

## CHAPTER 10A

## ETHICS IN GOVERNMENT

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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 pursuant to chapter 14. "Administrative action" does not include the application or administration of an adopted rule, except in cases of rate setting, power plant and powerline siting and granting of certificates of need under chapter 116J.

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. "Associated business" 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. 5. **Candidate.** "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, court of appeals, district court, county court, probate court, or county municipal court judgeships of the state. An individual shall be deemed to seek nomination or election if the individual has taken the action necessary under the law of the state of Minnesota to qualify for nomination or election, has received contributions or made expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.24.

Subd. 6. "Board" means the state ethical practices board.

Subd. 7. "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 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 personal time on behalf of a candidate, ballot question, 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 or for the purpose of promoting or defeating a ballot question.

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 or for the purpose of promoting or defeating a ballot question. 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 or for the purpose of promoting or defeating a ballot question.

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 personal time on behalf of a candidate, ballot question, political committee, or political fund; or
- (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, the candidate's principal campaign committee or the candidate's 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, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or 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 or to promote or defeat a ballot question.

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 money 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 60 days after adjournment 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 the individual's 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 the individual's 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 an official capacity;

(b) Party or the party's 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 the witness is appearing, but only to the extent of preparing or delivering testimony;

(f) Stockholder of a family farm corporation as defined in section 500.24, subdivision 2, who does not spend over \$250, excluding the stockholder's own travel expenses, in any year in communicating with public officials; or

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

Subd. 12. "Major political party" means a major 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 ten 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 this chapter, 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 or to promote or defeat a ballot question.

"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 or for the purpose of promoting or defeating a ballot question.

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 the officer's 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 commissioner or assistant commissioner 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 director 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 the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or hearing examiner in the department of jobs and training;
- (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, regional transit board, 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.** "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, and judges of the court of appeals, district court, county court, probate court, or county municipal court.

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 subdivision 21.

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 commerce.

Subd. 23. "Ballot question" means a question or proposition which is placed on the ballot and which may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities related to qualifying the question for placement on the ballot.

**History:** 1974 c 470 s 1; 1975 c 271 s 6; 1976 c 307 s 1-4; 1978 c 463 s 1-18; 1979 c 59 s 1-3; 1980 c 509 s 1; 1980 c 587 art 2 s 1-7; 1980 c 607 art 14 s 45 subd 1; art 17 s 1-8; 1980 c 614 s 40; 1980 c 615 s 60; 1981 c 29 art 7 s 1; 1981 c 346 s 1; 1981 c 356 s 248; 1982 c 424 s 130; 1983 c 247 s 5,6; 1983 c 258 s 10; 1983 c 289 s 114 subd 1; 1984 c 619 s 11; 1984 c 640 s 32; 1984 c 654 art 3 s 13; 1984 c 655 art 1 s 92; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 2

#### 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 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 chair, a vice-chair 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 chair 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 sections 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 chair 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.

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 becoming 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.

**History:** 1974 c 470 s 3; 1975 c 271 s 6; 1978 c 463 s 28,29; 1986 c 444

#### 10A.04 LOBBYIST REPORTS.

Subdivision 1. Each lobbyist shall file reports of the lobbyist's activities with the board as long as the lobbyist continues to lobby. A lobbyist may file a termination statement at any time after ceasing to lobby.

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 lobbyist's 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 \$50 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 any reporting period the lobbyist's reportable disbursements total not over \$100 and no honorarium, gift, loan, item or benefit equal in value to \$50 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 period. 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.

**History:** 1974 c 470 s 4; 1975 c 271 s 6; 1976 c 307 s 9,10; 1978 c 463 s 30-32; 1984 c 654 art 2 s 37; 1986 c 444; 1Sp1986 c 3 art 1 s 3

#### **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.

**History:** 1974 c 470 s 5; 1975 c 271 s 6

#### **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.

**History:** 1974 c 470 s 6

#### **10A.07 CONFLICTS OF INTEREST.**

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

- (a) prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest;
- (b) deliver copies of the statement to the board and to the official's immediate superior, if any; and
- (c) if a member of the legislature, deliver a copy of the statement to the presiding officer of the house of service.

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 the superior or the official body of service, or committee thereof, of the potential conflict. The official 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, the superior shall assign the matter, if possible, to another employee who does not have a potential conflict of interest. If there is no immediate superior, the public official shall abstain, 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 of service may, at the member's request, excuse the member from taking part in the action or decision in question.

**History:** 1974 c 470 s 7; 1975 c 271 s 6; 1978 c 463 s 33; 1986 c 444

#### **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 14, shall disclose the official's participation in the action to the board within 14 days after the appearance. The board shall notify by certified mail or personal

service any public official who fails to disclose the participation within 14 days after the appearance. If the public official fails to disclose the 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.

**History:** 1974 c 470 s 8; 1975 c 271 s 6; 1978 c 463 s 34; 1982 c 424 s 130; 1986 c 444

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

Subdivision 1. **Time for filing.** 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;
- (b) Within 14 days after filing an affidavit of candidacy or petition to appear on the ballot for an elective public office;
- (c) In the case of a public official requiring the advice and consent of the senate, within 14 days after undertaking the duties of office; or
- (d) In the case of members of the Minnesota racing commission, and its executive secretary, chief of security, medical officer, inspector of pari-mutuels and stewards employed or approved by the commission or persons who fulfill those duties under contract, within 60 days of accepting or assuming duties.

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, a copy of the statement, and the date on which the statement was filed.

Subd. 4. [Repealed, 1978 c 463 s 109]

Subd. 5. **Form.** 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) Name, address, occupation and principal place of business;
- (b) The name of each associated business and the nature of that association;
- (c) A listing of all real property within the state, excluding homestead property, in which the individual holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, 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;
- (d) A listing of all real property within the state in which a partnership of which the individual is a member holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the individual's share of the partnership interest is valued in excess of \$2,500 or (ii) an option to buy, 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; and
- (e) A listing of any investments, ownership, or interests in property connected with pari-mutuel horse racing in the United States and Canada, including a race horse, in which the individual directly or indirectly holds a partial or full interest or an immediate family member holds a partial or full interest.

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 the individual 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 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 statement of economic interest required by this section. 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 14.

**History:** 1974 c 470 s 9; 1975 c 271 s 6; 1976 c 307 s 11; 1978 c 463 s 35-37; 1982 c 424 s 130; 1983 c 214 s 30,31; 1983 c 305 s 3,4; 1986 c 444

#### **10A.10 PENALTY FOR FALSE STATEMENTS.**

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 knowing it contains false information or who knowingly omits required information is guilty of a gross misdemeanor.

**History:** 1974 c 470 s 10; 1978 c 463 s 38; 1986 c 444

#### **10A.11 ORGANIZATION OF POLITICAL COMMITTEES.**

Subdivision 1. Every political committee shall have a chair and a treasurer. Nothing in this chapter shall prohibit them from being the same individual.

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.

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 a political committee shall be commingled with any personal funds of officers, members or associates of the committee.

Subd. 6. [Repealed, 1978 c 463 s 109]

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

**History:** 1974 c 470 s 11; 1978 c 463 s 39; 1986 c 444

#### **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 expenditure or expenditure to promote or defeat a ballot question 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.

**History:** 1974 c 470 s 12; 1978 c 463 s 40-42; 1980 c 587 art 2 s 8; 1980 c 607 art 17 s 9

### 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.

**History:** 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 made a contribution, 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 chair, 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.

**History:** 1974 c 470 s 14; 1975 c 271 s 6; 1976 c 307 s 12; 1978 c 463 s 44-46; 1979 c 59 s 4; 1986 c 444

### 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 this chapter, 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.

**History:** 1974 c 470 s 15; 1975 c 271 s 6; 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.

**History:** 1974 c 470 s 16; 1975 c 271 s 6; 1978 c 463 s 48

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(l) For principal campaign committees only, the sum of noncampaign disbursements made in each category listed in section 10A.01, subdivision 10c 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 one of the following ways:

- (1) in person within 48 hours after its receipt;
- (2) by telegram or mailgram within 48 hours after its receipt; or
- (3) by certified mail sent within 48 hours after its receipt.

These contributions must also be reported 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 or expenditures expressly advocating the approval or defeat of a ballot question 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, any candidate's principal campaign committee or 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 the member or contributor 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 s 109]

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 the individual would be exposed to the reprisals listed in subdivision 8 if the individual's identity were to be revealed 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 bona fide 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.

**History:** 1974 c 470 s 20; 1975 c 271 s 6; 1976 c 307 s 14-18; 1977 c 346 s 1; 1978 c 463 s 51-59; 1978 c 793 s 37; 1979 c 59 s 5; 1980 c 587 art 2 s 9,10; 1980 c 607 art 17 s 10,11; 1985 c 40 s 1; 1986 c 444

#### 10A.21 REPORTS TO COUNTY AUDITOR.

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.

**History:** 1974 c 470 s 21; 1975 c 271 s 6; 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 knowing it 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 s 109]

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, canceled 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. The person shall keep the records 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]

**History:** 1974 c 470 s 22; 1975 c 271 s 6; 1978 c 463 s 62-65; 1986 c 444

### 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 willfully fails to report a material change or correction is guilty of a gross misdemeanor.

**History:** 1974 c 470 s 23; 1975 c 271 s 6; 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.

**History:** 1974 c 470 s 24; 1978 c 463 s 66

### 10A.241 TRANSFER OF DEBTS.

Notwithstanding any provisions of this chapter to the contrary except as provided in this section, a candidate may terminate the candidate's principal campaign committee for one state office by transferring any debts of that committee to the candidate's principal campaign committee for another state office, provided that any outstanding

unpaid bills or loans from the committee being terminated are assumed and continuously reported by the committee to which the transfer is being made until paid or forgiven. A loan that is forgiven is covered by section 10A.20 and, for purposes of section 10A.32, is a contribution to the principal campaign committee from which the debt was transferred under this section.

**History:** 1986 c 475 s 1

#### 10A.25 LIMITS ON CAMPAIGN EXPENDITURES.

Subdivision 1. For the purposes of sections 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, 12-1/2 cents per capita or \$600,000, whichever is greater;
- (b) For attorney general, 2-1/2 cents per capita or \$100,000, whichever is greater;
- (c) For secretary of state, state treasurer and state auditor, separately, 1-1/4 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 this section 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.

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 the candidate's 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 subdivision 2.

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 estimated population of the state. The limits shall be rounded off to the nearest \$100.

Subd. 8. [Repealed, 1978 c 463 s 109]

Subd. 9. [Repealed, 1978 c 463 s 109]

Subd. 10. The expenditure limits imposed by this section 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.

**History:** 1974 c 470 s 25; 1975 c 271 s 6; 1976 c 307 s 21-23; 1978 c 463 s 67-74; 1986 c 444

#### 10A.255 ADJUSTMENT BY CONSUMER PRICE INDEX.

Subdivision 1. The dollar amounts provided in section 10A.25, subdivision 2, shall be adjusted for general election year 1984 and subsequent general election years as provided in this section. By June 1 of the general election year, the executive director of the board shall determine the percentage increase in the consumer price index from April of the last general election year to April of the year in which the determination is made. The dollar amounts used for the preceding general election year shall be multiplied by that percentage. The product of the calculation shall be added to each dollar amount to produce the dollar limitations to be in effect for the next general election. The product shall be rounded up to the next highest whole dollar. The index used shall be the revised consumer price index for all urban consumers for the St. Paul-Minneapolis metropolitan area prepared by the United States Department of Labor with 1967 as a base year.

Subd. 2. The dollar amounts provided in section 10A.25, subdivision 2, shall be adjusted for 1982 in the manner provided in subdivision 1, except that the percentage increase in the consumer price index shall be determined from April of 1974 to April of 1982 and the adjustment shall be calculated by the executive director by June 1, 1982.

**History:** 1980 c 587 art 3 s 3

10A.26 [Repealed, 1978 c 463 s 109]

#### 10A.265 FREEDOM TO ASSOCIATE AND COMMUNICATE.

Nothing in this chapter shall be construed as abridging the right of an association to communicate with its members.

**History:** 1978 c 463 s 75

#### 10A.27 ADDITIONAL LIMITATIONS.

Subdivision 1. Except as provided in subdivisions 2 and 6, no candidate shall permit the candidate's 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 the candidate's 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 s 109].

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 this section shall be construed as limiting independent expenditures on behalf of a candidate.

Subd. 6. Nothing in this section shall be construed as limiting the amount which may be contributed by a candidate for the purpose of influencing the candidate's own nomination or election.

Subd. 7. Contributions and approved expenditures made prior to February 28, 1978 which are in excess of the limits imposed by this section shall not be in violation of this section but shall be disclosed as required by this chapter.

Subd. 8. No candidate shall permit the candidate's 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 the candidate's 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.

**History:** 1974 c 470 s 27; 1976 c 307 s 24; 1978 c 463 s 76-82; 1978 c 793 s 38; 1986 c 444

#### 10A.275 MULTICANDIDATE 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.

**History:** 1978 c 463 s 83; 1983 c 216 art 1 s 1

#### 10A.28 PENALTY FOR EXCEEDING LIMITS.

Subdivision 1. A candidate subject to the expenditure limits of section 10A.25 who permits the candidate's principal campaign committee to make expenditures or permits approved expenditures to be made on the candidate's 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 the candidate's 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

(c) The amount in the candidate's party account allocated in that county and set aside for the candidates for the office for which the candidate is running.

The sum of all the county shares calculated in the formula above is the candidate's share of the candidate's 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, amounts in the party's account shall be allocated based on (a) the number of people voting in the last general election in that part of the county in the candidate's district, divided by (b) the number of the people voting in that county in the last general election, multiplied by (c) the amount in the candidate's party account allocated in that county and set aside for the candidates for the office for which the candidate is running.

In a year in which the first election after a legislative reapportionment is held, "the candidate's district" means the newly drawn district, and voting data from the last general election will be applied to the area encompassing the newly drawn district notwithstanding that the area was in a different district in the last general election.

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.

Money from a party account not distributed to candidates for state senator and representative in any election year shall be returned to the general fund of the state. Money from a party account not distributed to candidates for other offices in an election year shall be returned to the party account for reallocation to candidates as provided in clauses (1) to (6) of this subdivision in the following year. 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 allocations 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 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 the candidate is to receive from the available funds in the candidate's 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 the candidate 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 money 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 this section, a write-in candidate is a candidate only upon complying with the provisions of section 10A.32, subdivision 3.

**History:** 1974 c 470 s 31; 1975 c 271 s 6; 1976 c 307 s 26-33; 1978 c 463 s 87-95; 1980 c 587 art 3 s 4-6; 1981 c 343 s 1; 1982 c 523 art 5 s 1; 1983 c 216 art 1 s 2; 1984 c 502 art 2 s 1.2; 1984 c 514 art 2 s 1; 1985 c 248 s 3; 1Sp1985 c 14 art 1 s 1,2; 1986 c 444

**10A.316** [Never effective]

### **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 the candidate and approved expenditures made on the candidate's 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 the candidate and approved expenditures made on the candidate's 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 the candidate's behalf, the treasurer of the candidate's 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 money from the state elections campaign fund, a candidate shall agree by stating in writing to the board that (a) the candidate's expenditures and approved expenditures shall not exceed the expenditure limits as set forth in section 10A.25 and that (b) the candidate shall not accept contributions or allow approved expenditures to be made on the candidate's behalf for the period beginning with January 1 of the election year or with the registration of the candidate's 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 or for the candidate, and the amount which the candidate 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. 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. That amount of all contributions accepted by a candidate in an election year which equals the amount of noncampaign disbursements and contributions and expenditures to promote or defeat a ballot

question which are made by that candidate in that year shall not count toward the aggregate contributions and approved expenditure limit imposed by this subdivision. Any amount by which the 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 the signed agreement to the filing officer on the day of filing the affidavit of candidacy or petition to appear on the ballot, or 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 the candidate's share of the total estimated funds in the candidate's 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 the candidate's share of the estimate, and the 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 an estimate, after 100 percent of the tax returns have been processed, of the total amount in the general account, and the amount of money each candidate who qualifies as provided in section 10A.31, subdivision 6, may receive from the candidate's 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 the candidate's 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 an 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 the candidate's election campaign in the form of tax credits against the tax due from individuals who contribute to the candidate's principal campaign committee a candidate shall agree by stating in writing to the board at any time beginning with the registration of the candidate's principal campaign committee that the candidate's 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 tax due in an amount equal to 50 percent of the contribution but not more than \$50 for an individual, or not more than \$100 for a married couple filing jointly, and (b) that the candidate to whom the contribution was made has voluntarily agreed to abide by campaign expenditure limits. A candidate who does not sign an agreement under this subdivision may not issue an Official Tax Credit Receipt form, or any facsimile thereof, to any of the candidate's 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 Receipt 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 the office of state senator or representative at a general election, the money set aside for that office shall be returned to the general fund of the state. If that party does not have a candidate for any other office at a general election the money set aside for that office shall be returned to the general account of the state elections campaign fund for reallocation to candidates as provided in section 10A.31, subdivision 5, clauses (1) to (6).

**History:** 1974 c 470 s 32; 1975 c 271 s 6; 1976 c 307 s 34; 1978 c 463 s 96-101; 1978 c 793 s 39; 1980 c 587 art 3 s 7; 1980 c 607 art 17 s 12; 1983 c 216 art 1 s 4; 1986 c 444

### 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.

**History:** 1974 c 470 s 33; 1978 c 463 s 102

### 10A.335 LEGISLATIVE MONITORING OF TAX CHECK-OFF.

For the purpose of determining whether the distribution formula provided in section 10A.31, subdivision 5, (a) assures that money 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 \$2, or in the case of a joint return, \$4, is designated for a political party.

**History:** 1978 c 463 s 103; 1983 c 216 art 1 s 3

### 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 this chapter. 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.

**History:** 1974 c 470 s 34; 1975 c 271 s 6; 1978 c 463 s 104