

State

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STATE OF
MINNESOTA

Register

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OFFICIAL NOTICES

Ethical Practices Board

Outside Opinion Sought on Request for an Advisory Opinion

The State Ethical Practices Board solicits opinions of any individual or association regarding the following request for an advisory opinion prior to its approval of an advisory opinion on December 12, 1977.

Gene Lourey
Star Route, Box 100
Kerrick, Minnesota 55756

November 2, 1977

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

Dear Sir:

In 1976, I ran unsuccessfully for Democratic endorsement for the Minnesota State Senate in District 14. I was careful not to spend over \$100 in that effort. All of that money was my own.

Then in December of 1976, I decided to try again in 1980. I started a volunteer committee, raised about \$700 and filed a report in January of 1977. I am raising money now and expect to have about \$2,000 by December 31, 1977.

It now appears that there is a possibility of my running for the State House of Representatives in 1978. If this develops, I would like to transfer some or all funds from the current volunteer committee to that campaign. I would like to know if that is possible, and if so what procedure should be followed.

Thank you for your consideration in this matter.

Sincerely,
Gene Lourey

Advisory Opinion #37 Adopted by the Ethical Practices Board November 7, 1977

Issued to:

Senator Winston Borden
Assistant Majority Leader
Room 208
State Capitol
St. Paul, Minn.

37. Transfer of Funds from a Congressional Campaign Committee

Syllabus

Excess campaign funds, from congressional campaign committee may be transferred to a campaign committee for statewide office subject to the limitations of M. S. 10A.27, subd. 1 and provided the contributors to the congressional committee are disclosed.

Text

You have requested an advisory opinion from the Ethical Practices Board based upon the following:

Facts

As a Minnesota state senator, you sought endorsement for a federal office in 1976, and registered a principal campaign committee with the Federal Elections Committee as required by federal law. Your committee has excess funds.

Questions:

1. Under state law can a committee for a Congressional candidate that was used for the endorsement campaign transfer funds from that committee to a committee set up for a statewide office if the money is excess campaign funds and is registered under federal law?
2. Under state law can a committee established for a legislative race, raise campaign funds and later transfer those funds to a committee set up primarily for a statewide office?
3. If the answer to the above questions is yes, what are the transfer limits for a non-election year and also for an election year transfer?
4. If campaign funds can be transferred from a Congressional or legislative committee is it necessary to disclose the names of the contributors of the transferring committee?

Opinion

1. Yes. In the opinion of the Board, excess campaign funds, which are registered under federal law, may be transferred from a committee for a Congressional candidate to a committee of that candidate set up for a statewide office.

2 U.S.C. 439a provides:

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his activities as a holder of federal office, may be used by such candidate or individual, as the case

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may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of federal office, may be contributed by him to any organization described in section 170 (c) of Title 26 of the U. S. Code [pertaining to charitable contributions], or may be used for any other lawful purpose.

It is lawful to contribute to a committee set up for a statewide office under state law. See Minn. Stat. § 10A.15 (1976). But see subdivision 3 below. Under Minn. Stat. § 10A.01, subd. 7, "contribution" is defined to include "(b) A transfer of funds between political committees or political funds. . . ."

2. Yes. In the opinion of the Board, under state law campaign funds raised by a committee established for a state legislative race may be transferred to a committee set up primarily for a statewide office. Because Minn. Stat. § 10A.01, subd. 7, defines "contribution" to include "(b) A transfer of funds between political committees . . ." such funds may be contributed to the committee set up primarily for a statewide office under Minn. Stat. § 10A. (1976). Moreover, the transfer of funds from the legislative campaign committee would not be classified as expenditures for purposes of Minn. Stat. § 10A.25 (1976). See Minn. Stat. § 10A.26 (1976). But see subdivision 3 below.

3. Minn. Stat. § 10A.26 provides:

TRANSFERS OF FUNDS EXPECTED. Any transfer of funds or anything of pecuniary value from any political committee, political fund or political party to a principal campaign committee of a candidate shall not be considered to be an expenditure of funds on behalf of the candidate by the political committee, political fund or political party, but shall be reported as required by Laws 1974, Chapter 470.

Because of that section, any amounts transferred do not count as expenditures. However, Minn. Stat. § 10A.27, subd. 1 provides:

ADDITIONAL LIMITATIONS. Subdivision 1. No political committee, political fund, or individual, except a political party or the principal campaign committee of a candidate shall make expenditures on behalf or in opposition to the opponent of a candidate, or transfer funds to the principal campaign committee of a candidate, in an amount in excess of ten percent of the amount that may be spent by or on behalf of that candidate as set forth in section 10A.25.

Therefore, although the amount transferred does not count as an expenditure under Minn. Stat. § 10A.25, the total amount that may be transferred is fixed. During an election year, the transfer is limited to ten percent of the expenditure limits contained in Minn. Stat. § 10A.25, subd. 2; during a non-election year, the transfer is limited to ten percent of the

expenditure limits contained in Minn. Stat. § 10A.25, subd. 6, which, when computed, is two percent of the expenditure limits of Minn. Stat. § 10A.25, subd. 2. This limitation applies to transfers both from a committee for a Congressional candidate as well as from a committee for a legislative candidate. Under Minn. Stat. § 10A.19 (1976) a candidate may have only one principal campaign committee at one time. When an individual ceases to be a candidate for a legislative office and becomes a candidate for a statewide office, and he accordingly designates and causes to be formed a principal campaign committee for the statewide office, his previous campaign committee for legislative office ceases to be a principal campaign committee by force of law.

4. Yes. Under federal law, 2 U.S.C. 439a, excess amounts received as contributions by a candidate for federal office may be used by the candidate for any lawful purpose. Some contributions that are lawful under federal law are prohibited under state law. For example, Minn. Stat. § 210A.34 prohibits campaign contributions from any corporation doing business in this state, whereas corporate contributions are permitted under federal law.¹ In addition, under state law, Minn. Stat. § 10A.27 limits the amount a political committee, political fund, or individual may expend or contribute on behalf of a candidate to 10 percent of the limits contained in 10A.25. Disclosure of the names of the contributors of the transferring committee² is necessary to determine whether, under federal and state law, the transfer is money from a lawful source and to ensure that the contribution limits of 10A.27 have not been exceeded.

1. 2 U.S.C. 441a prohibits any person from making contributions to any candidate in excess of \$1,000. Under 2 U.S.C. 431(h), a "person" is defined to include any corporation.

2. Minn. Stat. § 10A.22, states:

Subd. 6. 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 committee or political fund. The provisions of this subdivision shall not apply when the national affiliate of any political party in this state transfers money to its state affiliate and that money is expended by the state political party on behalf of candidates of that party generally, without referring to any of them specifically, in any advertisement published or posted, on any broadcast, or in any telephone conversation if that conversation mentions three or more candidates.

(1974 c 470 s 22; 1976 c 307 s 35)

Department of Transportation

Phase 11 Public Meetings on the State Transportation Plan

Information meetings on the State Transportation Plan are

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being conducted in each of the State's development regions by the Minnesota Department of Transportation (Mn/DOT). The purpose of the plan is to present the policy positions of the regional task forces that have been assisting the Department in the development of the Plan. The schedule for the remaining meetings is:

<i>Region</i>	<i>Date</i>	<i>City</i>	<i>Time</i>	<i>Location</i>
RDC 2	December 1	Bemidji	7:30 p.m.	J. W. Smith Elementary School 18th Street & America Avenue
RDC 3	November 21	Grand Rapids	7:30 p.m.	City Hall Council Chambers 420 Pokegama North
RDC 3	November 22	Duluth	7:30 p.m.	First United Methodist Church Lakeview Room Skyline Parkway & Central Entrance
RDC 4	November 30	Fergus Falls	7:00 p.m.	Fergus Falls Community College Science Auditorium Old Highway 210 West
RDC 5	December 8	Brainerd	7:00 p.m.	Crow Wing County Service Building Meeting Room 1 Behind County Courthouse on Laurel
RDC 6W	December 1	Appleton	7:30 p.m.	Civic Center 323 West Schlieman Avenue
RDC 6E	December 1	Litchfield	7:30 p.m.	Meeker County Courthouse
RDC 7W	December 7	St. Cloud	7:00 p.m.	City Hall Annex Fourth Avenue North
RDC 7E	December 5	Mora	7:00 p.m.	Mora City Library 200 West Maple Avenue
RDC 8	December 1	Slayton	7:30 p.m.	Murray County Courthouse Annex South of County Courthouse on Broadway
RDC 9	December 7	Mankato	8:00 p.m.	Region 9 Office 120 South Broad Street
RDC 10	November 17	Rochester	7:30 p.m.	Marquette Bank Building Room 301 Broadway & Second Avenue S.E.

Questions should be directed to:

Peter Fausch
Director of Transportation Development
Minnesota Department of Transportation
Saint Paul, Minnesota 55155

Or call: 612-296-3158

ERRATA

1. 1 SR 187: change "A stepparent is legally responsible" to "A stepparent is a potential resource", at DPW 44 D.11.a.

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