, except that the report due on January 31 shall cover the period from the last day covered by the previous report to December 31.

Subd. 5. In any statewide election any contribution or contributions from any one source totaling $2,000 or more, or in any legislative election totaling $200 or more, received between the last day covered in the last report prior to an election and the election shall be reported to the Board in person or by telegram within 48 hours after its receipt and also in the next required report.

Subd. 6. Every candidate who does not designate and cause to be formed a principal campaign committee, and any individual who makes independent expenditures in aggregate in excess of $100 in any year, shall file with the Board a report containing the information required by subdivision 3. Reports required by this subdivision shall be filed on the dates on which reports by committees and funds are filed.

Subd. 6a. Any individual, political committee or political fund filing a report or statement disclosing any independent expenditure pursuant to subdivision 3 or 6 shall file with that report a sworn statement that the expenditures so disclosed were not made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of any candidate, his principal campaign committee or his agent.

Subd. 7. If no contribution is received or expenditure made by or on behalf of a candidate, political fund or political committee during a reporting period, the treasurer of the committee or fund shall file with the Board at the time required by this section a statement to that effect.

Subd. 8. The Board shall exempt any member of or contributor to any association, political committee or political fund or any other individual from the provisions of this section if the member, contributor or other individual demonstrates by clear and convincing evidence that disclosure would expose him to economic reprisals, loss of employment or threat of physical coercion.

An association, political committee or political fund may seek an exemption for all of its members or contributors if it demonstrates by clear and convincing evidence that a substantial number of its members

or contributors would suffer a restrictive effect on their freedom of association if members were required to seek exemptions individually.

Subd. 9. (Repealed 1978 c 463)

Subd. 10. Any individual, association, political committee or political fund seeking an exemption pursuant to subdivision 8 shall submit a written application for exemption to the Board. The Board, without hearing, shall grant or deny the exemption within 30 days after receiving an application, and shall issue a written order stating the reasons for its action. The Board shall publish its order in the state register and give notice to all parties known to the Board to have an interest in the matter. If the Board receives a written objection to its action from any party within 20 days after publication of its order and notification of interested parties, the Board shall hold a contested case hearing on the matter. Upon the filing of a timely objection from the applicant, an order denying an exemption shall be suspended pending the outcome of the contested case. If no timely objection is received, the exemption shall continue to be in effect until a written objection is filed with the Board in a succeeding election year. The Board by rule shall establish a procedure so that any individual seeking an exemption may proceed anonymously if he would be exposed to the reprisals listed in subdivision 8 were he to reveal his identity for the purposes of a hearing.

Subd. 11. No person or association shall engage in economic reprisals or threaten loss of employment or physical coercion against any person or association because of that person's or association's political contributions or political activity. This subdivision shall not apply to compensation for employment or loss of employment when the political affiliation or viewpoint of the employee is a bonafide occupational qualification of the employment. Any person or association which violates this subdivision is guilty of a gross misdemeanor.

Subd. 12. The Board shall notify by certified mail or personal service any individual who fails to file a statement required by this section. If an individual fails to file a statement due January 31 within seven days after receiving a notice, the Board may impose a late filing fee of $5 per day, not to exceed $100, commencing on the eighth day after receiving notice. If an individual fails to file a statement due before any primary or election within three days of the date due, regardless of whether the individual has received any notice, the Board may impose a late filing fee of $50 per day, not to exceed $500, commencing on the fourth day after the date the statement was due. The Board shall further notify by certified mail or personal service any individual who fails to file any statement within 14 days after receiving a first notice from the Board that the individual may be subject to a criminal penalty for failure to file a statement. An individual who knowingly fails to file the statement

within seven days after receiving a second notice from the Board is guilty of a misdemeanor.

(1974 c 470 s 20; 1976 c 307 s 14-18; 1978 c 463 s 51-59, c 793 s 37)

10A.21 REPORTS TO COUNTY AUDITORS. Subdivision 1. All reports or statements that must be filed with the Board by the principal campaign committee of legislative candidates and statements of economic interest filed by candidates for and members of the legislature shall be duplicated and filed by the Board with the auditor of each county in which the legislative district lies within 72 hours of the date the report or statement is required to be filed or, if the report or statement is delinquent, within 72 hours of the time the report is actually filed.

Subd. 2. The copies of reports filed with the county auditor need not be certified copies.

Subd. 3. Statements and reports filed with county auditor shall be available to the public in the manner prescribed by section 10A.02, subdivision 8, clause (e). Statements and reports of principal campaign committees shall be retained until four years after the election to which they pertain. Economic interest statements shall be retained until the subject of the statement is no longer a candidate or officeholder.

(1974 c 470 s 21; 1976 c 307 s 19; 1978 c 463 s 60-61)

10A.22 REPORTS AND STATEMENTS. Subdivision 1. A report or statement required by sections 10A.11 to 10A.34 to be filed by a treasurer of a political committee or political fund, or by any other individual, shall be signed and certified as true by the individual required to file the report. Any individual who signs and certifies to be true a report or statement which he knows contains false information or who knowingly omits required information is guilty of a gross misdemeanor.

Subd. 2. (Repealed 1976 c 307 s 35)

Subd. 3. (Repealed 1978 c 463)

Subd. 4. The treasurer shall list contributions from the same source under the same name. When a contribution received from any source in a reporting period is added to previously reported unitemized contributions from the same source and the aggregate exceeds the disclosure threshold of section 10A.20, the name, address and employer, or occupation if self-employed, of that source shall then be listed on the prescribed schedule. A candidate may refuse to accept any contribution.

Subd. 5. A political committee or political fund making an expenditure on behalf of more than one candidate for state or legislative office shall allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.

Subd. 6. Each person required to file any report or statement shall maintain records on the matters required to be reported, including

vouchers, cancelled checks, bills, invoices, worksheets, and receipts, which will provide in sufficient detail the necessary information from which the filed reports and statements may be verified, explained, clarified and checked for accuracy and completeness, and he shall keep the record available for audit, inspection, or examination by the Board or its authorized representatives for four years from the date of filing of the reports or statements or of changes or corrections thereto. Any person who knowingly violates any provisions of this subdivision is guilty of a misdemeanor.

Subd. 7. The treasurer of a political committee or political fund shall not accept a contribution of more than $100 from a political committee or political fund not registered in this state unless the contribution is accompanied by a written statement which meets the disclosure requirements imposed by section 10A.20. This statement shall be certified as true and correct by an officer of the contributing political committee or political fund. The political committee or political fund which accepts the contribution shall include a copy of the statement with the report which discloses the contribution to the Board. The provisions of this subdivision shall not apply when a national political party transfers money to its affiliate in this state.

Subd. 8. (Repealed 1976 c 307 s 35)

(1974 c 470 s 22; 1976 c 307 s 35; 1978 c 463 s 62-65)

10A.23 CHANGES AND CORRECTIONS. Any material changes in information previously submitted and any corrections to a report or statement shall be reported in writing to the Board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and the paragraph containing the information to be changed or corrected. Any person who wilfully fails to report a material change or correction is guilty of a gross misdemeanor.

(1974 c 470 s 23; 1976 c 307 s 20)

10A.24 DISSOLUTION OR TERMINATION. No political committee or political fund shall dissolve until it has settled all of its debts and disposed of all its assets in excess of $100 and filed a termination report. The termination report may be made at any time and shall include all information required in periodic reports.

(1974 c 470 s 24; 1978 c 463 s 66)

10A.25 LIMITS ON CAMPAIGN EXPENDITURES. Subdivision 1. For the purposes of section 10A.11 to 10A.34 a candidate for governor and a candidate for lieutenant governor, running together, shall be deemed to be a single candidate. Except as provided in subdivision 3, all expenditures made by and all approved expenditures made on behalf of the candidate for lieutenant governor shall be considered to

be expenditures by and approved expenditures on behalf of the candidate for governor.

Subd. 2. In a year in which an election is held for an office sought by a candidate, no expenditures shall be made by the principal campaign committee of that candidate, nor any approved expenditures made on behalf of that candidate which expenditures and approved expenditures result in an aggregate amount in excess of the following:

(a) For governor and lieutenant governor, running together, 12½ cents per capita or $600,000, whichever is greater;

(b) For attorney general, 2½ cents per capita or $100,000, whichever is greater;

(c) For secretary of state, state treasurer and state auditor, separately, 1¼ cents per capita or $50,000, whichever is greater;

(d) For state senator, 20 cents per capita or $15,000, whichever is greater;

(e) For state representative, 20 cents per capita or $7,500, whichever is greater.

Subd. 3. Notwithstanding subdivision 2, clause (a), a candidate for endorsement for the office of lieutenant governor at the convention of a political party may make expenditures and approved expenditures of $30,000 or five percent of the amount in subdivision 2, clause (a), whichever is greater, to seek endorsement. This amount shall be in addition to the amount which may be expended pursuant to subdivision 2, clause (a).

Subd. 4. The limits prescribed in section 10A.25 shall not apply to any expenditure or approved expenditure made or advance of credit incurred before the effective date of this section unless the goods or services for which they were made or incurred are consumed or used after the effective date of this section.

Subd. 5. Notwithstanding the limits imposed by subdivision 2, the winning candidate in a contested race in a primary who receives less than twice as many votes as any one of his opponents in that primary may make aggregate expenditures and approved expenditures equal to 120 percent of the applicable amount as set forth in subdivision 2.

Subd. 6. In any year following an election year for the office held or sought, the aggregate amount of expenditures by and approved expenditures on behalf of a candidate for or holder of that office shall not exceed 20 percent of the expenditure limit set forth in subdivision2.

Subd. 7. On or before December 1 of each year, the state demographer shall certify to the Board the estimated population of the state of Minnesota for the next calendar year. On or before December 31 of each year the Board shall determine and publish in the state register

the expenditure limits for each office for the next calendar year as prescribed by subdivision 2, using the following estimated population figures:

(a) For the offices of governor and lieutenant governor, attorney general, secretary of state, state treasurer and state auditor, the total estimated population of the state;

(b) For the office of state senator, 1/67 of the total estimated population of the state;

(c) For the office of state representative, 1/134 of the total extimated population of the state. The limits shall be rounded off to the nearest $100.

Subd. 8. (Repealed 1978 c 463)

Subd. 9. (Repealed 1978 c 463)

Subd 10. The expenditure limits imposed by section 10A.25 apply only to candidates who agree to be bound by the limits as a condition of receiving a public subsidy for their campaign in the form of:

(a) An allocation of money from the state elections campaign fund; or

(b) Credits against the tax due of individuals who contribute to that candidate.

(1974 c 470 s 25; 1976 c 307 s 21-23; 1978 c 463 s 67-74)

10A.26 (Repealed 1978 c 463)

10.265 FREEDOM TO ASSOCIATE AND COMMUNICATE. Nothing in chapter 10A shall be construed as abridging the right of an association to communicate with its members.

(1978 c 463 s 75)

10A.27 ADDITIONAL LIMITATIONS. Subdivision 1. Except as provided in subdivisions 2 and 6, no candidate shall permit his principal campaign committee to accept contributions from any individual, political committee, or political fund in excess of the following:

(a) To candidates for governor and lieutenant governor running together, $60,000 in an election year for the office sought and $12,000 in other years;

(b) To a candidate for attorney general, $10,000 in an election year for the office sought and $2,000 in other years;

(c) To a candidate for the office of secretary of state, state treasurer or state auditor, $5,000 in an election year for the office sought and $1,000 in other years;

(d) To a candidate for state senator, $1,500 in an election year for the office sought and $300 in other years; and

(e) To a candidate for state representative, $750 in an election year for the office sought and $150 in the other year.

Subd. 2. No candidate shall permit his principal campaign committee to accept contributions from any political party in excess of five times the amount that may be contributed to that candidate by a political committee as set forth in subdivision 1.

Subd. 3. (Repealed 1978 c 463)

Subd. 4. For the purposes of this section, a political party means the aggregate of the party organization within each house of the legislature, the state party organization, and the party organization within congressional districts, counties, legislative districts, municipalities, and precincts.

Subd. 5. Nothing in section 10A.27 shall be construed as limiting independent expenditures on behalf of a candidate.

Subd. 6. Nothing in section 10A.27 shall be construed as limiting the amount which may be contributed by a candidate for the purpose of influencing his own nomination or election.

Subd. 7. Contributions and approved expenditures made prior to the effective date of this section which are in excess of the limits imposed by section 10A.27 shall not be in violation of this section but shall be disclosed as required by chapter 10A.

Subd. 8. No candidate shall permit his principal campaign committee to accept a loan from other than a financial institution for an amount in excess of the contribution limits imposed by this section. No candidate shall permit his principal campaign committee to accept any loan from a financial institution for which that financial institution may hold any endorser of that loan liable to pay any amount in excess of the amount that the endorser may contribute to that candidate.

(1974 c 470 s 27; 1976 c 307 s 24; 1978 c 463 s 76-82, c 793 s 38)

10A.275 MULTI-CANDIDATE POLITICAL PARTY EXPENDITURES. Notwithstanding any other provisions of this chapter, the following expenditures by a state political party or a substate unit of a state political party as described in section 10A.27, subdivision 4, shall not be considered contributions to or expenditures on behalf of any candidate for the purposes of section 10A.25 or 10A.27, and shall not be allocated to any candidates pursuant to section 10A.22, subdivision 5:

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

(b) 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;

(c) Expenditures for any telephone conversation including the names of three or more individuals whose names are to appear on the ballot; or

(d) Expenditures for any political party fundraising effort on behalf of three or more candidates.

(1978 c 463 s 83)

10A.28 PENALTY FOR EXCEEDING LIMITS. Subdivision 1. A candidate subject to the expenditure limits of section 10A.25 who permits his principal campaign committee to make expenditures or permits approved expenditures to be made on his behalf in excess of the limits imposed by section 10A.25 shall be subject to a civil fine up to four times the amount which the expenditures exceeded the limit.

Subd. 2. A candidate who permits his principal campaign committee to accept contributions in excess of the limits imposed by section 10A.27 shall be subject to a civil fine of up to four times the amount by which the contribution exceeded the limits.

Subd. 3. If the Board finds that there is reason to believe that excess expenditures have been made or excess contributions accepted contrary to the provisions of subdivision 1 or 2 the Board shall make every effort for a period of not less than 14 days after its finding to correct the matter by informal methods of conference and conciliation and to enter a conciliation agreement with the person involved. A conciliation agreement made pursuant to this subdivision shall be a matter of public record. Unless violated, a conciliation agreement shall be a bar to any civil proceeding under subdivision 4.

Subd. 4. If the Board is unable after a reasonable time to correct by informal methods any matter which constitutes probable cause to believe that excess expenditures have been made or excess contributions accepted contrary to subdivision 1 or 2, the Board shall make a public finding of probable cause in the matter. After making a public finding, the Board shall bring an action, or transmit the finding to county attorney who shall bring an action, in the district court of Ramsey county or, in the case of a legislative candidate, the district court of a county within the legislative district, to impose a civil fine as prescribed by the Board pursuant to subdivision 1 or 2. All moneys recovered pursuant to this section shall be deposited in the general fund of the state.

(1974 c 470 s 28; 1978 c 463 s 84)

10A.29 CIRCUMVENTION PROHIBITED. Any attempt by an individual or association to circumvent the provisions of chapter 10A by redirecting funds through, or contributing funds on behalf of, another individual or association is a gross misdemeanor.

(1974 c 470 s 29; 1978 c 463 s 85)

10A.30 STATE ELECTIONS CAMPAIGN FUND. Subdivision 1. There is hereby established an account within the special revenue fund of the state to be known as the "state elections campaign fund".

(1974 c 470 s 30; 1978 c 463 s 86)

10A.31 DESIGNATION OF INCOME TAX PAYMENTS. Subdivision 1. Effective with the taxable years beginning after December 31, 1977, every individual who files a tax return or a renter and homeowner property tax refund return with the commissioner of revenue may designate that $1 shall be paid from the general fund of the state into the state elections campaign fund. If a husband and wife file a joint return, each spouse may designate that $1 shall be paid. An individual who is 18 years of age or older, who is a resident of Minnesota, and who is a dependent of another individual who files a tax return or a renter and homeowner property tax refund return, may designate that $1 shall be paid from the general fund of the state into the state elections campaign fund. No individual shall be allowed to designate $1 more than once in any year.

Subd. 2. The taxpayer may designate that the $1 be paid into the account of a political party or into the general account.

Subd. 3. The commissioner of the department of revenue shall on the first page of the income tax form and the renter and homeowner property tax refund return notify the filing individual and any adult dependent of that individual of his right to allocate $1 ($2 if filing a joint return) from the general fund of the state to finance the election campaign of state candidates. The form shall also contain language prepared by the commissioner which permits the individual to direct the state to allocate the $1 ($2 if filing a joint return) to: (i) one of the major political parties; (ii) any minor political party as defined in section 10A.01, subdivision 13, which qualifies under the provisions of subdivision 3a; or (iii) all qualifying candidates as provided by subdivision 7. The dependent on the tax return or the renter and homeowner property tax refund return shall sign a statement which authorizes the designation of $1. The renter and homeowner property tax refund return shall include instructions that the individual filing the return may designate $1 on the return only if he has not designated $1 on the income tax return.

Subd. 3a. A minor political party as defined in section 10A.01, subdivision 13 qualifies for inclusion on the income tax form as provided in subdivision 3, provided that if a petition is filed, it is filed by June 1 of the taxable year.

Subd. 4. The amounts designated by individuals for the state elections campaign fund are appropriated from the general fund and shall be credited to the appropriate account in the state elections campaign fund and annually appropriated for distribution as set forth in subdivisions 5, 6 and 7.

Subd. 5. In each calendar year the moneys in each party account and the general account shall be allocated to candidates as follows:

(a) 21 percent for the offices of governor and lieutenant governor together;

(b) 3.6 percent for the office of attorney general;

(c) 1.8 percent each for the offices of secretary of state, state auditor and state treasurer;

(d) In each calendar year during the period in which state senators serve a four year term, 23⅓ percent for the office of state senator and 46⅔ percent for the office of state representative;

(e) In each calendar year during the period in which state senators serve a two year term, 35 percent each for the offices of state senator and state representative;

(f) To assure that moneys will be returned to the counties from which they were collected, and to assure that the distribution of those moneys rationally relates to the support for particular parties or for particular candidates within legislative districts, moneys from the party accounts for legislative candidates shall be distributed as follows:

Each candidate for the state senate and state house of representatives whose name is to appear on the ballot in the general election shall receive moneys from his party account set aside for candidates of the state senate or state house of representatives, whichever applies, according to the following formula;

For each county within his district the candidate's share of the dollars allocated in that county to his party account and set aside for that office shall be:

(a) The sum of the votes cast in the last general election in that part of the county in his district for all candidates of his party (i) whose names appeared on the ballot in each voting precinct of the state and (ii) for the state senate and state house of representatives, divided by

(b) The sum of the votes cast in that county in the last general election for all candidates of his party (i) whose names appeared on the ballot in each voting precinct in the state and (ii) for the state senate and state house of representatives, multiplied by

(c) The amount in his party account allocated in that county and set aside for the candidates for the office for which he is a candidate.

The sum of all the county shares calculated in the formula above is the candidate's share of his party account.

In a year in which an election for the state senate occurs, with respect to votes for candidates for the state senate only, "last general election" means the last general election in which an election for the state senate occurred.

For any party under whose name no candidate's name appeared on the ballot in each voting precinct in the state in the last general election, "last general election" means the last general election in which the name of a candidate of that party appeared on the ballot in each voting precinct in the state.

If in a district there was no candidate of a party for the state senate or state house of representatives in the last general election, or if a candidate for the state senate or state house of representatives was unopposed, the vote for that office for that party shall be the average vote of all the remaining candidates of that party in each county of that district whose votes are included in the sums in clauses (a) and (b). The average vote shall be added to the sums in clauses (a) and (b) before the calculation is made for all districts in the county.

Moneys from any party account not distributed in any election year shall be returned to the general fund of the state. Moneys from the general account refused by any candidate shall be distributed to all other qualifying candidates in proportion to their shares as provided in this subdivision.

Subd. 6. Within two weeks after certification by the state canvassing board of the results of the primary, the state treasurer shall distribute the available funds in each party account, as certified by the commissioner of revenue on September 15, to the candidates of that party who have signed the agreement as provided in section 10A.32, subdivision 3, and whose names are to appear on the ballot in the general election, according to the allocation set forth in subdivision 5.

Subd. 7. Within two weeks after certification by the state canvassing board of the results of the general election, the state treasurer shall distribute the available funds in the general account, as certified by the commissioner of revenue on November 15 and according to the allocations set forth in subdivision 5, in equal amounts to all candidates for each statewide office who received at least five percent of the votes cast in the general election for that office, and to all candidates for legislative office who received at least ten percent of the votes cast in the general election for the specific office for which they were candidates. The Board shall not use the information contained in the report of the principal campaign committee of any candidate due ten days before the general election for the purpose of reducing the amount due that candidate from the general account.

Subd. 8. Within one week after certification by the state canvassing board of the results of the primary, the Board shall certify to the state treasurer the name of each candidate who has signed the agreement as provided in section 10A.32, subdivision 3, and the amount he is to receive from the available funds in his party account.

Subd. 9. Within one week after certification by the state canvassing board of the results of the general election, the Board shall certify to the state treasurer the name of each candidate who is qualified to receive funds from the general account, together with the amount he is to receive from the available funds in the general account.

Subd. 10. In the event that on the date of either certification by the commissioner of revenue as provided in subdivisions 6 and 7, less than 98 percent of the tax returns have been processed, the commissioner of revenue shall certify to the Board on December 7 the amount accumulated in each account since the previous certification. Within one week thereafter, the Board shall certify to the state treasurer the amount to be distributed to each candidate according to the allocations as provided in subdivision 5. As soon as practicable thereafter, the state treasurer shall distribute the amounts to the candidates. Any moneys accumulated after the final certification shall be maintained in the respective accounts for distribution in the next general election year.

Subd. 11. For the purposes of section 10A.31, a write-in candidate is not a candidate unless he complies with the provisions of section 10A.32, subdivision 3.

(1974 c 470 s 31; 1976 c 307 s 26-33; 1978 c 463 s 87-95)

10A.32 LIMITATIONS UPON THE STATE ELECTION CAMPAIGN FUND. Subdivision 1. No candidate shall be entitled to receive from the state elections campaign fund and retain an amount greater than the aggregate amount of expenditures which may be made by him and approved expenditures make on his behalf under section 10A.25, subdivision 2. The amount by which the allocation exceeds the expenditure limit shall be returned to the general fund of the state.

Subd. 2. No candidate shall be entitled to receive from the state elections campaign fund an amount greater than the aggregate amount of expenditures made by him and approved expenditures made on his behalf in the year of the election. If the report required to be filed on or before January 31 in the year following the general election indicates that the amount received by the candidate from the state elections campaign fund is greater than the amount expended on his behalf, the treasurer of his principal campaign committee shall return to the state treasurer an amount equal to the difference. The return in the form of a check or money order shall be submitted with such report and the Board shall forward the return to the state treasurer for deposit in the general fund of the state.

Subd. 3. As a condition of receiving any moneys from the state elections campaign fund, a candidate shall agree by stating in writing to the Board that

(a) his expenditures and approved expenditures shall not exceed the expenditure limits as set forth in section 10A.25 and that

(b) he shall not accept contributions or allow approved expenditures to be made on his behalf for the period beginning with January 1 of the election year or with the registration of his principal campaign committee, whichever occurs later, and ending December 31 of the election year, which aggregate contributions and approved expenditures exceed the difference between the amount which may legally be expended by him or on his behalf, and the amount which he receives from the state elections campaign fund. The agreement, insofar as it relates to the expenditure limits set forth in section 10A.25, remains effective until the dissolution of the principal campaign committee of the candidate or the opening of filings for the next succeeding election to the office held or sought at the time of agreement, whichever occurs first. Beginning in 1980, money in the account of the principal campaign committee of a candidate on January 1 of the election year for the office held or sought shall be considered contributions accepted by that candidate in that year for the purposes of this subdivision. Notwithstanding the effective date of this section, for 1978, the period for determining the aggregate contribution and approved expenditure limit agreed to pursuant to this subdivision shall begin January 1, 1978. That amount of all contributions accepted by a candidate in an election year which equals the amount of noncampaign disbursements made by that candidate in that year, and the amount of contributions received and approved expenditures made between January 1, 1978, and February 28, 1978, which equals the amount of expenditures made between January 1, 1978, and February 28, 1978, for goods consumed and services used before February 28, 1978, shall not count toward the aggregate contributions and approved expenditure limit imposed by this subdivision. Any amount by which his aggregate contributions and approved expenditures agreed to under clause (b) exceed the difference shall be returned to the state treasurer in the manner provided in subdivision 2. In no case shall the amount returned exceed the amount received from the state elections campaign fund.

The candidate may submit his signed agreement to the filing officer on the day he files his affidavit of candidacy or petition to appear on the ballot, or he may submit the agreement to the Board no later than September 1.

The Board prior to the first day of filing for office shall forward forms for the agreement to all filing officers. The filing officer shall without delay forward signed agreements to the Board. An agreement may not be rescinded after September 1.

For the purposes of this subdivision only, the total amount to be distributed to each candidate is calculated to be his share of the total estimated funds in his party account as provided in subdivision 3a, plus the total amount estimated as provided in subdivision 3a to be in the general account of the state elections campaign fund and set aside for that office divided by the number of candidates whose names are to

appear on the general election ballot for that office. If for any reason the amount actually received by the candidate is greater than his share of the estimate, and his contributions thereby exceed the difference, the agreement shall not be considered violated.

Subd. 3a. The commissioner of revenue shall, on the basis of vote totals provided by the secretary of state, calculate and certify to the Board before the first day of July in an election year his estimate, after 100 percent of the tax returns have been processed, of the total amount in the general account, and the amount of moneys each candidate who qualifies as provided in section 10A.31, subdivision 6, may receive from his party account, based upon the formula set forth in section 10A.31, subdivision 3. Prior to the first day of filing for office, the Board shall publish and forward to all filing officers these estimates. Within seven days after the last day for filing for office the secretary of state shall certify to the Board the name, address, office sought, and party affiliation of each candidate who has filed with that office his affidavit of candidacy or petition to appear on the ballot. The auditor of each county shall certify to the Board the same information for each candidate who has filed with that county his affidavit of candidacy or petition to appear on the ballot. Within seven days thereafter the Board shall estimate the minimum amount to be received by each candidate who qualifies as provided in section 10A.31, subdivisions 6 and 7, and notify all candidates on or before August 15 of the applicable amount. The Board shall include with the notice a form for the agreement provided in subdivision 3.

Subd. 3b. As a condition of receiving a public subsidy for his election campaign in the form of tax credits against the tax due from individuals who contribute to his principal campaign committee a candidate shall agree by stating in writing to the Board at any time beginning with the registration of his principal campaign committee that his expenditures and approved expenditures shall not exceed the expenditure limits as set forth in section 10A.25. The agreement shall remain effective until the dissolution of the principal campaign committee of the candidate or the opening of filing for the next succeeding election for the office held or sought at the time of agreement, whichever occurs first. An agreement signed under this subdivision may not be rescinded. The commissioner of revenue shall not allow any individual or married couple filing jointly to take a credit against any tax due, pursuant to section 290.06, subdivision 11, for any contribution to a candidate for legislative or statewide office who has not signed the agreement provided in this subdivision. Nothing in this subdivision shall be construed to limit the campaign expenditure of any candidate who does not sign an agreement under this subdivision but accepts a contribution for which the contributor claims a credit against tax due. The Board shall forward a copy of any agreement signed under this subdivision to the commissioner of revenue. The Board shall make available

to any candidate signing an agreement a supply of Official Tax Credit Receipt forms which state in bold face type that (a) a contributor who is given a receipt form is eligible to receive a credit against his tax due in an amount equal to 50 percent of his contribution but not more than $25 for an individual, or not more than $50 for a married couple filing jointly, and (b) that the candidate to whom he has contributed has voluntarily agreed to abide by campaign expenditure limits. If a candidate does not sign an agreement under this subdivision he may not issue an Official Tax Credit Receipt form, or any facsimile thereof, to any of his contributors. Any candidate who does not voluntarily agree to abide by the expenditure limits imposed in section 10A.25 and who willfully issues Official Tax Credit Reciept forms, or any facsimile thereof, to any contributor is guilty of a misdemeanor.

Subd. 4. If a political party for whose candidates funds have been accumulated in the state elections campaign fund does not have a candidate for any office, the moneys set aside for that office shall be returned to the general fund of the state.

(1974 c 470 s 32; 1976 c 307 s 34; 1978 c 463 s 96-101, c 793 s 39)

10A.33 APPLICATION. The provisions of sections 10A.30 to 10A.32 shall apply only in general elections and primaries preceding general elections and shall not apply to special elections or special primaries.

(1974 c 470 s 33; 1978 c 463 s 102)

10A.335. For the purpose of determining whether the distribution formula provided in section 10A.31, subdivision 5, (a) assures that moneys will be returned to the counties from which they were collected, and (b) continues to have a rational relation to the support for particular parties or particular candidates within legislative districts, it is the intention of this section that future legislatures monitor, using statistical data provided by the department of revenue, income tax returns and renter and homeowner property tax refund returns on which $1, or in the case of a joint return, $2, is designated for a political party.

(1978 c 463 s 103)

10A.34 REMEDIES. Subdivision 1. A person charged with a duty under sections 10A.02 to 10A.34 shall be personally liable for the penalty for failing to discharge it.

Subd. 1a. The Board may bring an action in the district court in Ramsey county to recover any late filing fee imposed pursuant to any provision of chapter 10A. All money recovered shall be deposited in the general fund of the state.

Subd. 2. The Board or a county attorney may seek an injunction in the district court to enforce the provisions of sections 10A.02 to 10A.34.

Subd. 3. Unless otherwise provided, a violation of sections 10A.02 to 10A.34 is not a crime.

(1974 c 470 s 34; 1978 c 463 s 104)



STATE OF MINNESOTA
STATE ETHICAL PRACTICES BOARD
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Attorney General

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June 22, 1978

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Special Assistant
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296-1288

Proposed Ethical Practices Board Temporary Rules

As we discussed, the following rules in the above-captioned matter are disapproved at this time for the following reasons:

1. 1.0002(c): The contradiction between the proposed definition of "calendar year" and statutory provisions including Minn. Stat. 10A.32, Subd. 3(b) (1978).

2. 1.0006: The use of the word "may" creates unbridled agency discretion. The word "shall" must be used. The rule also fails to articulate policy criteria, if any are appropriate, which the agency will consider in making its decision.

3. Portion of 1.0008(A): Delegation of authorization power to the deputy treasurer improperly varies Minn. Stat. 10A.17, Subd. 2. (1978).

4. 1.0008(B): The use of the word "may" and lack of policy criteria, if any are appropriate, is improper for the reasons set forth in paragraph No. 1 above.

5. First sentences of 1.0027(A): The use of the "may" and lack of policy criteria, if any are appropriate, is improper for the reasons set forth in paragraph No. 1 above.

6. 1.0044: It is not a "rule" within the meaning of Minn. Stat. § 15.0411, Subd. 3 (1977).

All other rules and severable portions of rules are approved as to form and legality for purposes of this office's review pursuant to Minn. Stat. § 15.0412, Subd. 5 (1977).

Other matters and changes which the agency may wish to consider but which are not a part of our review for form and legality are as follows:

(a) The repeal of existing rules is also temporary, and permanent repeal must be a part of your formal full-scale rulemaking process.

(b) 1.0003: You may wish to add the word "political" before the word "fund" to conform this rule to the others.

(c) 1.0021: The word "which" seems improper in the rule as amended.

(d) 1.0034(A): You may wish to add the word "political" to conform this rule to others.

(e) 1.0037(A): The "t" is missing in the second line.

If you have any questions, do not hesitate to call me.

LES:mb

cc: Representative Michael J. George
Duane Harves
Marshall Whitlock
Allen Clutter III

add word "Temporarily" ? See 10A.01 Subd 15

(12) definition of "principal campaign committee"?

(1) p. 2 (F) Money defined "cash + deposit in banks & other depositories". How about cash held in campaign office?

Defined in statute (2) p. 2 (H) "advance of credit" defined?

(6) p. 2 1.0003 To be enlisted, chg to "political committee or political fund"

* Remind agency that repeal if temp., too, must be faithful at hearing on permanent rules.

1.0006

* (11) p. 3 ¶ last sentence "may". Discretion unbridled - no criteria upon which agency will act.

See eg. of criteria 1.0027(A)

* Are there crim. penalties for violation of temp. rules, or ~~any~~ permanent rules for that matter?

* calendar yr.

* deputy treas. stricken

e.g., 1.0006 "oblig. of treas. to file amendt ... w/i 10 days after indiv. becomes aware..."

* (5) p. 3 1.0008 (B) "may" discretionary - when will they not?

Irrelevant

(1) Does statute require "certification"? If so, doesn't Minn. law define "certif" as "notarization"

p. 4 1.0012

-2-

(6) p. 5 1.0014 (B) – ~~If leads~~ Data Privacy law doesn't make it unavailable after BI finding – only after investig. closed.

(7) p. 6 1.0014 (D) ~~For purposes of a rule, an "investig." be made "unfinished" by order?~~ Open Mtg. laws too? Make sure your allys is there

(8) p. 6 **1.0016** But expenditure disclosure req. do not apply ?!? Clutter explained conflicts – if staff requires rule.

1977 Legis. took out "used" Chap. 463, Sec. 78

(9) p. 7 1.0018 add cite to relative limit → 10A.27, Subd. 2

~~Where it defines "agg. pol. pty contrib. limit"?~~ Then it would "w/i legis. districts"?

(10) p 8 Top of page "which" shld be stricken, I think.

(11) p. 9 1.0024 why add "non-campaign"

(12) p. 10 1.0026 (B) "reported with/ paid or forgiven by the vendor committee" ?

(13) * p. 10 1.0027 (A) "may" shld be "shall"

(14) p. 10 1.0027 (C) may deny due process – penalize them for not giving you notice of address chg. Lang. added at bottom of page

(15) p. 11 1.0029 (A) – see statute

(16) p. 14 – 1.0034 (A) "pol. committee or pol. fund"

(17) 1.0037 - What if employer's name not on check? Are they required to call contractor?

(18) 1.15 1.0037 (A) "t" missing from treas. in 2nd line

(19) 1.17 - 1.0044 — NOT A PROPER RULE

(20) ~~Retroactivity of 1a.~~ Since no crim. penalty for rules, no retroactivity

O.K.

MINNESOTA STATE

ETHICAL PRACTICES BOARD

Rules and Regulations

C O N T E N T S

Campaign Financing

Chapter One

9MCAR 1.0001 APPLICABILITY OF RULES

9MCAR 1.0002 DEFINITIONS

A. "Act"

B. "Business Day"

C. "Calendar Year"

D. "File", "Filed", and "Filing"

E. "Fundraising Event"

F. "Money"

G. "Periodic Report"

H. "Unpaid Bills"

9MCAR 1.0003 AGREEMENT TO MAKE LOANS

9MCAR 1.0004 ALLOCATION OF APPROVED EXPENDITURES

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9MCAR 1.0006 AMENDMENTS

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9MCAR 1.0015 CONTRIBUTIONS BETWEEN PRINCIPAL CAMPAIGN COMMITTEES OF THE SAME CANDIDATE

9MCAR 1.0016 CONTRIBUTION DISCLOSURE - JUDGESHIP

9MCAR 1.0017 CONTRIBUTIONS FROM A NON REGISTERED POLITICAL COMMITTEE AND FUND

9MCAR 1.0018 CONTRIBUTION LIMITS - POLITICAL PARTY DEFINITION

9MCAR 1.0019 EMPLOYEE VOLUNTARY CONTRIBUTION PLAN

9MCAR 1.0020 EXPENSES INCURRED TO REPAY LOANS

9MCAR 1.0021 FORGIVENESS AND PAYMENT OF A LOAN

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9MCAR 1.0023 FUNDRAISING EVENT

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9MCAR 1.0025 JOINT CHECKS

9MCAR 1.0026 JOINT LIMITS FOR GOVERNOR AND LT. GOVERNOR

9MCAR 1.0027 LATE FILING FEES

9MCAR 1.0028 MEDIA ADVERTISEMENTS - CANDIDATES

9MCAR 1.0029 NONCAMPAIGN DISBURSEMENTS - CONSTITUENT SERVICES

9MCAR 1.0030 NONCAMPAIGN DISBURSEMENTS - MISCELLANEOUS

9MCAR 1.0031 ORGANIZATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS

9MCAR 1.0032 PAYMENT OF COMPENSATION FOR PERSONAL SERVICES

9MCAR 1.0033 PUBLIC FINANCING

9MCAR 1.0034 RECORDING CONTRIBUTIONS

9MCAR 1.0035 REPORTING AND DISCLOSING EARMARKED CONTRIBUTIONS

9MCAR 1.0036 REPORTING UNPAID BILLS OUTSTANDING AS CAMPAIGN EXPENDITURES

9MCAR 1.0037 RESPONSIBILITIES OF TREASURERS

9MCAR 1.0038 SAMPLE BALLOT PREPARED BY A CANDIDATE

9MCAR 1.0039 SIGNING TAX CREDIT SUBSIDY AGREEMENT

9MCAR 1.0040 TAX CREDIT SUBSIDY AGREEMENT AND PUBLIC FINANCING AGREEMENT

9MCAR 1.0041 TAX CREDIT SUBSIDY RECEIPTS - SPECIAL ELECTIONS

9MCAR 1.0042 TERMINATION OF REGISTRATION

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MINNESOTA STATE ETHICAL PRACTICES BOARD

Rules and Regulations

Relating to Campaign Financing

Chapter One

Temporarily 9MCAR 1.0001-9MCAR 1.00464

^ Supersedes and repeals EPB Rules 1-39. Pursuant to Minn. Session Laws, Chapter 463, Section 108, these temporary rules are adopted to give effect to the campaign financing provisions of Minn. Stat. Chapter 10A, the Ethics In Government Act, as amended by Minnesota Session Laws 1978, Chapter 463 and Chapter 793, and shall be effective until permanent rules are adopted pursuant to Minn. Stat. Chapter 15 or until October 1, 1979, whichever occurs first.

9MCAR 1.0001 APPLICABILITY OF RULES

These rules apply to principal campaign committees, political committees, political funds, individuals and associations that raise or expend in excess of $100 in a calendar year to influence the nomination or election of a candidate for the office of governor, lieutenant governor, attorney general, state treasurer, secretary of state, state auditor, state senator, state representative, justice of the state supreme court or judge of state district court.

9MCAR 1.0002 DEFINITIONS

A. "Act" means the Ethics In Government Act, Minn. Stat. Chapter 10A as amended by Minnesota Session Laws, 1978, Chapters 463 and 793.

~~B. "Board" means the Minnesota State Ethical Practices Board.~~

B. "Business Day" means 8:00 a.m. to 4:30 p.m. Monday through Friday except for official state holidays.

C. "Calendar Year" in 1978, for purposes of individual campaign expenditure and contribution limits, means February 28 through December 31, 1978.

D. "File", "Filed", and "Filing" means delivery to the office of the Board

by 4:30 p.m. on the prescribed filing date or postmarked two days prior to the filing date.

E. "Fundraising Event" means any dinner, luncheon, rally, coffee party, cocktail party, or other similar gathering of three or more individuals where contributions are solicited or received to influence the nomination or election of a candidate.

F. "Money" means cash on deposit in banks and other depositories, checks, negotiable instruments and other paper commonly accepted by a bank as a deposit, and transfers through electronic funds transfers.

G. "Periodic Report" means the Report of Receipts and Expenditures required to be filed with the Board at prescribed filing dates.

H. "Unpaid Bills" means advance of credit.

9MCAR 1.0003 AGREEMENT TO MAKE LOANS

An agreement to make a loan to a political committee or fund shall be made in writing, signed by the borrower (and endorsers, if any) and reported on the appropriate schedule.

9MCAR 1.0004 ALLOCATION OF APPROVED EXPENDITURES

Except for a political party expenditure as provided in Minn. Stat. 10A.275, the treasurer of a political committee or political fund making an approved expenditure on behalf of more than one candidate shall allocate the expenditure among such candidates on a reasonable proportionate basis and report the allocation to each candidate on periodic reports.

9MCAR 1.0005 ALLOCATION OF MONEY FROM GENERAL ACCOUNT REFUSED BY A CANDIDATE

Monies refused by a candidate from the general account of the State Election Campaign Fund shall be reapportioned to all the office accounts as provided by Minn. Stat. Chapter 10A.31, subd. 5 (a)-(e) and distributed to all qualifying candidates.

9MCAR 1.0006 AMENDMENTS

The Board or its staff may request a candidate or treasurer of a political committee or political fund to submit an amendment to complete or to correct a statement or periodic report previously filed provided the Board request is in writing. Such amendments shall be filed within 10 business days after receipt of a notice by a candidate or treasurer. This provision does not alter the obligation of the treasurer to file an amended statement or periodic report within 10 days of the time an individual bec omes aware of an inaccuracy or omission. The Board may grant an extension of the filing deadline upon written request.

9MCAR 1.0007 ANONYMOUS CONTRIBUTIONS

Any single contribution in excess of $20 for which no donor can be identified by the committee or fund shall be forwarded in its entirety to the Board within 14 days after its receipt. When forwarding such an anonymous contribution, the treasurer of the committee or fund shall report to the Board the amount of the contribution and the date on which it was received.

9MCAR 1.0008 APPROVED EXPENDITURES AND DETERMINATION BY THE BOARD

A. No approved expenditure in excess of $20 on behalf of a candidate shall be made until the individual or association receives a written authorization from the treasurer, deputy treasurer, or candidate of the principal campaign committee containing the following information: Date; Amount of expenditure; Name of individual/committee/fund making the expenditure; Purpose of the expenditure; Candidate on whose behalf expenditure is made; Office sought; Expenditure authorized by signature of treasurer, deputy treasurer, or candidate of principal campaign committee.

B. The Board may determine, on a case by case basis, when an expenditure, as defined by Minn. Stat. 10A.01, subd. 10a, on behalf of a candidate by an individual or association, was an approved expenditure made without the required written authorization of the treasurer, deputy treasurer or candidate of the

principal campaign committee, pursuant to Minn. Stat. 10A.17, subd. 2.

9MCAR 1.0009 ASSOCIATION NEWSLETTERS ON BEHALF OF A CANDIDATE

Unless the association is making an independent expenditure, the proportionate cost of preparation and distribution of a newsletter which advocates the nomination or election of a candidate is a donation in kind and must be approved by the candidate if the cost exceeds $20 per candidate.

9MCAR 1.0010 CAMPAIGN HEADQUARTERS

A reasonable proportion of the cost of a political party's headquarters which serves as the headquarters of a candidate must be allocated to the candidate and reported as a campaign expenditure by the principal campaign committee of the candidate.

9MCAR 1.0011 CAMPAIGN LITERATURE

Campaign literature paid for and distributed by a candidate or a principal campaign committee of a candidate running for office which contains pictures of, or incidental references to another candidate or office holder will not be considered an approved and authorized expenditure on behalf of the other candidate provided the candidacy of the other candidate is not mentioned and no direct or indirect appeal for support of the other candidate is made, or if there is an independent expenditure disclaimer.

9MCAR 1.0012 CERTIFICATION

A. The signature of the treasurer or deputy treasurer of record shall be sufficient certification on forms prescribed by the Board. Notarization is not required.

B. A candidate may sign forms that the treasurer or deputy treasurer of the committee is required to file.

9MCAR 1.0013 CHANGE OF OFFICE SOUGHT BY CANDIDATE

A. Contribution and expenditure limits. When a candidate, who sought nomination or election to one office, subsequently seeks the nomination or election to

another office in the same election year, expenditures incurred and contributions received to influence the nomination or election to the first office will not be counted toward the campaign contribution and expenditure limits to the subsequent office sought.

B. Registration requirement. A candidate who seeks another office must designate a separate principal campaign committee and a separate depository for funds for the office sought.

C. Tax credit subsidy & public financing agreements. A candidate may sign a tax subsidy agreement for the calendar year for each office sought until December 31. A candidate may sign a public financing agreement for each office sought until September 1 of the general election year. Signing a public financing agreement ~~for another office~~ by September 1 automatically rescinds a previously filed agreement~~.~~ for another office.

9MCAR 1.0014 COMPLAINTS OF VIOLATIONS

A. Any person who believes a violation of the act or of these rules has occurred may submit an oral or written complaint to the Board.

B. There is no prescribed form for a written complaint, but all such complaints shall be typewritten or handwritten legibly. The name and address of the person making the complaint shall be typewritten or hand printed on the complaint and it shall be signed by such person. A complaint shall name the alleged violator and describe the complainant's knowledge of the alleged violation. Any evidentiary material (should) shall if possible be submitted with the complaint. Complaints will not be available for public inspection or copying until after the Board makes a finding. No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator or is unsigned~~.~~ by the complainant.

C. The Board need not investigate an oral complaint. No investigation shall be undertaken if an oral complaint is frivolous on its face, too indefinite,

does not identify the violation, or does not identify the complainant. There is no prescribed format for an oral complaint, but all oral complaints must describe in sufficient detail the alleged violator and violation of the act or rules.

D. Any portion of a meeting during which the Board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting shall be closed to the public. The minutes of such a meeting shall be kept confidential.

9MCAR 1.0015 CONTRIBUTIONS BETWEEN PRINCIPAL CAMPAIGN COMMITTEES OF THE SAME CANDIDATE

A. Exclusive of personal funds of a candidate as reported on the periodic reports, the candidate may permit his principal campaign committee to accept contributions up to the applicable contribution limit for a political committee from another principal campaign committee formed by that candidate in seeking another office to further his nomination or election to the other office.

B. If the other principal campaign committee is a federally registered committee, then the provisions of Minn. Stat. 10A.22, subd. 7 apply as well as the contribution limit of the receiving committee.

9MCAR 1.0016 CONTRIBUTION DISCLOSURE - JUDGESHIP unnecessary

A candidate for a district or supreme court judgeship shall be considered a statewide candidate for purposes of the contribution disclosure requirements set forth in Minn. Stat. 10A.20, subd. 3(b). How about ex parte reg.?

9MCAR 1.0017 CONTRIBUTIONS FROM A NON REGISTERED POLITICAL COMMITTEE AND FUND

A political committee or political fund shall not accept a contribution of more than $100 from an association not registered with the Board, including federally registered committees and funds, unless the association registers with the Board within 14 days after making the contribution or provides the recipient political committee or political fund with all information required by Minn.

Stat. 10A.20.

9MCAR 1.0018 CONTRIBUTION LIMITS - POLITICAL PARTY DEFINITION

For purposes of determining an aggregate political party contribution limit, the organization of a political party does not include a political party ward organization, a social club of a political party in a congressional district, legislative district, municipality or precinct, an auxiliary committee of a political party unit defined by Minn. Stat. 10A.27, subd. 4, or any association which uses a political party name and is not listed in Minn. Stat. 10A.27, subd. 4.

9MCAR 1.0019 EMPLOYEE VOLUNTARY CONTRIBUTION PLAN

If an individual employee of a corporation doing business in Minnesota makes a voluntary contribution to a state candidate through a ~~program~~ plan made available by ~~a~~ that corporation and the employee retains sole and exclusive control of accumulated funds in the employee's name, the corporation providing ~~the employee benefit~~ such a plan on a nonpartisan basis is not required to register and report as a political committee or political fund. ~~The~~ A political committee or political fund ~~shall report and disclose~~ in receipt of the contribution from the individual shall report on the periodic report as required by Minn. Stat. Chapter 10A.

9MCAR 1.0020 EXPENSES INCURRED TO REPAY LOANS

The expenses of raising money to repay outstanding loans from a previous calendar year are reportable as campaign expenditures in the year in which expenses are incurred.

9MCAR 1.0021 FORGIVENESS AND PAYMENT OF A LOAN

~~A. If a political committee or political fund forgives a loan owed to it, the amount becomes a contribution for the period during which the loan was first made.~~

~~B.~~ When a loan to a principal campaign committee is forgiven or repaid by an individual, political committee, or political fund, in accordance with Minn.

Stat. 10A.32, subd. 3(b), a candidate who accepts money from the State Election Campaign Fund and whose aggregate contribution limit is exceeded, shall return to the Board with the required periodic report amendment ~~to the~~ or periodic report, a check or money order, payable to the State Treasurer for the amount which ~~must be returned~~ in excess of the aggregate contribution limit~~.~~ but not to exceed the amount received from the State Election Campaign Fund.

9MCAR 1.0022 FORGIVENESS AND PAYMENT OF UNPAID BILLS

~~A.--If a political committee or political fund forgives any unpaid bill in excess of $20 owed to it, the amount is a donation in kind to the recipient for the period in which the unpaid bill was incurred.~~

~~B.~~ When a donation in kind in excess of $20 results from the forgiveness of an unpaid bill or payment of an unpaid bill by an individual, political committee or political fund other than the principal campaign committee causes the aggregate contribution limit of a candidate who accepts money from the State Election Campaign Fund to be exceeded, in accordance with Minn. Stat. 10A.32, subd. 3(b), a candidate shall return the amount due, but not to exceed the amount received from the State Election Campaign Fund, by a check or money order made out to the State Treasurer with the required amendment ~~to the~~ or periodic report.

9MCAR 1.0023 FUNDRAISING EVENT

A. The expenses of a fundraising event held by the state or local committee of a political party for one or two candidates are a donation in kind and, except for food and beverage consumed at the fundraising event, shall be reported as a campaign expenditure by the candidate or candidates under the following conditions:

1. The fundraising event is expressly or implicitly approved by the candidate, his treasurer, or agent to be held "on behalf of" the candidate; and

2. The candidate or candidates are "clearly identified" in advertisements, tickets, or any advance publicity for the fundraising event; and

3. The candidate receives proceeds, if any, from the fundraising event.

"Clearly identified" means that: (a) the name of the candidate is used; or (b) a photograph or drawing of the candidate appears; or (c) the identity of the candidate is apparent by unambiguous reference.

B. A separate committee may be established by two or more candidates to report the contributions and expenditures as required by the act for a fundraising event held jointly. The expenses of the fundraising event shall be allocated among the candidates on a reasonable proportionate basis as donations in kind~~.~~, and, except for food and beverage consumed at a fundraising event, as campaign expenditures. A transfer of funds to a candidate combined with the value of donations in kind from that committee, may not exceed the applicable contribution limit ~~to~~ for ~~a political committee.~~ an individual, political committee, or political fund set forth in Minn. Stat. 10A.27, subdivision 1.

9MCAR 1.0024 INACTIVE REGISTERED COMMITTEES AND FUNDS

A registered committee or fund which receives no income and makes no expenditures or non-campaign disbursements during a reporting period may so indicate in the space provided on the periodic report and shall thereby satisfy the reporting requirement.

9MCAR 1.0025 JOINT CHECKS

When a contribution is given on a check written on a joint account, it shall be deemed a contribution by the signator(s) of the check unless otherwise specified by the signator(s). When a contribution is given on a check written on a joint account and specified as a joint contribution, it shall be deemed a separate contribution by each of the holders of the joint account in a proportional amount.

9MCAR 1.0026 JOINT LIMITS FOR GOVERNOR AND LT. GOVERNOR

A. A candidate seeking the endorsement for Lt. Governor who signs a tax credit subsidy agreement does not bind either the candidate for Governor or

his/her candidacy to campaign expenditure limits following their joining of candidacies. Following their joint endorsement or filing for office, the candidates must jointly sign the public financing agreement and/or the tax subsidy agreement if they wish to participate in public financing.

B. Candidates for Governor and Lt. Governor may cause their separate principal campaign committees to be combined as one with no limit on the amount of funds transferred between the two committees. Such action may be taken regardless of whether the action results in either principal campaign committee terminated with outstanding unpaid bills or loans provided that the unpaid bills or loans are assumed and continuously reported until paid or forgiven by the remaining committee.

9MCAR 1.0027 LATE FILING FEES

A. The Board may grant a waiver of a late filing fee for sickness or injury of the filer, or other compelling reason. A written request for a waiver must be submitted not later than the fifth business day after filing the late statement or periodic report.

B. A late filing fee will be charged through the day preceding the day of filing of a late statement or late periodic report.

C. The Board shall send a delinquency notice by certified mail to the treasurer of a political committee or political fund within ten business days after a filing date. A copy of the notice shall be sent by first class mail to the candidate and the chairman of a political committee or political fund. If a certified letter is returned by the post office to the Board as refused, then the letter shall be deemed to have been received by the addressee~~.~~ on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the Board as undelivered ~~or refused~~ shall be forwarded by first class mail to the treasurer. An undelivered notice of late filing shall be considered received by the recipient five

business days after the first class mailing.

9MCAR 1.0028 MEDIA ADVERTISEMENTS - CANDIDATES

If a candidate participates in, but does not pay for, a media advertisement paid for by ~~another candidate advocating~~ a principal campaign committee other than his own which advocates the nomination or election of other candidates or federal candidates, no portion of the cost of the advertisement shall be considered an approved expenditure on behalf of the participating candidate ~~who participates~~ provided his candidacy is not mentioned and no direct or indirect appeal for support for his candidacy is made.

9MCAR 1.0029 NONCAMPAIGN DISBURSEMENTS - CONSTITUENT SERVICES

A. Expenses paid by the principal campaign committee of a candidate in a non-election year and before adjournment sine die of the legislature in an election year for the office held, for constituent services including newsletters, public opinion questionnaires, aides to legislators for constituent services during a legislative session, stationery not printed at government expense, postage, and rent for district offices shall be reported as a constituent service noncampaign disbursements. Only that portion of the expense actually used or consumed for services to constituents shall be reported as a noncampaign disbursements.

B. Costs of constituent services paid from personal funds of an officeholder ~~and provided during non-election years and through the day of~~ incurred before adjournment sine die of the legislature in ~~an~~ the election year for the office held are not required to be reported by the principal campaign committee of the ~~candidate.~~ officeholder.

C. Costs of providing constituent services ~~for~~ by an officeholder who is a candidate after adjournment sine die of the legislature in the election year for the office held and sought are reportable by the principal campaign committee as campaign expenditures.

D. Constituent services provided after adjournment sine die in the year of an election for an officeholder who is a candidate which is paid for from the personal funds of the officeholder shall be considered a donation in kind and reported as such by the principal campaign committee of the candidate.

9MCAR 1.0030 NONCAMPAIGN DISBURSEMENTS - MISCELLANEOUS

Other expenses which are to be reported as miscellaneous noncampaign disbursements if paid for by the principal campaign committee of the candidate include~~:~~; but not be limited to: costs for child care for the candidate's children when campaigning; fees paid to attend a campaign school; costs of a post election party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first; interest on loans paid by a principal campaign committee on outstanding loans; and filing fees if permitted by other Minnesota law.

9MCAR 1.0031 ORGANIZATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS

~~A.--Any-group-of-two-or-more-persons-which-receives-a-contribution-or-makes an-expenditure,-or-a-transfer-of-funds,-in-aggregate,-in-excess-of-$100-to influence-the-nomination-for-election-or-election-of-candidates-for-statewide or-legislative-office-or-makes-any-independent-expenditures-in-excess-of-$100 must-register-a-political-committee-or-political-fund.--If-the-group-has-as its-major-purpose-the-influencing-of-election-of-a-candidate-or-candidates,-it shall-register-as-a-political-committee.--If-the-group-is-an-association-which has-a-major-purpose-other-than-the-influencing-of-election,-it-shall-establish a-political-fund.--When-a-person-or-group-merely-solicits-contributions-with-the approval-of-the-candidate,-a-treasurer,-deputy-treasurer-or-an-agent-of-a political-committee-or-political-fund-which-are-made-directly-to-a-reporting committee-or-fund,-such-person-or-group-is-not-required-to-establish-an-additional-committee-or-fund.~~

A. Any group of two or more persons which receives contributions or which

makes expenditures, transfers of funds, or independent expenditures in aggregate in excess of $100 to influence the nomination or election of one or more candidates for statewide or legislative office must register as a political committee or political fund. If the group's major purpose is to influence the nomination or election of one or more candidates, it shall register as a political committee. If the group is an association whose major purpose is one other than to influence nominations or elections, it shall establish a political fund. When a person or group merely solicits contributions with the approval of a candidate or the treasurer, deputy treasurer or agent of a political committee or political fund and when those contributions are made directly to the reporting committee or fund, that person or group need not establish a separate political committee or political fund.

B. A candidate may be his own chairman and/or treasurer.

C. All monetary assets of a committee or fund shall be kept in designated depositories in accounts named in accordance with Minn. Stat. 10A.15, subd. 3.

D. The funds of a political committee or the contents of a political fund shall not be commingled with any other funds or with the personal funds of a candidate, any officer or member of the committee or fund.

9MCAR 1.0032 PAYMENT OF COMPENSATION FOR PERSONAL SERVICES

The gross value of compensation, in excess of $20, for personal services of an individual or group which are rendered to a candidate, political committee or political fund is reported as a donation in kind from the individual or association that makes the payment.

~~9MCAR 1.0033 PREPAID CAMPAIGN EXPENSES~~

~~Goods and services to influence the nomination or election of a candidate, purchased in one year but used in a subsequent year are charged against the expenditure limit in the year used.~~

9MCAR 1.00343 PUBLIC FINANCING

A candidate or officeholder who signs an agreement to participate in the State Election Campaign Fund is bound by the expenditure limits in an election year and non-election year whether or not the candidate actually receives funds from the State Election Campaign Fund.

9MCAR 1.00354 RECORDING CONTRIBUTIONS

A. Every individual, political committee or fund that receives a contribution in excess of $20 shall record the name, address, and employer, or, if self employed, the occupation of the contributor of each such contribution.

B. Promptly after receipt of any contribution or on demand of the treasurer, the contribution together with any required record shall be transmitted to the treasurer.

9MCAR 1.00365 REPORTING AND DISCLOSING EARMARKED CONTRIBUTIONS

A. Each individual, political committee or political fund which receives an earmarked contribution of more than $20 shall record (1) the name, address, and if employed, employer of, or, if self-employed, the occupation of the donor who originally made the earmarked contribution; (2) the name and address of the candidate, political committee or political fund for whom the contribution is earmarked; (3) the political committee or political fund through which the earmarked contribution is directed; and (4) the amount of each earmarked contribution.

B. An earmarked contribution is reported in periodic reports as miscellaneous income by the political committee or political fund through which the contribution is directed to a candidate. When transferred to the candidate by the political committee or political fund the information in 9MCAR 1.00365 A shall accompany the transfer, although the earmarked contribution shall be disclosed on periodic reports by the political committee or political fund only when in excess of $100.

C. The treasurer of a principal campaign committee of a candidate shall

disclose on periodic reports the name, address, and, if employed, employer of, or, if self-employed, the occupation of the donor of an earmarked contribution, the individual, political committee or political fund through which the contribution was directed, and the fact that the contribution was earmarked when the total aggregate contributions from the same source in a calendar year reach the disclosure thresholds of Minn. Stat. 10A.20, subd. 3(b).

9MCAR 1.00376 REPORTING UNPAID BILLS OUTSTANDING AS CAMPAIGN EXPENDITURES

A. For the purpose of reporting campaign expenditures at the end of a calendar year, any unpaid bills, for campaign expenditures used or consumed during the calendar year, owed by the reporting principal campaign committee on December 31 shall be reported as campaign expenditures for the calendar year ending December 31.

B. An unpaid bill paid is reportable as a noncampaign disbursement in the succeeding year except as provided in 9MCAR 1.0022.

9MCAR 1.00387 RESPONSIBILITIES OF TREASURERS

A. A treasurer may transfer records and receipts to a new treasurer relieving that reasurer of record retention responsibility by written notification to the Board by either the new treasurer or the candidate. Such notice shall include date, name and address of the new treasurer.

B. A copy of a cancelled check with an invoice stating the purpose of the expenditure will be treated as a receipted bill.

~~C.--The-treasurer-shall-report-all-contributions-received-or-deposited within-a-reporting-period.~~

9MCAR 1.00398 SAMPLE BALLOT PREPARED BY A CANDIDATE

If a candidate chooses to prepare and distribute his own sample ballot and includes the names of other candidates ~~without-their-approval-and-authorization,~~ the ballot must contain the proper disclaimer required for independent expenditures~~.~~, unless it is an approved expenditure as defined in Minn. Stat.

10A.01, subd. 10a. For purposes of campaign expenditure reporting, the total cost of the preparation, printing and distribution of the sample ballot shall be assessed against the candidate causing the ballot to be prepared and distributed.

9MCAR 1.004039 SIGNING TAX CREDIT SUBSIDY AGREEMENT

A candidate may sign a tax credit subsidy agreement at any time after registration of his principal campaign committee for the office sought or held ~~to~~ through December 31. No agreement signed on or after January 1, shall be applicable to a preceding calendar year.

~~9MCAR 1.0041 TAX CREDITS FOR POLITICAL PARTY CONTRIBUTION~~

~~A political party organization may make a contribution to a candidate who has not signed a tax credit agreement.~~

9MCAR 1.00420 TAX CREDIT SUBSIDY AGREEMENT AND PUBLIC FINANCING AGREEMENT

A candidate must sign a separate agreement in order to participate in each public financing program.

9MCAR 1.00431 TAX CREDIT SUBSIDY RECEIPTS - SPECIAL ELECTIONS

Candidates shall not issue Official Tax Credit Receipts for special elections.

9MCAR 1.00442 TERMINATION OF REGISTRATION

A. A Termination Report shall cover the period from the closing date of the last previous report filed through the date of termination.

B. Any terminated political committee or political fund which subsequently becomes subject to the registration and reporting requirements of the act is required to reregister.

9MCAR 1.00453 SEVERABILITY

If any rule or any part thereof is held invalid, such invalidity shall not effect any other provision of the rule or rules which can be given effect without the invalid provision. To this end, the provisions of these rules are declared to be severable.

9MCAR 1.00464 VACATED ADVISORY OPINIONS

The following advisory opinions adopted by the Board pertaining to campaign financing are no longer valid upon adoption of permanent rules. However, the essence of many of the opinions have been incorporated into these rules. Advisory Opinions #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 17, 18, 19, 21, 24, ~~26, 26a,~~ 27, 30, 31, 34, 39, and 42.



3.

414 South Avenue
North Mankato, MN 56001
May 25, 1978

Ethical Practices Board
Room 41
State Office Building
St. Paul, MN 55155

Gentlemen:

In response to your request for public comment regarding Proposed Temporary Rules Relating to Campaign Financing, I am submitting the following observations:

Regarding 9 MCAR § 1.0001 Applicability of Rules, I note that the rules apply to judges of the state district court but omit reference to judges of the state county court. I find this inconsistent, since judges of the county court are also elected state officials. Following the enactment of the Court Reorganization Act of 1977, judges of both the county court and the district court are paid by the state. County court and district court judges can both hear cases anywhere in the state.

Regarding 9 MCAR § 1.0035 Recording Contributions, the proposed rule requires political committees to record the name, address, and employer of each contributor in excess of $20. I object to the required furnishing of the name of one's employer as this information is irrelevant and could lead to the systematic harassment and even dismissal of an employee who contributes to a candidate or cause unpopular with his employer. The possible prejudice which could occur to contributors furnishing this information far outweighs its probative value to the Ethical Practices Board. I urge you to delete the required furnishing of this information.

I hope the foregoing comments are of assistance to you.

Sincerely,

Georgia L. Holmes

Georgia L. Holmes

GLH:dh

3.



RECEIVED
MAY 17 1978
STATE ETHICS
COMMISSION

State of Minnesota

HOUSE OF REPRESENTATIVES
May 15, 1978

To: B. Allen Clutter, Executive Director, Ethical Practices Board

From: Paul T. Hess/ House Minority Staff

Re: Rules and Regulations Relating to Campaign Financing

The following are some suggested changes I have for the rules relating to campaign financing. Most of these are "stylistic" changes except for Nos. 14, 17, 19, 30, 32 and 33.

1. Page 3, line 20 (9MCAR 1.0008,A), after "association" insert "desiring to make the approved expenditure"; after "receives", delete "a".

2. Page 4, lines 8 to 12 (9MCAR 1.0008,B), delete paragraph B and insert "The Board may determine on a case by case basis when an expenditure by an entity other than a principal campaign committee was actually an approved expenditure as defined by M.S. 10A.01, Subdivision 10a, made without the required written authorization of the treasurer, deputy treasurer or candidate of that principal campaign committee as prescribed by M.S. 10A.17, Subdivision 2."

3. Page 4, line 14 (9MCAR 1.0009), after "Unless" delete "the" and insert "an"; delete "an" and insert "a legitimate"; after "expenditure" insert "pursuant to M.S. 10A.17, Subdivision 4".

4. Page 6, line 8 (9MCAR 1.0014,B), delete "complainants" and insert "complainant's".

5. Page 6, line 13 (9MCAR 1.0014,B), after "unsigned" insert "by the complainant."

6. Pages 6 and 7 (9MCAR 1.0015,A), delete paragraph A and insert "Exclusive of his personal funds as reported in the periodic reports, the candidate shall not permit his principal campaign committee to accept contributions from any other principal campaign committee previously formed to further his nomination

or election to another office which, in aggregate, exceed the applicable contribution limit for an individual, political committee or political fund prescribed for the office he subsequently seeks in M.S. 10A.27, Subdivision 1."

7. Page 7, line 9 (9MCAR 1.0016), after "of" insert "the"; after "disclosure" insert "requirements".

8. Page 7, line 13 (9MCAR 1.0017), after "or" insert "political".

9. Page 7, lines 21 to 24 (9MCAR 1.0018), after "include" insert a colon; delete the comma after "organization" and insert a semicolon; delete the comma after "precinct" and insert a semicolon; delete "a" and insert "any"; delete "defined by" and insert "listed in"; delete the comma after "subd. 4" and insert a semicolon.

10. Page 8, line 3 (9MCAR 1.0019), delete "program" and insert "plan".

11. Page 8, line 4 (9MCAR 1.0019), delete "a" and insert "that".

12. Page 8, line 6 (9MCAR 1.0019), delete "the employee benefit" and insert "such a plan".

13. Page 8, line 17 (9MCAR 1.0021,A), delete "becomes" and insert "forgiven is considered".

14. Page 8, lines 19 to 26 (9MCAR 1.0021,B), delete paragraph B and insert "When a loan to a principal campaign committee is forgiven or repaid by an individual, political committee or political fund other than that principal campaign committee, thereby causing the aggregate contribution limit of a candidate who files a public financing agreement to be exceeded, that candidate shall return the amount due to the Board in accordance with M.S. 10A.32, Subdivisions 2 and 3."

15. Page 9, line 2 (9MCAR 1.0022,A), delete "any" and insert "an".

16. Page 9, line 3 (9MCAR 1.0022,A), after "amount" insert "forgiven"; after "is" insert "considered"; after "kind" insert "from that political committee or political fund".

17. Page 9, lines 8 to 12 (9MCAR 1.0022,B), delete "accepts money from the State Elections Campaign Fund" and insert "files a public financing agreement";delete "in accordance with Minn. Stat. 10A.32, subd. 3(b)'; before "candidate", delete "a" and insert "that"; delete "by a check or money order made out to the State Treasurer with the required amendment to the periodic report" and insert "to the Board in accordance with M.S. 10A.32, Subdivisions 2 and 3."

18. Page 9, lines 15 and 17 (9MCAR 1.0023,A), delete "a donation" and insert "donations"; after "as" delete "a"; delete "expenditure" and insert "expenditures".

19. Page 10, line 5 (9MCAR 1.0023,B), after "kind" insert "and, except for food and beverage consumed at the fund-raising event, as campaign expenditures."

20. Page 10, line 7 (9MCAR 1.0023,B), delete "to" and insert "for"; delete "a political committee" and insert "an individual, political committee or political fund set forth in M.S. 10A.27, Subdivision 1".

21. Page 10, line 10 (9MCAR 1.0024), after "or" insert "noncampaign".

22. Page 10, line 18 (9MCAR 1.0025), after "a" insert "separate".

23. Page 12, line 3 (9MCAR 1.0028), delete "another candidate advocating" and insert "a principal campaign committee other than his own which advocates".

24. Page 12, line 6 (9MCAR 1.0028), before "candidate" insert "participating" and delete "who participates".

25. Page 12, lines 9 to 15 (9MCAR 1.0029,A), delete the first sentence of paragraph A and insert:

    "Expenses for constituent services incurred by the principal campaign committee of an officeholder before adjournment sine die of the legislature in the election year for the office held shall be reported as constituent service noncampaign disbursements. Constituent services include: newsletters; public opinion questionnaires; aides to legislators for constituent services employed during a legislative session; stationery not printed at government expense; postage; and rent for district offices."

26. Page 12, line 17 (9MCAR 1.0029,A), delete "noncampaign disbursements" and insert "a noncampaign disbursement".

27. Page 12, lines 19 to 22 (9MCAR 1.0029,B), delete "and provided during non-election years and through the day of" and insert "incurred before"; before "election" delete "an" and insert "the"; delete "candidate" and insert "officeholder".

28. Page 12, line 23 (9MCAR 1.0029,C), delete "for" and insert "by".

29. Page 13, lines 11 to 23 (9MCAR 1.0031,A), delete paragraph A and insert:

"Any group of two or more persons which receives contributions or which makes expenditures, transfers of funds, or independent expenditures in aggregate in excess of $100 to influence the nomination or election of one or more candidates for statewide or legislative office must register as a political committee or political fund. If the group's major purpose is to influence the nomination or election of one or more candidates, it shall register as a political committee. If the group is an association whose major purpose is one other than to influence nominations or elections, it shall establish a political fund. When a person or group merely solicits contributions with the approval of a candidate or the treasurer, deputy treasurer or agent of a political committee or political fund and when those contributions are made directly to the reporting committee or fund, that person or group need not establish a separate political committee or political fund."

30. Page 13, lines 28 to 30 (9MCAR 1.0031,D), delete paragraph D. It is repetitious of M.S. 10A.11, Subd. 5, and 10A.12, Subd. 2.

31. Page 14, line 4 (9MCAR 1.0032), delete "committee or fund" and insert "political committee or political fund".

32. Page 14, lines 15 to 22 (9MCAR 1.0035), delete 9MCAR 1.0032 in its entirety. Under M.S. 10A.15, Subd. 1, clause (b), no record of the employer or occupation must be kept. M.S. 10A.20, Subd. 3, clause (b) requires disclosure of occupation or employer only for contributions in excess of $50 for legislative candidates and $100 for statewide candidates. Therefore, paragraph A seems inaccurate and repetitious of the statutes. Paragraph B is repetitious of M.S. 10A.15, Subd. 2.

33. Pages 14 and 15, lines 23 to 28 and 1 to 15 (9MCAR 1.0036), delete 9MCAR 1.0036 in its entirety. M.S. 10A.16 clearly states that the information about earmarked contributions is required for only those contributions identified in M.S. 10A.20, Subd. 3, clause (b); i.e., those which exceed $50 for legislative candidates or $100 for statewide candidates. Therefore, paragraphs A and B seem inaccurate and paragraph C is repetitious of the statute.

34. Page 15, line 26 (9MCAR 1.0038,A), after "of" insert "his"; delete "retention responsibility" and insert "responsibilities".

35. Page 16, lines 7 to 9 (9MCAR 1.0039), delete "without their approval and authorization"; after "expenditures" insert "unless it is an approved expenditure as defined in M.S. 10A.01, Subdivision 10a".

36. Page 16, line 16 (9MCAR 1.0040), delete "to" and insert "through".

37. Page 16, line 25 (9MCAR 1.0043), delete "tax credit receipts" and insert "Official Tax Credit Receipts".

Should you have any questions, please contact me at 296-8188.

STATE OF MINNESOTA
STATE ETHICAL PRACTICES BOARD
41 STATE OFFICE BUILDING
ST. PAUL, MINNESOTA 55155
PHONE: (612) 296-5148

PROPOSED TEMPORARY
RULES GOVERNING
CAMPAIGN FINANCING

Pursuant to Minn. Stat. 15.0412, Subd. 5, the Ethical Practices Board shall afford all interested persons an opportunity to submit data and comments concernig these proposed temporary Campaign Financing rules. All comments shall be submitted in writing to the Board, not later than the close of business on Monday, June 5, 1978.

Under Minn. Stat. 10A.01 Subd. 11 and 10A.03 (1976), any individual* engaged for pay or other consideration, or authorized to spend money, who spends in excess of five hours in any month or in excess of $250 in a calendar year to influence legislative and administrative action, such as the promulgation of these rules, by communicating with, or urging others to communicate with public officials must register with the State Ethical Practices Board as a lobbyist within five days.

*with certain exceptions

MINNESOTA STATE ETHICAL PRACTICES BOARD

Rules and Regulations

Relating to Campaign Financing

Chapter One

9MCAR 1.0001-9MCAR 1.0046

Supersedes and repeals EPB Rules 1-39. Pursuant to Minn. Session Laws, Chapter 463, Section 108, these temporary rules are adopted to give effect to the campaign financing provisions of Minn. Stat. Chapter 10A, the Ethics In Government Act, as amended by Minnesota Session Laws 1978, Chapter 463 and Chapter 793, and shall be effective until permanent rules are adopted pursuant to Minn. Stat. Chapter 15 or until October 1, 1979, whichever occurs first.

9MCAR 1.0001 APPLICABILITY OF RULES

These rules apply to principal campaign committees, political committees, political funds, individuals and associations that raise or expend in excess of $100 in a calendar year to influence the nomination or election of a candidate for the office of governor, lieutenant governor, attorney general, state treasurer, secretary of state, state auditor, state senator, state representative, justice of the state supreme court or judge of state district court.

9MCAR 1.0002 DEFINITIONS

A. "Act" means the Ethics In Government Act, Minn. Stat. Chapter 10A as amended by Minnesota Session Laws, 1978, Chapter 463 and 793.

B. "Board" means the Minnesota State Ethical Practices Board.

C. "Business Day" means 8:00 a.m. to 4:30 p.m. Monday through Friday except for official state holidays.

D. "Calendar Year" in 1978, for purposes of campaign expenditure and contribution limits, means February 28 through December 31, 1978.

E. "File", "Filed", and "Filing" means delivery to the office of the Board by 4:30 p.m. on the prescribed filing date or postmarked two days prior to the filing date.

F. "Fundraising Event" means any dinner, luncheon, rally, coffee party, cocktail party, or other similar gathering of three or more individuals where contributions are solicited to influence the nomination or election of a candidate.

G. "Money"means cash on deposit in banks and other depositories, checks, negotiable instruments and other paper commonly accepted by a bank as a deposit, and transfers through electronic funds transfers.

H. "Periodic Report" means the Report of Receipts and Expenditures required to be filed with the Board at prescribed filing dates.

I. "Unpaid Bills"means advance of credit.

9MCAR 1.0003 AGREEMENT TO MAKE LOANS

An agreement to make a loan to a political committee or fund shall be made in writing, signed by the borrower (and endorsers, if any) and reported on the appropriate schedule.

9MCAR 1.0004 ALLOCATION OF APPROVED EXPENDITURES

Except for a political party expenditure as provided in Minn. Stat. 10A.275, the treasurer of a political committee or fund making an approved expenditure on behalf of more than one candidate shall allocate the expenditure among such candidates on a reasonable proportionate basis and report the allocation to each candidate on periodic reports.

9MCAR 1.0005 ALLOCATION OF MONEY FROM GENERAL ACCOUNT REFUSED BY A CANDIDATE

Monies refused by a candidate from the general account of the State Election Campaign Fund shall be reapportioned to all the office accounts as provided by Minn. Stat. Chapter 10A.31, subd. 5 (a)-(e) and distributed to all qualifying candidates.

9MCAR 1.0006 AMENDMENTS

The Board or its staff may request a candidate or treasurer of a political committee or political fund to submit an amendment to complete or to correct a statement or periodic report previously filed provided the Board request is in writing. Such amendments shall be filed within 10 business days after receipt of a notice by a candidate or treasurer. This provision does not alter the obligation of the treasurer to file an amended statement or periodic report within 10 days of the time an individual becomes aware of an inaccuracy or omission. The Board may grant an extension of the filing deadline upon written request.

9MCAR 1.0007 ANONYMOUS CONTRIBUTIONS

Any single contribution in excess of $20 for which no donor can be identified by the committee or fund shall be forwarded in its entirety to the Board within 14 days after its receipt. When forwarding such an anonymous contribution, the treasurer of the committee or fund shall report to the Board the amount of the contribution and the date on which it was received.

9MCAR 1.0008 APPROVED EXPENDITURES AND DETERMINATION BY THE BOARD

A. No approved expenditure in excess of $20 on behalf of a candidate shall be made until the individual or association receives a written authorization from the treasurer, deputy treasurer, or candidate of the principal campaign committee containing the following information:

Date _____ amount of expenditure _____

name of individual/committee/fund making the expenditure _____

Purpose of the expenditure _____

Candidate on whose behalf expenditure is made _____

Office sought _____

Expenditure authorized by
Signature of treasurer, deputy
treasurer, or candidate of
principal campaign committee. _____

B. The Board may determine on a case by case basis when an expenditure, as defined by Minn. Stat. 10A.01, subd. 10a, on behalf of a candidate by an individual or association was an approved expenditure made without the required written authorization of the treasurer, deputy treasurer or candidate of the principal campaign committee, pursuant to Minn. Stat. 10A.17, subd.2.

9MCAR 1.0009 ASSOCIATION NEWSLETTERS ON BEHALF OF A CANDIDATE

Unless the association is making an independent expenditure, the proportionate cost of preparation and distribution of a newsletter which advocates the nomination or election of a candidate is a donation in kind and must be approved by the candidate if the cost exceeds $20 per candidate.

9MCAR 1.0010 CAMPAIGN HEADQUARTERS

A reasonable proportion of the cost of a political party's headquarters which serves as the headquarters of a candidate must be allocated to the candidate and reported as a campaign expenditure by the principal campaign committee of the candidate.

9MCAR 1.0011 CAMPAIGN LITERATURE

Campaign literature paid for and distributed by a candidate or a principal campaign committee of a candidate running for office which contains pictures of, or incidental references to another candidate or office holder will not be considered an approved and authorized expenditure on behalf of the other candidate provided the candidacy of the other candidate is not mentioned and no direct or indirect appeal for support of the other candidate is made, or if there is an independent expenditure disclaimer.

9MCAR 1.0012 CERTIFICATION

A. The signature of the treasurer or deputy treasurer of record shall be sufficient certification on forms prescribed by the Board. Notarization is not required.

B. A candidate may sign forms that the treasurer or deputy treasurer of the committee is required to file.

9MCAR 1.0013 CHANGE OF OFFICE SOUGHT BY CANDIDATE

A. Expenditure limit. When a candidate, who sought nomination or election to one office, subsequently seeks the nomination or election to another office in the same election year, expenditures incurred to influence the nomination or election to the first office will not be counted toward the campaign expenditure limit to the subsequent office sought.

B. Registration Requirement. A candidate who seeks another office must designate a separate principal campaign committee and a separate depository for funds for the office sought.

C. Tax Credit Subsidy & Public Financing Agreements. A candidate may sign a tax subsidy agreement for each office sought until December 31. A candidate may sign a public financing agreement for each office sought until September 1 of the general election year. Signing a public financing agreement for another office by September 1 automatically rescinds a previously filed agreement.

9MCAR 1.0014 COMPLAINTS OF VIOLATIONS

A. Any person who believes a violation of the act or of these rules has occurred may submit an oral or written complaint to the Board.

B. There is no prescribed form for a written complaint, but all such complaints shall be typewritten or handwritten legibly. The name and address of the person making the complaint shall be typewritten or hand printed on the complaint and it shall be signed by such person. A complaint shall name the alleged violator and describe the complainants knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints will not be available for public inspection or copying until after the Board makes a finding. No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator or is unsigned.

C. The Board need not investigate an oral complaint. No investigation shall be undertaken if an oral complaint is frivolous on its face, too indefinite, does not identify the violation, or does not identify the complainant. There is no prescribed format for an oral complaint, but all oral complaints must describe in sufficient detail the alleged violator and violation of the act or rules.

D. Any portion of a meeting during which the Board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting shall be closed to the public. The minutes of such a meeting shall be kept confidential.

9MCAR 1.0015 CONTRIBUTIONS BETWEEN PRINCIPAL CAMPAIGN COMMITTEES OF THE SAME CANDIDATE

A. Exclusive of personal funds of a candidate as reported on the periodic reports, the candidate may permit his principal campaign committee

to accept contributions up to the applicable contribution limit for a political committee from another principal campaign committee formed to further his nomination or election to the other office.

B. If the other principal campaign committee is a federally registered committee, then the provisions of Minn. Stat. 10A.22, subd. 7 apply as well as the contribution limit of the receiving committee.

9MCAR 1.0016 CONTRIBUTION DISCLOSURE - JUDGESHIP

A candidate for a district or supreme court judgeship shall be considered a statewide candidate for purposes of contribution disclosure set forth in Minn. Stat. 10A.20, subd. 3(b).

9MCAR 1.0017 CONTRIBUTIONS FROM A NON REGISTERED POLITICAL COMMITTEE AND FUND.

A political committee or fund shall not accept a contribution of more than $100 from an association not registered with the Board, including federally registered committees and funds, unless the association registers with the Board within 14 days after making the contribution or provides the recipient political committee or political fund with all information required by Minn. Stat. 10A.20.

9MCAR 1.0018 CONTRIBUTION LIMITS - POLITICAL PARTY DEFINITION

For purposes of determining an aggregate political party contribution limit, the organization of a political party does not include a political party ward organization, a social club of a political party in a congressional district, legislative district, municipality or precinct, an auxiliary committee of a political party unit defined by Minn. Stat. 10A.27, subd. 4, or any association which uses a political party name and is not listed in Minn. Stat. 10A.27, subd. 4.

9MCAR 1.0019 EMPLOYEE VOLUNTARY CONTRIBUTION PLAN

If an individual employee of a corporation doing business in Minnesota makes a voluntary contribution to a state candidate through a program made available by a corporation and the employee retains sole and exclusive control of accumulated funds in the employee's name, the corporation providing the employee benefit on a non partisan basis is not required to register and report as a political committee or political fund. The political committee or political fund shall report and disclose receipt of the contribution from the individual on the periodic report as required by Minn. Stat. Chapter 10A.

9MCAR 1.0020 EXPENSES INCURRED TO REPAY LOANS

The expenses of raising money to repay outstanding loans from a previous calendar year are reportable as campaign expenditures in the year in which expenses are incurred.

9MCAR 1.0021 FORGIVENESS AND PAYMENT OF A LOAN

A. If a political committee or political fund forgives a loan owed to it, the amount becomes a contribution for the period during which the loan was first made.

B. When a loan to a principal campaign committee is forgiven or repaid by an individual, political committee, or political fund, in accordance with Minn. Stat. 10A.32, subd. 3(b), a candidate who accepts money from the State Election Campaign Fund and whose aggregate contribution limit is exceeded, shall return to the Board with the required amendment to the periodic report, a check or money order, payable to the State Treasurer for the amount which must be returned in excess of the aggregate contribution limit.

9MCAR 1.0022 FORGIVENESS AND PAYMENT OF UNPAID BILLS

A. If a political committee or political fund forgives any unpaid bill in excess of $20 owed to it, the amount is a donation in kind to the recipient for the period in which the unpaid bill was incurred.

B. When a donation in kind in excess of $20 resulting from the forgiveness of an unpaid bill or payment of an unpaid bill by an individual, political committee or political fund other than the principal campaign committee causes the aggregate contribution limit of a candidate who accepts money from the State Election Campaign Fund to be exceeded, in accordance with Minn. Stat. 10A.32, subd. 3(b), a candidate shall return the amount due by a check or money order made out to the State Treasurer with the required amendment to the periodic report.

9MCAR 1.0023 FUNDRAISING EVENT

A. The expenses of a fundraising event held by the state or local committee of a political party for one or two candidates are a donation in kind and, except for food and beverage consumed at the fundraising event, shall be reported as a campaign expenditure by the candidate or candidates under the following conditions:

1. The fundraising event is expressly or implicitly approved by the candidate, his treasurer, or agent to be held "on behalf of" the candidate; and

2. The candidate or candidates are "clearly identified" in advertisements, tickets, or any advance publicity for the fundraising event; and

3. The candidate receives proceeds, if any, from the fundraising event.

"Clearly identified" means that: (a) the name of the candidate is used; or (b) a photograph or drawing of the candidate appears; or (c) the identity of the candidate is apparent by unambiguous reference.

B. A separate committee may be established by two or more candidates to report the contributions and expenditures as required by the act for a fundraising event held jointly. The expenses of the fundraising event shall be allocated among the candidates on a reasonable proportionate basis as donations in kind. A transfer of funds to a candidate combined with the value of donations in kind from that committee, may not exceed the applicable contribution limit to a political committee.

9MCAR 1.0024 INACTIVE REGISTERED COMMITTEES AND FUNDS

A registered committee or fund which receives no income and makes no expenditures or disbursements during a reporting period may so indicate in the space provided on the periodic report and shall thereby satisfy the reporting requirement.

9MCAR 1.0025 JOINT CHECKS

When a contribution is given on a check written on a joint account, it shall be deemed a contribution by the signator(s) of the check unless otherwise specified by the signator(s). When a contribution is given on a check written on a joint account and specified as a joint contribution, it shall be deemed a contribution by each of the holders of the joint account in a proportional amount.

9MCAR 1.0026 JOINT LIMITS FOR GOVERNOR AND LT. GOVERNOR

A. A candidate seeking the endorsement for Lt. Governor who signs a tax credit subsidy agreement does not bind either the candidate for Governor or his/her candidacy to campaign expenditure limits following their joining of candidacies. Following their joint endorsement or filing for office, the candidates must jointly sign the public financing agreement and/or the tax subsidy agreement if they wish to participate in public financing.

B. Candidates for Governor and Lt. Governor may cause their separate principal campaign committees to be combined as one with no limit on the amount of funds transferred between the two committees. Such action may be taken regardless of whether the action results in either principal campaign committee being terminated with outstanding unpaid bills or loans provided that the unpaid bills or loans are assumed and continuously reported until paid or forgiven by the remaining committee.

9MCAR 1.0027 LATE FILING FEES

A. The Board may grant a waiver of a late filing fee for sickness or injury of the filer, or other compelling reason. A written request for a waiver must be submitted not later than the fifth business day after filing the late statement or periodic report.

B. A late filing fee will be charged through the day preceding the day of filing of a late statement or late periodic report.

C. The Board shall send a delinquency notice by certified mail to the treasurer of a political committee or political fund within ten business days after a filing date. A copy of the notice shall be sent by first class mail to the candidate and the chairman of a political committee or political fund. If a certified letter is returned by the post office to the Board as refused, then the letter shall be deemed to have been received by the addressee. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the Board as undelivered or refused shall be forwarded by first class mail to the treasurer.

9MCAR 1.0028 MEDIA ADVERTISEMENTS - CANDIDATES

If a candidate participates in, but does not pay for, a media advertisement paid for by another candidate advocating the nomination or election of other candidates or federal candidates, no portion of the cost of the advertisement shall be considered an approved expenditure on behalf of the candidate who participates provided his candidacy is not mentioned and no direct or indirect appeal for support is made.

9MCAR 1.0029 NONCAMPAIGN DISBURSEMENTS - CONSTITUENT SERVICES

A. Expenses paid by the principal campaign committee of a candidate in a non-election year and before adjournment sine die of the legislature in an election year for the office held, for constituent services including newsletters, public opinion questionaires, aides to legislators for constituent services during a legislative session, stationery not printed at government expense, postage, and rent for district offices shall be reported as a constituent service noncampaign disbursements. Only that portion of the expense actually used or consumed for services to constituents shall be reported as noncampaign disbursements.

B. Costs of constituent services paid from personal funds of an officeholder and provided during non-election years and through the day of adjournment sine die of the legislature in an election year for the office held are not required to be reported by the principal campaign committee of the candidate.

C. Costs of providing constituent services for an office holder who is a candidate after adjournment sine die of the legislature in the election year for the office held and sought are reportable by the principal campaign committee as campaign expenditures.

9MCAR 1.0030 NONCAMPAIGN DISBURSEMENTS - MISCELLANEOUS

Other expenses which are to be reported as miscellaneous noncampaign disbursements if paid for by the principal campaign committee of the candidate include: costs for child care for the candidate's children when campaigning; fees paid to attend a campaign school; costs of a post election party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first; interest on loans paid by a principal campaign committee on outstanding loans; and filing fees if permitted by other Minnesota law.

9MCAR 1.0031 ORGANIZATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS

A. Any group of two or more persons which receives a contribution or makes an expenditure, or a transfer of funds, in aggregate, in excess of $100 to influence the nomination for election or election of candidates for statewide or legislative office or makes any independent expenditures in excess of $100 must register a political committee or political fund. If the group has as its major purpose the influencing of election of a candidate or candidates, it shall register a political committee. If the group is an association which has a major purpose other than the influencing of election, it shall establish a political fund. When a person or group merely solicits contributions with the approval of the candidate, a treasurer, deputy treasurer or an agent of a political committee or political fund which are made directly to a reporting committee or fund, such person or group is not required to establish an additional committee or fund.

B. A candidate may be his own chairman and/or treasurer.

C. All monetary assets of a committee or fund shall be kept in designated depositories in accounts named in accordance with Minn. Stat. 10A.15, subd. 3.

D. The funds of a political committee or the contents of a political fund shall not be commingled with any other funds or with the personal

9MCAR 1.0032 PAYMENT OF COMPENSATION FOR PERSONAL SERVICES

The gross value of compensation, in excess of $20, for personal services of an individual or group which are rendered to a candidate, committee or fund is reported as a donation in kind from the individual or association that makes the payment.

9MCAR 1.0033 PREPAID CAMPAIGN EXPENSES

Goods and services to influence the nomination or election of a candidate, purchased in one year but used in a subsequent year are charged against the expenditure limit in the year used.

9MCAR 1.0034 PUBLIC FINANCING

A candidate or officeholder who signs an agreement to participate in the State Election Campaign Fund is bound by the expenditure limits in an election year and non-election year whether or not the candidate actually receives funds from the State Election Campaign Fund.

9MCAR 1.0035 RECORDING CONTRIBUTIONS

A. Every individual, political committee or fund that receives a contribution in excess of $20 shall record the name, address, and employer, or, if self employed, the occupation of the contributor of each such contribution.

B. Promptly after receipt of any contribution or on demand of the treasurer, the contribution together with any required record shall be transmitted to the treasurer.

9MCAR 1.0036 REPORTING AND DISCLOSING EARMARKED CONTRIBUTIONS

A. Each individual, committee or fund which receives an earmarked contribution of more than $20 shall record (a) the name, address, and if employed, employer of, or, if self-employed, the occupation of the donor who originally made the earmarked contribution; (b) the name and address of the candidate, committee or fund for whom the contribution is earmarked;

(c) the political committee or political fund through which the earmarked contribution is directed; and (d) the amount of each earmarked contribution.

B. An earmarked contribution is reported in periodic reports as miscellaneous income by the political committee or fund through which the contribution is directed to a candidate. When transferred to the candidate by the political committee or fund the information in 9MCAR 1.0056 A shall accompany the transfer, although the earmarked contribution shall be disclosed on periodic reports by the political committee or fund only when in excess of $100.

C. The treasurer of a principal campaign committee of a candidate shall disclose on periodic reports the name, address, and, if employed, employer of, or, if self-employed, the occupation of the donor of an earmarked contribution, the individual, political committee or fund through which the contribution was directed, and the fact that the contribution was earmarked when the total aggregate contributions from the same source in a calendar year reach the disclosure thresholds of Minn. Stat. 10A.20, subd. 3(b).

9MCAR 1.0037 REPORTING UNPAID BILLS OUTSTANDING AS CAMPAIGN EXPENDITURES

A. For the purpose of reporting campaign expenditures at the end of a calendar year, any unpaid bills, for campaign expenditures used or consumed during the calendar year, owed by the reporting principal campaign committee on December 31 shall be reported as campaign expenditures for the calendar year ending December 31.

B. An unpaid bill paid is reportable as a noncampaign disbursement in the succeeding year except as provided in 9MCAR 1.0022

9MCAR 1.0038 RESPONSIBILITIES OF TREASURERS

A. A treasurer may transfer records and receipts to a new treasurer relieving that treasurer of record retention responsibility by written notification to the Board by either the new treasurer or the candidate. Such notice shall include date, name and address of the new treasurer.

B. A copy of a cancelled check with an invoice stating the purpose of the expenditure will be treated as a receipted bill.

C. The treasurer shall report all contributions received or deposited within a reporting period.

9MCAR 1.0039 SAMPLE BALLOT PREPARED BY A CANDIDATE

If a candidate chooses to prepare and distribute his own sample ballot and includes the names of other candidates without their approval and authorization, the ballot must contain the proper disclaimer required for independent expenditures. For purposes of campaign expenditure reporting, the total cost of the preparation, printing and distribution of the sample ballot shall be assessed against the candidate causing the ballot to be prepared and distributed.

9MCAR 1.0040 SIGNING TAX CREDIT SUBSIDY AGREEMENT

A candidate may sign a tax credit subsidy agreement at any time after registration of his principal campaign committee for the office sought or held to December 31. No agreement signed on or after January 1, shall be applicable to a preceding calendar year.

9MCAR 1.0041 TAX CREDITS FOR POLITICAL PARTY CONTRIBUTION

A political party organization may make a contribution to a candidate who has not signed a tax credit agreement.

9MCAR 1.0042 TAX CREDIT SUBSIDY AGREEMENT AND PUBLIC FINANCING AGREEMENT

A candidate must sign a separate agreement in order to participate in each public financing program.

9MCAR 1.0043 TAX CREDIT SUBSIDY RECEIPTS - SPECIAL ELECTIONS

Candidates shall not issue tax credit receipts for special elections.

9MCAR 1.0044 TERMINATION OF REGISTRATION

A. A Termination Report shall cover the period from the closing date of the last previous report filed through the date of termination.

B. Any terminated committee or fund which subsequently becomes subject to the registration and reporting requirements of the act is required to reregister.

9MCAR 1.0045 SEVERABILITY

If any rule or any part thereof is held invalid, such invalidity shall not effect any other provision of the rule or rules which can be given effect without the invalid provision. To this end, the provisions of these rules are declared to be severable.

9MCAR 1.0046 VACATED ADVISORY OPINIONS

The following advisory opinions adopted by the Board pertaining to campaign financing are no longer valid upon adoption of permanent rules. However, the essence of many of the opinions have been incorporated into these rules. Advisory opinions #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 17, 18, 19, 21, 24, 26, 26a, 27, 30, 31, 34, 39, and 42.

ADMIN 1000

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ETHICAL PRACTICES BOARD

TO : Mr. Lee Sheehy,
Special Assistant Attorney General

DATE: June 14, 1978

FROM : B. Allen Clutter,
Executive Director

B. Allen Clutter → call when finished

PHONE: 296-1720

SUBJECT: Temporary Campaign Finance Rules

Pursuant to Minnesota Session Laws 1978, Chapter 463, the Ethical Practices Board has adopted temporary rules. In accordance with Minn. Stat. 14.0412, Subd. 5, the attached temporary rules are submitted for your review as to form and legality.

The rules were published in the State Register on May 15, 1978. Thereafter on June 12, 1978, the Board made modifications to the published temporary rules as a result of public comment. Such comments appear in the text as double underlines and as deletions. Public comments were received from three individuals and are available, if you desire them.

If you desire any additional information or have any questions, you may contact me, or Special Assistant Attorney General Richard Lockridge, who reviewed the rules.

6-26/9

BAC:cg

Attachments: Existing Campaign Finance Rules
Temporary Rules, as Published in State Register
Temporary Rules as Modified by Board, June 12, 1978.

RECEIVED
JUN 15 1978
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

IN THE MATTER OF THE PROPOSED)
AMENDMENTS OF RULES OF THE)
ETHICAL PRACTICES BOARD)

STATEMENT OF COMPLIANCE
WITH MANUAL OF RULE
MAKING PROCEDURES

I, Special Assistant Attorney General Richard A. Lockridge, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

DATED: June 15, 1978

Richard A. Lockridge

RICHARD A. LOCKRIDGE
Special Assistant
Attorney General

MINNESOTA STATE REGULATIONS

RULES AND REGULATIONS

of the

MINNESOTA STATE ETHICAL PRACTICES BOARD

Filed with the Secretary of State
and Commissioner of Administration
July 24, 1974 and June 28, 1976
(Dates shown at end of each chapter)

Distributed by

DOCUMENTS SECTION, DEPARTMENT OF ADMINISTRATION
Room 140 Centennial Office Building, St. Paul, Minnesota 55155

MINNESOTA STATE
ETHICAL PRACTICES BOARD
Rules and Regulations
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MINNESOTA STATE ETHICAL PRACTICES BOARD

Rules and Regulations

RELATING TO CAMPAIGN FINANCING

Filed with the Secretary of State
June 28, 1976

CHAPTER ONE: EPB 1-39, 100 (1976)
supersedes and repeals EC 1-39, 100 (1974)

EPB 1 Purpose of the Rules. It is the purpose of this chapter of these rules to give effect to the campaign financing provisions of the State Ethics Act of 1974, Minnesota Statutes 1974, and subsequent amendments, Chapter 10A. These rules are adopted pursuant to the powers of the State Ethical Practices Board conferred by the act. The six-member bi-partisan Minnesota Ethical Practices Board is responsible for monitoring compliance with the act and these rules.

EPB 2 Applicability of the Campaign Financing Provisions of the Act. The campaign financing provisions of the act apply to political committees, political funds, and individuals which receive contributions or make expenditures in excess of $100 in any year for the purpose of influencing the nomination for election or election of a candidate for the office of Governor, Lieutenant Governor, Attorney General, State Treasurer, Secretary of State, State Auditor, State Senator, State Representative, Justice of the Supreme Court or Judge of District Court.

EPB 3 Special provisions for 1974

(a) All political committees or political funds in existence on April 13, 1974 or established on or before June 30, 1974 and which have raised or spent an amount in excess of $100 shall file a Registration and Statement of Organization (EPB Form 1) with the Board on or before July 7, 1974. All political committees or political funds established after June 30, 1974 shall file a Registration and Statement of Organization (EPB FORM 1) at the time prescribed in Rule EPB6.

(b) No EPB report of Receipts and Expenditures (EPB Form 2) is required to be filed prior to July 7, 1974. The initial Report of Receipts and Expenditures to be filed on or before July 7, 1974 shall cover the period beginning and including April 13, 1974 through and including June 30, 1974. No report is required to show any contribution received or expenditure made prior to April 13, 1974.

(c) The limits on campaign expenditures in 1974 shall apply to expenditures beginning and including April 13, 1974 through and including December 31, 1974. The limits on campaign expenditures in 1974 are:*

(1) For Governor and Lieutenant Governor, running jointly, $600,000.

(2) For Attorney General, $100,000.

(3) For Secretary of State, State Treasurer and State Auditor, $50,000.

(4) For State Senator, $15,000.

(5) For State Representative, $7,500.

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*These limitations may be modified in certain circumstances specified in the act. See Minnesota Statutes 10A.25.

EPB 4 Definitions. For the purposes of the act and these rules, and the forms prescribed by the Board, the following definitions are applicable in addition to the definitions stated in the act:

(a) "Act" means Minnesota Statutes 1974, and subsequent amendments, Chapter 10A, approved April 12, 1974, and effective April 13, 1974.

(b) "Address" means street and number, (Post Office box or rural route, if appropriate), room number, (if any), city, state, (if other than Minnesota) and zip code.

(c) "Board" means the Minnesota State Ethical Practices Board.

(d) "Calendar year" means: for 1974, the period from and including April 13, 1974 to and including December 31, 1974; for 1975 and subsequent years, the period from January 1 through December 31 inclusive.

(e) "Candidate" means an individual who seeks nomination for election or election to the office of Governor, Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, State Auditor, State Senator, State Representative, Justice of the Supreme Court or Judge of District Court. For the purposes of the act and these rules, candidates for Justice of the Supreme Court or Judge of District Court are deemed statewide candidates.

(f) "Cash" means money, balances on deposit in banks and other depositories, checks, negotiable instruments and other paper commonly accepted by a bank as a deposit.

(g) "Debt" means any amount owed for goods required or for services rendered.

(h) "Contribution" means a gift, subscription, loan, advance, the providing of supplies, materials or equipment, or deposit of money or anything else of value made to influence the nomination for election or election of a candidate and includes the transfer of funds between political committees or political funds made for that purpose. Contribution does not include services provided without compensation by individuals volunteering their time.

(i) "Earmark" "earmarked" and "earmarking" mean the designation of a contribution (including a transfer of funds) for use by any individual, committee or fund other than the individual, committee or fund to whom the contribution is originally directed.

(j) "Expenditure" means a purchase, payment, distribution, loan (does not include loans from a national or state banking institution in the ordinary course of business), advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination for election or election of a candidate.

(k) "File", "Filed" and "Filing" mean delivery to the Board by midnight of the prescribed filing date or deposit as certified mail in an established U.S. Post Office, postage prepaid, no later than midnight two days before the filing date.

(l) "Occupation and principal place of business" means, if self-employed, type of work or profession and city where self-employed; or, if employed type of work or title, name of employer or employing organization, and city of employment.

(m) "Periodic Report" means the Report of Receipts and Expenditures required to be filed with the Board at the times prescribed in Rule EPB 6.

EPB 5 Obligation to Register and Report

(a) Every political committee or political fund which receives contributions or makes expenditures in excess of $100 in any year to influence the nomination for election or election of a candidate to statewide or legislative office must register with the Board and file the required periodic Reports of Receipts and Expenditures with the Board. The treasurer of the committee or fund is responsible for filing the registration statement (EPB Form 1) and periodic reports (EPB Form 2).

(b) Every person who makes expenditures in excess of $100 in any year other than by contribution to a registered political committee or fund must register with the Board and file periodic reports.

EPB 6 Time for Filing Statements and Reports

(a) The Registration and Statement of Organization (EPB Form 1) must be filed with the Board no later than 14 days after the date upon which the principal campaign committee, political fund or political committee has received contributions or made expenditures in excess of $100.

(b) Reports of Receipts and Expenditures (EPB Form 2) must be filed with the Board on the following dates until the committee or fund has terminated its activities; on or before January 31 of each year, and in each year in which the name of the candidate being supported is on the ballot, ten days before the primary election or special primary election and ten days before the general or special election.

EPB 7 Place of Filing

(a) Reports must be filed with the Board at the following address:

Minnesota State Ethical Practices Board
Room 410
State Office Building
St. Paul, Minnesota 55155

(b) All reports or statements that must be filed with the Board by the principal campaign committee of legislative candidates shall be duplicated and filed by the Board with the county auditor of each county in which the legislative district lies within 72 hours of the date of the report or statements is required to be filed or, if the report or statement is delinquent, within 72 hours of the time the report or statement is actually filed.

EPB 8 Place to Obtain Forms. All statements and reports to be filed with the Board shall be filed on forms prescribed by the Board. Such forms may be obtained without cost upon request from:

Minnesota State Ethical Practices Board
Room 410
State Office Building
St. Paul, Minnesota 55155

EPB 9 Organization of Political Committees and Political Funds

(a) Any group of two or more persons which raises or spends money to influence the nomination for election or election of a candidate for statewide or legislative office must establish a political committee or political fund. If the group has as its major purpose the influencing of elections, it shall establish a political committee. If the group is an association which has a major purpose other than the influencing of elections, such as a special interest group, it shall establish a political fund. When a person or a group merely solicits contributions which are made directly to a reporting committee or fund, such person or group is not required to establish an additional committee or fund.

(b) Every candidate shall designate a principal campaign committee. Such committee shall report on the Registration and Statement of Organization that it is the principal campaign committee of that candidate.

(c) Every committee and fund shall have a chairman and treasurer, who may be the same person. A candidate may be his own chairman and/or treasurer.

(d) No contribution shall be accepted and no expenditure shall be made by or on behalf of a committee or fund at a time when there is a vacancy in the office of treasurer.

(e) All monetary assets of a committee or fund shall be kept in a designated depository in an account designated by the name of the committee or fund.

(f) The funds of a political committee or the contents of a political fund shall not be commingled with any other funds or with the personal funds of any officer or member of the committee or fund.

EPB 10 Agreement to Make Loans. An agreement to make a loan to a committee or fund shall be made in writing, signed by the lendor (and endorsers, if any) and the recipient and reported on the appropriate schedule.

EPB 11 Allocation of Joint Expenditures. The treasurer of a committee or fund making an expenditure for or on behalf of more than one candidate shall allocate the expenditure among such candidates on a reasonable proportionate basis and report the allocation on the Report of Receipts and

Expenditures (EPB Form 2). He shall also send a written notification of the allocation to the treasurer of the principal campaign committee of the candidate(s) on whose behalf the expenditure was made. Such expenditures must be reported by the treasurer of the candidate's principal campaign committee as contributions in Kind and as campaign expenditures which are counted against the spending limits of the candidate.

EPB 12 Amendments. Amendments correcting any report or statement must be filed with the Board within 10 days following the date of the event prompting the change in reported information or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and paragraph containing the information to be changed or corrected.

EPB 13 Anonymous Contributions. Any single contribution in excess of $20 for which no donor can be identified by the committee or fund shall be forwarded to the Board within 14 days after its receipt. When forwarding such anonymous contribution the treasurer of the committee or fund shall report to the Board the amount of the contribution and the date on which it was received.

EPB 14 Authorized Expenditures. All expenditures in excess of $20 made with the expressed or implied consent of a candidate or his agent must be authorized by the treasurer of that candidate's principal campaign committee. For the purposes of making an authorized expenditure, a check signed by the treasurer or deputy treasurer of a candidate's principal campaign committee is sufficient for authorization. In the case of expenditures by an individual, committee or fund other than the principal campaign committee, authorization by the treasurer of the principal campaign committee of the candidate on whose behalf the expenditure is made should be in the following form:

_____ Date	_____ Amount of Expenditure
_____ Name of individual/committee/fund making the expenditure	
_____ Purpose of the expenditure	
_____ Candidate on whose behalf expenditure is made	

I certify that the expenditure hereby authorized will not exceed the spending limit of the candidate on whose behalf the expenditure is made.

_____
Signature of treasurer or deputy treasurer of principal campaign committee.

EPB 15 Cancelled Debts and Loans. If the reporting committee or fund cancels any debt or loan owed to it, the amount of the debt or loan unpaid at the time of cancellation shall be deemed a non-campaign expenditure for that period and reported on the appropriate schedule.

EPB 16 Certification. For purposes of certification on forms prescribed by the Board, the signature of the treasurer shall be sufficient, and notarization is not required.

EPB 17 Committees and Funds Not Active. A committee or fund which receives no contributions and makes no expenditures during a reporting period shall so certify in the space provided on the report form and shall hereby satisfy its reporting requirement for that reporting period.

EPB 18 Contracts for Goods and Services. A contract for goods and/or services is an agreement to make payments on an expenditure over a specified period of time. All such contracts shall be made in writing, signed by the debtor and creditor, and reported on the appropriate schedule.

EPB 19 Contributed Services. The payment of compensation for the personal services of another person which are rendered to a candidate, committee or fund by any person other than that candidate, committee or fund are contributed services in Kind by the person's employer and should be reported and identified as "contributed services". The value of such contribution in Kind is the gross cost of such compensation.

EPB 20 Contribution in Kind. A contribution in Kind is a contribution of goods or services other than cash. The treasurer of the committee or fund shall report the fair market value of the goods or services contributed as a contribution on the appropriate schedule. Fair market value is the amount at which a willing seller, under no compulsion, and a willing buyer, under no compulsion, will trade. He shall identify the nature of the contribution and note that it is a contribution in Kind. The total value of all contributions in Kind of $20 or more shall be reported on the contribution in Kind and expenditure schedules. In addition, each contribution in Kind with a value in excess of $50 shall be disclosed as required on the appropriate schedules.

Contributions in Kind valued at less than $20 need not be recorded or reported. The total amount of goods and services contributed in Kind shall be deemed to have been consumed in the reporting period in which received.

EPB 21 Reserved for Future Use

EPB 22 Debts Outstanding. For the purposes of the limits on expenditures imposed by the act, any debt owed by the reporting principal campaign committee for campaign expenditures still outstanding on December 31 shall be deemed a campaign expenditure for the reporting period ending December 31.

EPB 23 Disclaimer for Unauthorized Expenditures. Any person, committee or fund which solicits or accepts contributions or makes expenditures on behalf of any candidate without the written authorization of that candidate must disclose its lack of authorization on all oral and written communications. Such disclosure shall state in conspicuous type or clear oral announcement on each communication, as follows:

"The actions of _____ (name of person, committee or fund) are made on behalf of _____, but are

made without his authorization or consent, express or implied, and he is not responsible for these activities."

EPB 24 Disclosure Requirements. All contributions, in excess of $50 for legislative candidates and in excess of $100 for statewide candidates must be disclosed in accordance with the provisions of the act and these regulations. If any reporting committee or fund financially supports or opposes any candidate for the state legislature it must disclose all contributions received in excess of $50. If the reporting committee or fund financially supports or opposes only statewide candidates, it must disclose contributions received in excess of $100.

EPB 25 Earmarked Contributions. Each person, committee or fund which receives or makes an earmarked contribution (including any transfer of funds) that is subject to the reporting requirements of the act shall report: (a) the name, address, (and if an individual, employer or, if self-employed, occupation) of the donor who originally made the earmarked contribution; (b) the name and address of the candidate, committee or fund for whom the contribution is earmarked; (c) the amount of such contribution earmarked for each such candidate, committee or fund; and (d) the aggregate amount earmarked for such candidate, committee or fund.

EPB 26 Exemptions from Disclosure

(a) Any individual or association may seek an exemption from the disclosure requirements of the act if disclosure would expose that individual or any members of that association to economic reprisals, loss of employment or threat of physical coercion.

(b) Any individual or association seeking such an exemption from the disclosure requirements shall submit a written application to the Board setting forth in detail the reasons justifying the claim for exemption. Such a claim must be filed no later than 30 days before the next applicable reporting date.

(c) If an individual decides to proceed anonymously in seeking an exemption, he shall designate a representative to present the claim on his behalf. The Board shall establish such procedures as may be necessary in the particular case to protect the anonymity of the individual seeking the exemption.

EPB 27 Identification Number. Upon receipt of a Registration and Statement of Organization (EPB Form 1) the Board shall assign an identification number to the registering committee or fund, acknowledge receipt of the statement and notify the committee or fund of the number assigned. This identification number shall be entered by the committee or fund on all subsequent statements or reports as well as on all communications with the Board.

EPB 28 Joint Checks. When a contribution is given on a joint check, it shall be deemed a contribution by the signator(s) of the check unless otherwise specified by the signator(s). When a contribution is given on a joint check and specified as a joint contribution it shall be deemed a contribution by each of the contributors in an amount proportional to the total number of contributors.

EPB 29 Limitations on Contributions and Expenditures

(a) No individual, committee or fund, except a political party or the principal campaign committee of a candidate, shall make a contribution to or expenditure on behalf of a candidate in an aggregate amount in excess of ten percent of the applicable spending limit for that candidate.

(b) No political party shall make a contribution to or expenditure on behalf of a candidate in an aggregate amount in excess of fifty percent of the applicable spending limit. For the purpose of this regulation, a political party includes a political party's organization within congressional districts, counties, legislative districts, municipalities, wards, precincts and any legislative body.

EPB 30 Loans Not Repaid. For the purposes of limits on contributions imposed by the act, any loans from other than a national or state banking institution made in the ordinary course of business to the reporting committee or fund not repaid by December 31, shall be deemed a contribution for the reporting period ending December 31.

EPB 31 Non-campaign Expenditures. If an expenditure is not made for the purpose of purchasing goods or services used to influence the nomination for election or election of a candidate it shall be deemed to be a non-campaign expenditure and shall be reported on the appropriate schedule. The treasurer making the report shall provide upon request of the Board appropriate justification that the expenditure was not made for the purpose of purchasing goods or services used to influence the result of an election governed by this act.

EPB 32 Petty Cash. Within any reporting period the treasurer of any reporting committee or fund may report as an expenditure for the purpose of "petty cash" an aggregate amount equal to $100 per week if the committee or fund is supporting a candidate for statewide office or $20 per week if the committee or fund is supporting a candidate for legislative office.

EPB 33 Receipted Bills. A copy of a cancelled check with an invoice stating the purpose of the expenditure shall be deemed a receipted bill. The treasurer shall keep all receipted bills and accounts for four years. A treasurer may transfer records and receipts to a new treasurer relieving that treasurer of record retention responsibility by written notification to the Board, which shall include date, name and address of new treasurer, and signed by both the old and new treasurer.

EPB 34 Recording Contributions. Every individual committee or fund that receives an individual contribution in excess of $20 (including individual cash contributions received in mass collections) shall record the name and address of the contributor of each such amount. On demand of the treasurer and in any event within 14 days after receipt of such contribution the record of each such contribution together with the contribution shall be transmitted to the treasurer responsible for filing Reports of Receipts and Expenditures.

EPB 35 Recording Expenditure. The treasurer shall keep a record of every expenditure made by the committee or fund. He shall obtain a receipted bill, stating the particulars, for every expenditure on behalf of the committee or fund of over $100 and for any expenditure in lesser amount if and when the aggregate amount of lesser expenditures to the same person during a year exceeds $100.

EPB 36 Support of and Opposition to a Candidate. For the purpose of this act, these rules, and the forms prescribed by the Board, influencing the

nomination for election, or election of a candidate includes action in support of, or opposition to a candidate. The reporting requirements extend to support of or opposition to any candidate.

When a committee or fund is established primarily to support a candidate it shall designate the name of the candidate being supported on the Registration and Statement of Organization (EPB Form 1). When a committee or fund is established primarily to oppose a candidate it shall designate the name of the candidate opposed in lieu of any designation of the name of candidate supported.

EPB 37 Termination of Committees and Political Funds. After having filed a Registration and Statement of Organization with the Board, any committe or fund which determines that it will no longer receive contributions or make expenditures in support of any candidate for statewide or legislative office shall so notify the Board. Such notification shall consist of a Termination Report that covers the period from the closing date of the last previous report filed through the date of termination, together with a statement as to the disposition of residual funds, and both shall be signed. A committee may not terminate if it has outstanding debts. Any terminated committee which subsequently becomes subject to the registration and reporting requirements of the act is required to register.

EPB 38 Complaints of Violations

(a) Any person who believes a violation of the act or of these rules has occurred may file an oral or written complaint with the Board. When a written complaint is received from a registered voter, it shall be marked to show the date of receipt and acknowledged by letter within 5 days of receipt.

(b) There is no prescribed form for a written complaint, but all such complaints shall be typewritten or handwritten legibly in ink. The name and address of the person making the complaint shall be typewritten or hand printed on the complaint and it shall be signed by such person. A complaint shall name the alleged violator, describe in detail the alleged violation and shall be submitted together with any evidentiary material. Complaints will not be available for public inspection or copying.

(c) Upon receipt of a complaint, the Board shall cause to be investigated the alleged violation and take appropriate action. No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator or is unsigned.

(d) If upon investigation, the Board finds probable cause of criminal violation the matter shall be referred to the appropriate law enforcement authorities. The Board may commence action for injunctive relief in district court in appropriate cases.

(e) Any meeting or portion of a meeting during which the Board is hearing testimony or taking action concerning any complaint or investigation shall be closed to the public and the minutes of such meeting kept confidential until the Board makes a finding that there is or is not probable cause to conclude that a violation of the criminal provision of the act or other campaign laws has occurred, or until the Board has determined that an action for injunctive relief should or should not be commenced, or until the Board has otherwise resolved the matter.

EPB 39 The EPB Forms referred to herein, are not part of these rules and may be altered by the Board without rule changes.

CHAPTER TWO: EPB 100

EPB 100 Statements of Economic Interest

(a) **Form for filing.** Every public official or candidate for elective office required to file a Statement of Economic Interest shall set forth the required information on a form prescribed by the Board.

(b) **Time for Filing by Candidates.** Every candidate for statewide or legislative office, excluding candidates for supreme court justice or district court judge, shall file a Statement of Economic Interest within 14 days after filing an affidavit of candidacy or petition to appear on the ballot, provided that August 7, 1974, shall be the earliest date upon which any Statement of Economic Interest must be filed.

(c) **Time for Filing by Public Officials.**

(1) Each public official in office on April 13, 1974, or any individual who accepts employment as a public official between April 13, 1974, and June 8, 1974, inclusive, and who is still in office on August 7, 1974, shall file a Statement of Economic Interest with the Board on or before August 7, 1974. Each individual who accepts employment as a public official after June 8, 1974, shall file a Statement of Economic Interest within 60 days after accepting employment, and if the advice and consent of the senate is required, prior to submission of his name to the senate. No individual shall be required to file more than one Statement of Economic Interest in any year. An individual who holds more than one public office for which a Statement of Economic Interest is required, shall include a listing of all such offices held.

(2) In 1975 and subsequent years, each public official who has previously filed a Statement of Economic Interest shall file a supplementary Statement of Economic Interest on or before April 15 of each year.

(3) In 1975 and subsequent years, a public official who has filed a Statement of Economic Interest and who thereafter files as a candidate for statewide or legislative office shall file an amendment to the statement within 14 days after filing an affidavit of candidacy or submitting a petition to appear on the ballot.

(d) **Occupation and Principal Place of Business.** For statement of occupation, the individual shall state his principal occupation, i.e. the occupation at which he spends most of his working hours or which provides his major source of compensation. "Principal place of business" means the name of the entity providing the individual's principal occupation.

(e) **Business with which the Individual is Associated.** Each individual who files a Statement of Economic Interest shall state the name of each business with which he is associated and the nature of that association. For purposes of these rules, an individual is associated with a business in the following cases: (i) when he receives compensation, other than for actual and reasonable expenses, in excess of $50 in any month as a director, officer, owner, member, partner, employer or employee; or (ii) when he is a holder of securities worth $2,500 or more at fair market value.

(f) **Compensation**

(1) Compensation" includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position, or occupation.

(2) "Source of compensation" includes the name of the corporation, partnership or other entity from which the individual receives payment in compensation. An individual who is self-employed is required to list only the name of the proprietorship or description of the occupation in which the individual is self-employed (e.g. farming, practice of law as sole proprietor), and is not required to list the names of corporations, partnerships, or other entities making payments in compensation to the individual in his capacity as a self-employed individual.

(3) For purposes of an original Statement of Economic Interest, "compensation in any month" includes compensation received only in the calendar month immediately preceding the date of appointment as a public official or filing as a candidate. For purposes of this rule, the calendar month for reporting compensation is July, 1974, for any individual who holds public office as of April 13, 1974, or at any time thereafter through July 31, 1974, and who is still in office on the date of filing.

(4) For purposes of a supplementary Statement of Economic Interest to be filed on April 15, "compensation in any month" includes compensation received in any month between the end of the period covered in the preceding Statement of Economic Interest and March 31, inclusive.

(5) For purposes of calculating the amount of compensation received from any single source in a single month, such amount shall include the total amount received from such source during the month, whether or not the amount covers compensation for more than one month.

(g) **Securities**

(1) "Securities" includes any stock, share, bond, warrant, option, pledge, note, mortgage, debenture, lease, or commercial paper in any corporation, partnership, trust, or other association.

(2) A "holder of securities" or individual who "holds securities" is an individual having an ownership interest in any security as defined herein, or who is the trustee or beneficiary of any trust.

(3) For purposes of an original Statement of Economic Interest, "securities" includes only securities held on the date of appointment as a public official or filing as a candidate. For purposes of this rule, "date of appointment" means July 31, 1974, for any individual who holds public office as of April 13, 1974, or at any time thereafter through July 31, 1974, and who is still in office on the date of filing.

(4) For purposes of a supplementary Statement of Economic Interest to be filed on April 15, "securities" includes any security held at any time between the end of the period covered by the preceding Statement of Economic Interest and March 31, inclusive.

(5) For purposes of indicating the address of the entity in which stock is held, the registered office or principal place of business shall be stated, except that if stock is listed on one of the national exchanges and the address of the entity is not known, the name of the exchange shall suffice.

(h) **Real Property**

(1) A separate listing shall be made to indicate each deed or document pursuant to which the individual's interest was acquired, except that only

one listing is required if there are multiple deeds or documents covering the same real property.

(2) For purposes of determining the individual's amount of interest in the real property, the value of the property shall be the market value shown on the property tax statement.

(3) For purposes of an original Statement of Economic Interest, the individual shall indicate the location of only those real properties held on the date of appointment as a public official or filing as a candidate, and in which his interest is in excess of $2,500. For purposes of this rule, "date of appointment" means July 31, 1974, for any individual who holds public office as of April 13, 1974, or at any time thereafter through July 31, 1974, and who is still in office on the date of filing.

(4) For purposes of a supplementary Statement of Economic Interest, the individual shall indicate the location of any real property held at any time between the end of the period covered by the preceding Statement of Economic Interest and March 31, inclusive, in which his interest is in excess of $2,500.

Filed July 24, 1974; June 28, 1976

MEMO

June 19, 1978

TO: Lee Sheehy, Special Assistant Attorney General

FROM: Rep. Mike George

RE: Temporary Rules Submitted 6/15/78 by the Ethical Practices Board

As a supplement to my memos of 5/31/78 and 6/5/78 to the Ethical Practices Board regarding the Board's proposed temporary rules, I am hereby submitting in tabular form the material contained in the memos.

The five columns of the table indicate the reasons which I believe are sufficient to deny adoption of the rules in question. Please note that beginning with 9MCAR 1.0033, the numbers do not correspond with the numbers as initially proposed.

Rule Subm. to AG 6/15/78	Duplicates Law	Exceeds Law	Violates Law	Supplants permanent rule w/o relating to amendments	codifies advisory opinion
9MCAR-					
1.0001				EC2	
1.0002 A					
B					
C			10A.32-s3 10A.25-s4		
D				EC5 (j)	
E					
F					
G				EC5 (l)	
H					
1.0003					
1.0004	10A.22-s5				
1.0005	10A.31-s5				
1.0006					
1.0007				EC14	
1.0008 A		10A.17-s2			
B		X			
1.0009			10A.265		
1.0010					
1.0011					#4
1.0012 A		10A.14 10A.20-s1		EC17	
B					
1.0013 A			10A.32-s3b		
B					
C					
1.0014 A	10A.02-s11				
B				EC39B	
C					
D	? 10A.02-s11		?10A.02-s11		
1.0015 A					
B					

Rule Subm. to AG 6/15/78	Duplicates Law	Exceeds Law	Violates Law	Supplants permanent rule w/o relating to amendments	codifies advisory opinion
1.0016	10A.01-s5				
1.0017	10A.14 10A.22-s7				
1.0018		10A.27-s4			
1.0019		X			
1.0020			10A.01-s10		
1.0021	10A.32-s3 except for when returned				
1.0022	10A.32-s3				
1.0023 A					#31
B					
1.0024					
1.0025		X		EC29	
1.0026 A					
B					
1.0027 A			vague-"other compelling reason"		
B					
C					
1.0028					#8 #11
1.0029 A					#24
B					
C					
D					
1.0030					
1.0031 A	10A.01-s15&16 except last sentence			EC10(a)	
B	no prohib. in law			EC10 (c)	
C	10A.15-s3				
D	10A.11-s5				
1.0032	10A.01-s7b				
1.0033	10A.25-s6&s10				
1.0034 A			10A.13-s1(b) 10A.15-s2	EC35	
B					
1.0035 A		10A.16 10A.20-s3			
B			10A.20-s3		
C		10A.16 10A.20s3			
1.0036 A	10A.01-s10				
B		*			
1.0037 A					
B				EC34	

Rule Subm. to AG 6/15/78	Duplicates Law	Exceeds Law	Violates Law	Supplants permanent rule w/o relating to amendments	codifies advisory opinion
1.0038			**		
1.0039			10A.32-s3(b)		
1.0040	10A.32-s3&3(b)				
1.0041					
1.0042 A					
B				EC38	
1.0043					
1.0044					

* An unpaid bill (advance of credit) carried over to a succeeding year logically cannot be reported as a non campaign disbursement in that succeeding year (a) because to do so means counting the outlay twice (as it is reported as a campaign expenditure in the year incurred), and (b) because an advance of credit for a campaign purpose can never be a noncampaign disbursement. If this is not what the rule really means, it muddies rather than clarifies the law.

** The Board exceeds its authority if it requires an approved or independent expenditure on another candidate's behalf to be counted toward the campaign expenditure limit of the candidate making the expenditure.

To summarize, the following temporary rules have no comments and/or reasons for denying adoption:

9MCAR -

1.0002 A, E, F, H	1.0023 B	1.0037 A
1.0003	1.0024	1.0041
1.0006	1.0026	1.0042 A
1.0010	1.0027 B, C	1.0043
1.0012 B	1.0029 B, C, D	1.0044
1.0013 B, C	1.0030	
1.0014 C	1.0034 B	
1.0015		

As the chief author of Chapter 463 and as member of the House Governmental Operations Committee, I cannot too strongly emphasize the importance of not permitting the adoption of temporary rules which violate chapter 15 by duplicating statutory provisions, setting policy beyond the specific authority granted in the applicable chapter (10A), including material not related to the amendments to chapter 10A found in Laws 1978, Chapter 463, and repealing permanent rules by means of temporary rules.

In the long run, promulgation of rules which incorporate these violations increases the expense incurred in the rule making authority, as adopted temporary rules must be published in the Register and then re-adopted as permanent rules.

In view of the fact that none of the proposed rules are so crucial to clarification of the law that the Board could not function in this election year without them, I strongly suggest that the entire set of proposed temporary rules be denied.

If questions do arise as to the meaning of the law in specific instances, the Board retains the right to issue advisory opinions which remain in effect until they expire or are incorporated into permanent rules.

xc: The Hon. Warren Spannaus, Attorney General
Mr. Richard Lockridge, Special Ass't. Attorney General
Mr. Mike Miles, Special Ass't. Attorney General
Mr. Duane Harves, Chief Hearing Examiner
Mr. Marshall Whitlock, Exec. Sec'y, Leg. Comm. to Review Adm. Rules
Mr. B. Allen Clutter III, Exec. Director, EPB
Ethical Practices Board

STATE OF MINNESOTA
STATE ETHICAL PRACTICES BOARD
41 STATE OFFICE BUILDING
ST. PAUL, MINNESOTA 55155
PHONE: (612) 296-5148

June 7, 1978

RECEIVED
JUN 8 1978
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Representative Michael George
State Office Building
St. Paul, Minnesota 55155

Dear Representative George:

Your comments concerning the proposed campaign financing rules have been referred to members of the Ethical Practices Board and Legal Counsel. Your suggestions are appreciated and I am sure the Board will carefully consider them.

Sincerely yours,

B. Allen Clutter

BAC:cg

B. Allen Clutter
Executive Director

cc: Honorable Warren Spannaus, Attorney General
Spec. Ass't. Attorney General Lee Sheehy
Duane Harves, Chief, Hearing Examiners
Mr. Marshall Whitlock, Exec. Sec'y.
Spec. Ass't. Attorney General Richard Lockridge

MEMO

June 19, 1978

TO: Lee Sheehy, Special Assistant Attorney General

FROM: Rep. Mike George

RE: Temporary Rules Submitted 6/15/78 by the Ethical Practices Board

As a supplement to my memos of 5/31/78 and 6/5/78 to the Ethical Practices Board regarding the Board's proposed temporary rules, I am hereby submitting in tabular form the material contained in the memos.

The five columns of the table indicate the reasons which I believe are sufficient to deny adoption of the rules in question. Please note that beginning with 9MCAR 1.0033, the numbers do not correspond with the numbers as initially proposed.

Rule Subm. to AG 6/15/78	Duplicates Law	Exceeds Law	Violates Law	Supplants permanent rule w/o relating to amendments	codifies advisory opinion
9MCAR-					
1.0001				EC2	
1.0002 A					
B					
C			10A.32-s3 10A.25-s4		
D				EC5 (j)	
E					
F					
G				EC5 (l)	
H					
1.0003					
1.0004	10A.22-s5				
1.0005	10A.31-s5				
1.0006					
1.0007				EC14	
1.0008 A		10A.17-s2			
B		X			
1.0009			10A.265		
1.0010					
1.0011					#4
1.0012 A		10A.14 10A.20-s1		EC17	
B					
1.0013 A			10A.32-s3b		
B					
C					
1.0014 A	10A.02-s11				
B				EC39B	
C					
D	? 10A.02-s11		?10A.02-s11		
1.0015 A					
B					

RECEIVED
JUN 21 1978
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Rule Subm. to AG 6/15/78	Duplicates Law	Exceeds Law	Violates Law	Supplants permanent rule w/o relating to amendments	codifies advisory opinion
1.0016	10A.01-s5				
1.0017	10A.14 10A.22-s7				
1.0018		10A.27-s4			
1.0019		X			
1.0020			10A.01-s10		
1.0021	10A.32-s3 ↓ except for ↓ when returned ↑				
1.0022	10A.32-s3				
1.0023 A					#31
B					
1.0024					
1.0025		X		EC29	
1.0026 A					
B					
1.0027 A			vague-"other compelling reason"		
B					
C					
1.0028					#8 #11
1.0029 A					#24
B					
C					
D					
1.0030					
1.0031 A	10A.01-s15&16 except last sentence			EC10(a)	
B	no prohib. in law			EC10 (c)	
C	10A.15-s3				
D	10A.11-s5				
1.0032	10A.01-s7b				
1.0033	10A.25-s6&s10				
1.0034 A			10A.13-s1(b) 10A.15-s2	EC35	
B					
1.0035 A		10A.16 10A.20-s3			
B			10A.20-s3		
C		10A.16 10A.20s3			
1.0036 A	10A.01-s10				
B		*			
1.0037 A					
B				EC34	

Rule Subm. to AG 6/15/78	Duplicates Law	Exceeds Law	Violates Law	Supplants permanent rule w/o relating to amendments	codifies advisory opinion
1.0038			**		
1.0039			10A.32-s3(b)		
1.0040	10A.32-s3&3(b)				
1.0041					
1.0042 A					
B				EC38	
1.0043					
1.0044					

* An unpaid bill (advance of credit) carried over to a succeeding year logically cannot be reported as a non campaign disbursement in that succeeding year (a) because to do so means counting the outlay twice (as it is reported as a campaign expenditure in the year incurred), and (b) because an advance of credit for a campaign purpose can never be a noncampaign disbursement. If this is not what the rule really means, it muddies rather than clarifies the law.

** The Board exceeds its authority if it requires an approved or independent expenditure on another candidate's behalf to be counted toward the campaign expenditure limit of the candidate making the expenditure.

To summarize, the following temporary rules have no comments and/or reasons for denying adoption:

9MCAR -

1.0002 A, E, F, H	1.0023 B	1.0037 A
1.0003	1.0024	1.0041
1.0006	1.0026	1.0042 A
1.0010	1.0027 B, C	1.0043
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In the long run, promulgation of rules which incorporate these violations increases the expense incurred in the rule making authority, as adopted temporary rules must be published in the Register and then re-adopted as permanent rules.

In view of the fact that none of the proposed rules are so crucial to clarification of the law that the Board could not function in this election year without them, I strongly suggest that the entire set of proposed temporary rules be denied.

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Mr. Marshall Whitlock, Exec. Sec'y, Leg. Comm. to Review Adm. Rules
Mr. B. Allen Clutter III, Exec. Director, EPB
Ethical Practices Board

MEMO May 31, 1978

TO: Ethical Practices Board

FROM: Rep. Mike George

RE: Proposed Temporary Rules Relating to Campaign Financing
Ethical Practices Board - 9MCAR 1.0001 - 1.0046

Section 15.0412, subdivision 1, forbids duplication in a rule of statutory language unless the hearing examiner determines that the duplication is crucial to comprehension.

Section 15.0416, provides that courts shall declare a rule invalid if it..."exceeds the statutory authority of the agency".

Section 10A.02, Subdivision 13, specifically gives the Board the power to make rules "to carry out the purposes of sections 10A.01 to 10A.34". Except in specific sections, in which the Board is empowered to make rules relating to policy (such as defining by rule what activity is to be considered a constituent service), the rule making authority is limited to procedural matters to implement the law.

Laws of Minnesota, 1978, Chapter 463, grants the Board "temporary rule making authority as provided in section 15.0412, subdivision 5, to implement the provisions of Chapter 10A which are amended by this act." (emphasis mine).

It is obvious that much of the material in the proposed rules is adapted from advisory opinions issued prior to the effective date of the act which do not relate to portions of Chapter 10A amended by Chapter 463 , or do not relate to the amendments per se.

Wherever in the proposed rules this is the case, the rule should be deleted and reintroduced as a proposed permanent rule which is subject to the normal procedures for adoption, including a hearing before a hearing examiner. The advisory opinions are valid until the legislature adjourns in May 1979, giving ample time to adopt permanent rules incorporating the advisory opinions.

The following examines the proposed temporary rules in light of the statutory provisions cited above and recommends that the Attorney General not approve those which duplicate statutory material, or exceed the E.P.B's authority, or do not relate to Chapter 463.

9MCAR 1.0002 - Paragraph B

This rule should be deleted because it is the exact language of section 10A.01, subdivision 6:

10A.01. Subd. 6. "Board" means the state ethical practices board.

9MCAR 1.0002 Paragraph D.

This rule is incomplete as for some purposes the calendar year in 1978 begins January 1.

c.f. section 10A.32, subdivision 3, and section 10A.25, subdivision 4.

The rule should read: "Except for expenditures and approved expenditures made between January 1, 1978, and February 28, 1978, which are for goods or services consumed or used before February 28, 1978, and except for determining the aggregate contribution and approved expenditure limit agreed to pursuant to section 10A.32, subdivision 3, "calendar year" in 1978 means the period beginning February 28 and ending December 31, 1978."

10A.25, Subd. 4. The limits prescribed in section 10A.25 shall not apply to any expenditure or approved expenditure made or advance of credit incurred before February 28, 1978, unless the goods or services for which they were made or incurred are consumed or used after February 28, 1978.

10A.32, Subd. 3 (part)

the principal campaign committee of a candidate on January 1 of the election year for the office held or sought shall be considered contributions accepted by that candidate in that year for the purposes of this subdivision. Notwithstanding the effective date of this section, for 1978, the period for determining the aggregate contribution and approved expenditure limit agreed to pursuant to this subdivision shall begin January 1, 1978. That amount of all contributions accepted by a candidate in an election year which equals the amount of noncampaign disbursements made by year for the purposes of this subdivision. Notwithstanding the effective date of this section, for 1978, the period for determining the aggregate contribution and approved expenditure limit agreed to pursuant to this subdivision shall begin January 1, 1978. That amount of all contributions accepted by a candidate in an election year which equals the amount of noncampaign disbursements made by

(3) 9MCAR 1.0002 - Paragraph F

This rule should be amended as follows: the words "or received" should be inserted after "solicited" as it is possible to receive contributions which are unsolicited, and to not receive contributions which are solicited.

(4) 9MCAR 1.0004

This rule should be deleted because, with the exception of the word "approved" before "expenditure", the rule duplicates

section 10A.22, subdivision 5. Since "expenditure" includes "approved expenditure", the rule is not necessary.

10A.22, Subd. 5. A political committee or political fund making an expenditure on behalf of more than one candidate for state or legislative office shall allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.

(5) 9MCAR 1.0005.

This rule should be deleted because it duplicates (but not verbatim) the last paragraph of section 10A.31, subdivision 5, and is therefore not necessary.

10A.31-S.5. (part) Moneys from any party account not distributed in any election year shall be returned to the general fund of the state. Moneys from the general account refused by any candidate shall be distributed to all other qualifying candidates in proportion to their shares as provided in this subdivision.

(6) 9MCAR 1.0008.

This rule should be deleted because it exceeds the authority of the Board as follows:

* (1) it permits the deputy treasurer and candidate to authorize approved expenditures when section 10A.17, subdivision 2, permits only the treasurer to do so;

(2) It implies that a printed form is necessary to authorize approved expenditures, when a form is not required by section 10A.17, subdivision 2;

3) it permits the Board to determine on a case by case basis whether an approved expenditure was made without written authorization. This question was unresolvable by the legislators in conference committee.

In addition, is is vague and lacking in specificity because it is not clear whether the board or the candidate provides the forms. → what form?

> 10A.17, Subd. 2. No individual or association may make an approved expenditure of more than $20 until he receives written authorization as to the amount that may be spent and the purpose of the expenditure from the treasurer of the principal campaign committee of the candidate who approved the expenditure.

9MCAR 1.0009. See "indep. exception" in rule - Buckley → M.J. Ct.

This rule should be deleted because it is in direct contradiction to section 10A.265. So long as support of a candidate by an association is made known via a letter or newsletter to only the members of that association, and no expense is incurred to publicize the support outside the membership, requiring approval of and allocating the cost to the candidate abridges the right of an association to communicate with its members. This section was added to the law specifically to prohibit the Board's interpretation of the law (embodied in this rule) from remaining in effect.

> 10A.265 [FREEDOM TO ASSOCIATE AND COMMUNICATE.] Nothing in chapter 10A shall be construed as abridging the right of an association to communicate with its members.

9MCAR 1.0012.

This rule should be deleted because it exceeds EPB authority. Nothing in the law permits a candidate's signature in lieu of the treasurer's on forms submitted to the Board.

It should be noted that section 10A.17, subdivisions 1 and 3, specifically authorize the deputy treasurer to perform a particular

→ Signature of deputy treas. is proper in certain places, and rule should be read in harmony with the law if possible. It can also in this case

duty. The conclusion can only be that without specific authorization neither the deputy treasurer nor the candidate can act as treasurer.

10A.17 [EXPENDITURES.] Subdivision 1. No expenditure shall be made by a political committee, political fund, or principal campaign committee unless it is authorized by the treasurer or deputy treasurer of that committee or fund.

For subdivision 2, see page 5, under 9MCAR 1.0008.

Subd. 3. The treasurer or deputy treasurer of a political committee may sign vouchers for petty cash of not more than $100 per week for statewide elections or $20 per week for legislative elections to be used for miscellaneous expenditures.

10A.11, Subd. 2. No contribution shall be accepted and no expenditure shall be made by or on behalf of a political committee at a time when there is a vacancy in the office of treasurer.

10A.11, Subd. 3. The treasurer of a political committee may appoint as many deputy treasurers as necessary and shall be responsible for their accounts.

10A.14 [REGISTRATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS.] Subdivision 1. The treasurer of a political committee or political fund shall register with the board by filing a statement of organization no later than 14 days after the date upon which the committee or fund has received contributions or made expenditures in excess of $100.

10A.20 [CAMPAIGN REPORTS.] Subdivision 1. The treasurer of every political committee and political fund shall begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of $100 and shall continue to file until the committee or fund is terminated.

(9) 9MCAR 1.0013, Paragraph C.

Except for the last sentence, this rule should be deleted because it exceeds the authority of the EPB, as the law does not specify a date beyond which a candidate may not sign a tax subsidy agreement. Furthermore, the date in the rule bears no indication of which year is meant, and is therefore vague and lacking in specificity.

Does the law specify any date?

In line 28, the words "for another office" should be deleted, and in line 29, after "agreement" and before the period, the words "for another (or different) office" should be inserted. It makes better sense.

> 10A.32, Subd. 3b. (part) As a condition of receiving a public subsidy for his election campaign in the form of tax credits against the tax due from individuals who contribute to his principal campaign committee a candidate shall agree by stating in writing to the board at any time beginning with the registration of his principal campaign committee that his expenditures and approved expenditures shall not exceed the expenditure limits as set forth in section 10A.25. The agreement shall remain effective until the dissolution of the principal campaign committee of the candidate or the opening of filing for the next succeeding election for the office held or sought at the time of agreement, whichever occurs first. An agreement signed under this subdivision may not be rescinded. The commissioner of revenue shall not

(10) 9MCAR 1.0014, Paragraph D.

It is unclear what "closed to the public" means. Are parties to the complaint or investigation also to be excluded? There is a difference between "confidential" (word used in section 10A.02, subdivision 11) and "closed to the public". If the Board intends that

it means the same thing, then rule is duplicative and should be deleted.

10A.02, Subd. 11. The board may investigate any alleged violation of chapter 10A. The board shall investigate any violation which is alleged in a written complaint filed with the board and, except for alleged violations of section 10A.25 or 10A.27, shall within 30 days after the filing of the complaint make a public finding of whether or not there is probable cause to believe a violation has occurred. In the case of a written complaint alleging a violation of section 10A.25 or 10A.27, the board shall either enter a conciliation agreement or make a public finding of whether or not there is probable cause, within 60 days of the filing of the complaint. The deadline for action on any written complaint may be extended by majority vote of the board. Within a reasonable time after beginning an investigation of an individual or association, the board shall notify that individual or association of the fact of the investigation. The board shall make no finding of whether or not there is probable cause to believe a violation has occurred without notifying the individual or association of the nature of the allegations and affording an opportunity to answer those allegations. Any hearing or action of the board concerning any complaint or investigation other than a finding concerning probable cause or a conciliation agreement shall be confidential. Until the board makes a public finding concerning probable cause or enters a conciliation

9MCAR 1.0015, Paragraph A.

The rule should be rewritten as follows: "A candidate may permit his principal campaign committee to accept a contribution of up to the limit imposed by section 10A.27, subdivision 1, from

a principal campaign committee formed by that candidate in seeking another office. The amount which that candidate had contributed to the contributing principal campaign committee shall not be subject to the limit imposed by section 10A.27, subdivision 1."

12 9MCAR 1.0016. I may or may not agree but it doesn't make it an illegal temp. rule.

Since section 10A.01, subdivision 5, clearly states that "candidate" includes district and supreme court judges, this rule is not necessary and should be deleted.

> 10A.01 Subd. 5. "Candidate" means an individual who seeks nomination or election to any statewide or legislative office for which reporting is not required under federal laws. The term candidate shall also include an individual who seeks nomination or election to supreme court and district court judgeships of the state. An individual shall be deemed to seek nomination or election if he has taken the action necessary under the law of the state of Minnesota to qualify himself for nomination or election, has received contributions or made expenditures in excess of $100, or has given his implicit or explicit consent for any other person to receive contributions or make expenditures in excess of $100, for the purpose of bringing about his nomination or election. A candidate remains a candidate until his principal campaign committee is dissolved as provided in section 10A.24.

13 9MCAR 1.0017.

This rule should be deleted as the problem it seeks to clarify is handled adequately in sections 10A.14 and 10A.22, subdivision 7:

10A.14 [REGISTRATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS.] Subdivision 1. The treasurer of a political committee or political fund shall register with the board by filing a statement of organization no later than 14 days after the date upon which the committee or fund has received contributions or made expenditures in excess of $100.

For section 10A.20, subdivision 1, see page 6, under 9MCAR 1.0012.

10A.22, Subd. 7. The treasurer of a political committee or political fund shall not accept a contribution of more than $100 from a political committee or political fund not registered in this state unless the contribution is accompanied by a written statement which meets the disclosure requirements imposed by section 10A.20. This statement shall be certified as true and correct by an officer of the contributing political committee or political fund. The political committee or political fund which accepts the contribution shall include a copy of the statement with the report which discloses the contribution to the board. The provisions of this subdivision shall not apply when a national political party transfers money to its affiliate in this state.

10 9MCAR 1.0018

This rule should be deleted, as excluding "a social club of a political party.....an auxiliary committee.....or any association which uses a political party name and is not listed in M.S. 10A.27, subdivision 4" from the definition of political party goes far beyond the actual definition in section 10A.27, subdivision

4. Since the cited section clearly states what a political party is, it is not necessary for the rules to state what it is not. Furthermore, under the old "inclusion-exclusion" principle, it could be argued that any party entity not listed is, in fact, part of a political party for the purposes of section 10A.27.

> 10A.27, Subd. 4. For the purposes of this section, a political party means the aggregate of the party organization within each house of the legislature, the state party organization, and the party organization within congressional districts, counties, legislative districts, municipalities, and precincts.

15 9MCAR 1.0019.

This rule should be deleted as it exceeds the authority of EPB. Corporate Employee political contribution funds are not legal in Minnesota with respect to contributions to other than federal candidates. Therefore the Board cannot promulgate a rule specifying how such contributions are to be reported. I am well aware that this rule is based on an advisory opinion, which as such was not subject to challenge. There is doubt that such a bill could pass the legislature. To the extent that such contributions are received, they are in fact bona fide contributions from individuals and should be reported as such. No rule is necessary.

16 9MCAR 1.00[illegible]. Better rule #61.

This rule appears to be in conflict with section 10A.01, subdivision 10 and should be deleted. An alternative rule which clearly states how repaid loans should be reported could be inserted here: "Any expenditure made to raise money to repay a loan to the principal campaign committee of a candidate shall be reported as having been incurred in the year in which the loan was made. The contributions made for the purpose of repaying the loan, not to exceed the amount of the loan plus the amount of the expenditure made to raise the money, shall be reported as

having been received in the year in which the loan was made. If the expenditure causes the expenditure limit to be exceeded for a candidate who agrees to expenditure limits, the excess shall be subject to the penalty imposed in section 10A.28. If the contributions cause the contribution limit to be exceeded, the excess shall be returned as provided in section 10A.32, subdivision 3.
Any contribution in excess of the amount of the loan plus the amount of the expenditure made to raise the money shall be reported as a contribution in the year in which the fund raising effort is made."

10A.01 Subd. 10. "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate.

An expenditure is considered to be made in the year in which the goods or services for which it was made are used or consumed.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (a), expenditure includes the dollar value of a donation in kind.

Expenditure does not include:

(a) Noncampaign disbursements as defined in subdivision 10c;

(b) Transfers as defined in subdivision 7a;

(c) Services provided without compensation by an individual volunteering his time on behalf of a candidate, political committee, or political fund; or

(d) The publishing or broadcasting of news items or editorial comments by the news media.

Justification for the wording of the amendment is found in section 10A.01, subdivision 7:

10A.01, Subd. 7. (part) "Contribution" means a transfer of funds or a donation in kind.

Contribution includes any loan or advance of credit to a political committee, political fund, or principal campaign committee, which loan or advance of credit is (a) forgiven, or (b) paid by an entity other than the political committee, political fund, or principal campaign committee to which the loan or advance of credit is made. If an advance of credit or a loan is forgiven or paid as provided in this subdivision, it is a contribution in the year in which the loan or advance of credit is made.

A contribution made for the purpose of defeating a candidate is considered made for the purpose of influencing

(17) EPB adopted

9MCAR 1.0021, paragraph A.

The rule duplicates section 10A.01, subdivision 7, and should be deleted. No purpose is served in singling out committees and funds.

See section 10A.01, subdivision 7, above.

(18) 1st suggestion adopted by EPB

9MCAR 1.0021, paragraph B.

As written, this paragraph is incomplete, as there is a limitation on the amount of public money which must be returned to the state, i.e. the amount returned cannot exceed the amount of public money received. This language was added to prevent recurrence of the situation involving the St. Onge committee, from which the Board demanded the entire amount of the excess contributions, even though they exceeded the amount of public money received. The legislature held this to be confiscation of private property without due process. The only non-duplicative portion of the rule is that which specifies when the money should be returned. That being so, the rule should read:

"If a periodic report of a principal campaign committee of a candidate accepting public funds requires an amendment for the reason that a loan or advance of credit is forgiven or paid in any year following the year it was incurred, and the forgiveness or payment causes the contribution limit provided in section 10A.32, subdivision 3, to be exceeded, the amount of the excess as provided in section 10A.32, subdivision 3, shall be returned with the amendment."

10A.32, subd. 3 (part)

Any amount by which his aggregate contributions and approved expenditures agreed to under clause (b) exceed the difference shall be returned to the state treasurer in the manner provided in subdivision 2. In no case shall the amount returned exceed the amount received from the state elections campaign fund.

(19) Adopted 9 EPB

9MCAR 1.0022, paragraph A.

This rule should be deleted because it is duplicative of sections 10A.01, subd. 7, 10A.13, subd. 1, and 10A.20, subd. 3 (i). One need not single out political committees and funds with respect to the forgiveness of unpaid bills.

For section 10A.01, subdivision 7, see page 13, under 9MCAR 1.0020.

10A.20, s-3(i) The amount and nature of any advance of credit incurred by the political committee or political fund, continuously reported until paid or forgiven. If any advance of credit incurred by the principal campaign committee of a candidate is forgiven at any time by the creditor or paid by any entity other than that principal campaign committee, it shall be reported as a donation in kind for the year in which the advance of credit was incurred;

10A.13 [ACCOUNTS WHICH MUST BE KEPT.] Subdivision 1. The treasurer of a political committee or political fund shall keep an account of:

(a) The sum of all contributions except any donation in kind valued at $20 or less, made to the political committee or political fund;

(b) The name and address of each source of a transfer made to the political committee or political fund in excess of $20, together with the date and amount of each;

(c) The name and address of each source of a donation in kind valued in excess of $20, together with the date and amount;

(d) Each expenditure made by the committee or fund, together with the date and amount;

(e) Each approved expenditure made on behalf of the committee or fund, together with the date and amount; and

(f) The name and address of each political committee or political fund to which transfers in excess of $20 have been made, together with the date and amount.

Any individual who knowingly violates any provision of this subdivision is guilty of a misdemeanor.

Make chgs per 1.0021 chgs.

(20) 9MCAR 1.0022, paragraph B.

This rule suffers from the same shortcomings as 9MCAR 1.0021, paragraph B. If 9MCAR 1.0021 is rewritten as suggested, this rule can safely be deleted.

(21) 9MCAR 1.0025

This rule should be deleted because it is policy making and exceeds the authority of the board. As written, it would likely result in obfuscation of the real source of a contribution, thereby thwarting the intentions of the disclosure provisions of the law, which is the heart of Chapter 10A. As an example: a candidate mails

an invitation to a fund raiser addressed to Mr. John Jones at his business office. Mr. Jones is a railroad executive who has an interest in legislation related to taxation of railroads. The ticket price is $50 per couple. Mr. and Mrs. Jones attend the fund raiser and the check given to the treasurer is signed by Mary C. Jones. The record of this contribution is kept (but not reported) under the name of Mary C. Jones.

At a later date, Mr. John Jones gives the candidate a check for $50 signed by John Jones. This contribution is recorded (but not reported) under the name of John Jones.

Clearly, both $50 contributions came from the same source but under this proposed rule, there would be no reporting of the $100 contribution.

Obviously, it is difficult to solve this problem where contributions are made on joint checking accounts. But the solution rests with the legislature, not the Board.

(22) 9MCAR 1.0027 Paragraph A.

The words "other compelling reason" should be deleted as they are vague and lacking in specificity. Why does the request have to be written? It serves no purpose except to provide papers to shuffle. Would not a telephone call suffice? [redacted]

EPB Adopted response

(23) 9MCAR 1.0027 Paragraph C.

The rule is incomplete as it does not deal with the problem of when to institute the late filing fee for certified letters returned as undelivered.

Adopted by EPB

(24) 9MCAR 1.0028.

In line 7, after "support" the words "for his candidacy" should be inserted.

(25) 9MCAR 1.0029. Adopted by EPB

This rule does not provide for the situation in which the office holder-candidate after adjournment sine die pays for constituent services from his personal funds and not through his principal campaign committee. Perhaps the rule should include a paragraph D as follows: "D. Constituent services provided after adjournment sine die in the year of an election for an officeholder who is a candidate which is paid for from the personal funds of the officeholder shall be considered a donation in kind and reported as such by the principal campaign committee of the candidate."

(26) 9MCAR 1.0030. Adopted by EPB

In order to avoid the possibility that items not mentioned would be excluded from the list, in line 4 after the word "include" the words "but not be limited to" should be inserted.

(27) 9MCAR 1.0031 Portion of this adopted by EPB in that they re-work such

Most of this rule should be deleted as it duplicates the campaign finance law as follows:

A. Duplicates sections 10A.01, subdivisions 15 and 16, and 10A.14, subdivision 1. The last sentence of this paragraph beginning on line 19 could be retained.

B. Nothing in the law prohibits a candidate from being his own chairman and/or treasurer. Section 10A.11, Subdivision 1, permits the chairman and treasurer to be the same individual.

C. Duplicates 10A.15, subdivision 3, which is cited in the paragraph.

D. Duplicates 10A.11, subdivision 5.

10A.01, Subd. 15. "Political committee" means any association as defined in subdivision 3 whose major purpose is to influence the nomination or election of a candidate.

"Political committee" includes a major political party

as defined in subdivision 12, a minor political party as defined in subdivision 13, and any principal campaign committee formed pursuant to section 10A.19.

Subd. 16. "Political fund" means any accumulation of dues or voluntary contributions by an association other than a political committee, which accumulation is collected or expended for the purpose of influencing the nomination or election of a candidate.

For section 10A.14, subdivision 1, see page 9 under 9MCAR 1.0017.

10A.11 [ORGANIZATION OF POLITICAL COMMITTEES.]

Subdivision 1. Every political committee shall have a chairman and a treasurer. Nothing in chapter 10A shall prohibit them from being the same individual.

10A.15, Subd. 3. All transfers received by or on behalf of any candidate, political committee or political fund shall be deposited in an account designated "Campaign Fund of ..... (name of candidate, committee or fund)". All transfers shall be deposited promptly upon receipt and, except for transfers received during the last three days of any reporting period as described in section 10A.20, shall be deposited during the reporting period in which they were received. Any transfer received during the last three days of a reporting period shall be deposited within 72 hours of receipt and shall be reported as received during the reporting period whether or not deposited within that period. Any deposited transfer may be returned to the contributor within 60 days of deposit. A transfer deposited and not returned within 60 days of that deposit shall be deemed for the purposes of chapter 10A, to be accepted by the candidate, political committee or political fund.

10A.11, Subd. 5. No funds of a political committee shall be commingled with any personal funds of officers, members or associates of the committee.

28 9MCAR 1.0032.

This rule should be deleted since section 10A.01, subdivision 7b, defines "donation in kind" adequately, ("anything of value" includes payment for personal services).

> 10A.01, Subd. 7b. "Donation in kind" means anything of value other than money or negotiable instruments given by an individual or association to a political committee, political fund, or principal campaign committee for the purpose of influencing the nomination or election of a candidate. Donation in kind includes an approved expenditure.

29 9MCAR 1.0033. Adopted by EPB

This rule should be deleted as it duplicates section 10A.01, subdivision 10.

For section 10A.01, subdivision 10, see page 12 under MCAR 1.0020.

30 9MCAR 1.0034.

This rule should be deleted as section 10A.25, subdivision 10, adequately takes care of the issue, as it follows section 10A.25, subdivision 6, providing for limits in non-election years.

> 10A.25 Subd. 6. In any year following an election year for the office held or sought, the aggregate amount of expenditures by and approved expenditures on behalf of a candidate for or holder of that office shall not exceed 20 percent of the expenditure limit set forth in subdivision 2.
>
> Subd. 10. The expenditure limits imposed by section 10A.25 apply only to candidates who agree to be bound by the limits as a condition of receiving a public subsidy for their campaigns in the form of:
>
> (a) An allocation of money from the state elections campaign fund; or
>
> (b) Credits against the tax due of individuals who contribute to that candidate.

(31) 9MCAR 1.0035 Paragraph A.

This rule should be deleted because it violates section 10A.13, subdivision 1, paragraph (b) and section 10A.15, subdivision 2, as the rule requires the recording of the employer or occupation of each source of a contribution of over $20.

For section 10A.13, subdivision 1, see page 15, under 9MCAR 1.0021.

10A.15, Subd. 2. Every individual who receives a contribution in excess of $20 for a political committee or political fund shall, on demand of the treasurer, inform the treasurer of the name and, if known, the address of the source of the contribution, together with the amount of the contribution and the date it was received.

(32) 9MCAR 1.0036, Paragraph A.

This rule should be deleted as it goes beyond the law in that it requires record keeping, as in 9MCAR 1.0035, more stringent than set forth in 10A.16.

10A.16 [EARMARKING.] Any individual, political committee or political fund which receives a contribution from any source with the express or implied condition that the contribution or any part of it be directed to a particular candidate shall disclose to the ultimate recipient, and in the reports required by section 10A.20, the original source of the contribution, the fact that the contribution is earmarked and the candidate to whom it is directed. The ultimate recipient of any contribution so earmarked shall also disclose the original source and the individual, political committee, or political fund through which it is directed. This section applies only to contributions required to be disclosed by section 10A.20, subdivision 3, clause (b). Any individual, political committee, or political fund who knowingly accepts any earmarked contribution and fails to make the required disclosure is guilty of a gross misdemeanor.

Paragraph B.

The rule number reference is incorrect. It would seem logical that an earmarked contribution would be recorded as a contribution from the original source, not as miscellaneous income. Furthermore, the rule is also in error in that it provides reporting of contributions in excess of $100, when in fact, if the contribution is earmarked for a legislative candidate, this threshold is $50.

Paragraph C

This rule should be deleted as it duplicates the requirements of section 10A.16 and section 10A.20, subdivision 3, clause (b).

For section 10A.16, see page 20.

10A.20, -3 (b) The name, address and employer, or occupation if self-employed, of each individual, political committee or political fund who within the year has made one or more transfers or donations in kind to the political committee or political fund, including the purchase of tickets for all fund raising efforts, which in aggregate exceed $50 for legislative candidates or $100 for statewide candidates, together with the amount and date of each transfer or donation in kind, and the aggregate amount of transfers and donations in kind within the year from each source so disclosed. A donation in kind shall be disclosed at its fair market value. An approved expenditure is listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors shall be listed in alphabetical order;

33 9MCAR 1.0037.

Paragraph A. This rule should be deleted as it is taken care of by section 10A.01, subdivision 10 (1st and 2nd paragraphs).

For section 10A.01, subdivision 10, see page 12 under MCAR 1.0020.

Paragraph B. This rule should be deleted as the only logical way to report the payment of an unpaid bill carried over to the next year is by submitting an amendment to the report for the year in which the advance of credit was made. Under no circumstances should it be reported as a noncampaign disbursement if the advance of credit was for campaign purposes.

9MCAR 1.0038. Paragraph C.

It would seem that 10A.15, subdivision 3, and 10A.20, subdivision 3, are adequate to insure that the treasurer reports contributions received and deposited in a reporting period.

For section 10A.15, subdivision 3, see page 18 under 9 MCAR 1.0031.

9MCAR 1.0039

This rule is internally contradictory because it in effect says that an expenditure is both a campaign expenditure and a non-campaign disbursement. If a candidate includes the names of other candidates on a sample ballot - with or without their permission - that portion of the cost of the sample ballot which benefits the other candidates would be an expenditure on behalf of the other candidates, not as a campaign expenditure on behalf of the candidate who pays for the sample ballot. If he does not have approval, it is an independent expenditure reported as a non-campaign disbursement. If he has approval, it is reported as a donation in kind by the receiving committee and as a non-campaign disbursement by the contributing committee. This rule should be deleted, as it was an advisory opinion, which, when corrected, should be adopted as a permanent rule.

Subd. 6a. Any individual, political committee or political fund filing a report or statement disclosing any independent expenditure pursuant to subdivision 3 or 6 shall file with that report a sworn statement that the expenditures so disclosed were not made with the authorization or expressed or implied consent of, or in

Section 10A.32, subd. 3b (part)

Subd. 3b. As a condition of receiving a public subsidy for his election campaign in the form of tax credits against the tax due from individuals who contribute to his principal campaign committee a candidate shall agree by stating in writing to the board at any time beginning with the registration of his principal campaign committee that his expenditures and approved expenditures shall not exceed the expenditure limits as set forth in section 10A.25. The agreement shall remain effective until the dissolution of the principal campaign committee of the candidate or the opening of filing for the next succeeding election for the office held or sought at the time of agreement, whichever occurs first. An agreement signed under this subdivision may not be rescinded. The commissioner of revenue shall not

SUMMARY

To summarize, it is recommended that the following proposed rules be deleted on the grounds stated at the beginning of the memo. Those marked with an asterisk, in addition to being duplicative or exceeding the Board's authority, are not related to the amendments in Chapter 463 and/or represent advisory opinions which should be incorporated in permanent rules if they are to be preserved:

9MCAR 1.0002 - B

9MCAR 1.0004

9MCAR 1.0005

9MCAR 1.0008

* 9MCAR 1.0009 (Adv. Op. #10)

9MCAR 1.0012

9MCAR 1.0013 - C, except for the last sentence

9MCAR 1.0014

9MCAR 1.0016

9MCAR 1.0017

9MCAR 1.0018

cooperation or in concert with, or at the request or suggestion of any candidate, his principal campaign committee or his agent.

(36) 9MCAR 1.0040

This rule should be deleted as it exceeds the authority of the Board. It sets a deadline beyond which a tax subsidy agreement cannot be signed. There is no such deadline in the statutes. Furthermore, it appears to slightly contradict 9MCAR 1.0013.

(37) 9MCAR 1.0041 Adopted by EQB

This rule should be deleted as there is no readily apparent need for it. Any entity legally permitted to make a political contribution may contribute to a candidate who does not agree to abide by the limits. So long as the contribution to the party for which the taxpayer claims a tax credit is not earmarked for a candidate who does not agree to abide by expenditure limits, there is no violation of the law.

(38) 9MCAR 1.0042.

This rule should be deleted as it is obvious from the texts of section 10A.32, subdivisions 3 and 3b that it would not be possible to sign one agreement covering both kinds of public financing. The time periods do not correspond.

Section 10A.32, Subd. 3 (part)

> The candidate may submit his signed agreement to the filing officer on the day he files his affidavit of candidacy or petition to appear on the ballot, or he may submit the agreement to the board no later than September 1.
>
> The board prior to the first day of filing for office shall forward forms for the agreement to all filing officers. The filing officer shall without delay forward signed agreements to the board. An agreement may not be rescinded after September 1.

* 9MCAR 1.0019 (Adv. Op. # 6)

* 9MCAR 1.0020, replaced by a substitute rule (Adv. Op. # 18)

9MCAR 1.0021 - A

9MCAR 1.0021 - B, replaced by a substitute rule

9MCAR 1.0022

9MCAR 1.0025

9MCAR 1.0031, except for the last sentence of A.

9MCAR 1.0032

9MCAR 1.0033

9MCAR 1.0034

9MCAR 1.0035 - A

9MCAR 1.0036

9MCAR 1.0037

9MCAR 1.0038 - C

* 9MCAR 1.0039 (Adv. Op. #9)

9MCAR 1.0040

9MCAR 1.0041

9MCAR 1.0042

It is further recommended that the following proposed rules be amended as shown in the body of this memo:

9MCAR 1.0002 - D and F

9MCAR 1.0015 - A

9MCAR 1.0027 A and C

9MCAR 1.0028

9MCAR 1.0029

9MCAR 1.0030

Those rules which do not relate to Chapter 463 and should be deleted, but which have not been recommended for deletion on the other grounds cited at the beginning of the memo, are as follows:

9MCAR 1.0011 (Adv. Op. #4)

9MCAR 1.0023 (Adv. Op. #31)

9MCAR 1.0026 (Adv. Op. #14)

9MCAR 1.0028 (Adv. Op. #8 and #11)

9MCAR 1.0029 (Adv. Op. #24)

Obviously, if the five proposed rules listed above are deleted as recommended, the Board might wish to reinstate the related advisory opinions.

xc: The Hon. Warren Spannaus, Attorney General
Mr. Richard Lockridge, Spec. Ass't. to the Attorney General
Mr. Lee Sheehy, Spec. Ass't. to the Attorney General
Mr. Duane Harves, Chief Hearing Examiner
Mr. Marshall Whitlock, Exec. Sec'y, Legis Comm. to Review Administrative Rules
Mr. B. Allen Clutter, 3rd., Exec. Dir., EPB

MEMO

June 5, 1978

RECEIVED
JUN 6 1978
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

TO: Ethical Practices Board

FROM: Rep. Mike George

RE: Addendum to Memo of May 31, 1978.

In my previous memo I did not comment on the first paragraph of the Board's temporary rules regarding campaign financing.

The first paragraph begins: "Supersedes and repeals EPB Rules 1-39."

It should be noted that there is considerable doubt as to whether permanent rules can be superseded by temporary rules which have not been subject to the rigorous procedures required for adoption of permanent rules.

That, coupled with the Chapter 463 directive to the Board to adopt temporary rules to "implement the provisions of Chapter 10A which are amended in this act", clearly raises the question as to whether EPB rules 1-39, particularly those relating to sections not amended by Chapter 463, are legally repealed if these rules are adopted.

This not to argue that much of EPB rules 1-39 should <u>not</u> be repealed, only that they should be repealed according to established procedure, i.e., by means of new permanent rules.

To recapitulate, <u>only those temporary rules which relate to and implement portions of Chapter 10A which are amended by Chapter 463</u> should be adopted.

There should be no blanket repeal of permanent rules via temporary rules.

There should be no temporary rules which do not fill a gap in the procedures established in Chapter 463.

There should be no temporary rules which make policy beyond the specific authority granted to the Board.

There should be no temporary rules which merely duplicate statutory language.

xc: The Hon. Warren Spannaus, Attorney General
Mr. Richard Lockridge, Special Ass't. Attorney General
Mr. Lee Sheehy, Special Ass't. Attorney General
Mr. Duane Harves, Chief Hearing Examiner
Mr. Marshall Whitlock, Exec. Sec'y, Leg. Comm. to Review Adm. Rules
Mr. B. Allen Clutter, 3rd., Exec. Director, EPB

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