

## CHAPTER 10A

### ETHICS IN GOVERNMENT

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#### 10A.01 DEFINITIONS.

*[For text of subds 1 to 9, see M.S.1990]*

**Subd. 10. Campaign expenditure.** “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 candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

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.

*[For text of subds 10a and 10b, see M.S.1990]*

**Subd. 10c. Noncampaign disbursement.** “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, beverages, entertainment, and facility rental for 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;
- (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; and

(h) Payment for food and beverages provided to campaign volunteers while they are engaged in campaign activities.

*[For text of subds 11 to 28, see M.S.1990]*

**History:** 1991 c 349 s 1,2

## **10A.02 BOARD OF ETHICAL PRACTICES.**

*[For text of subds 1 to 4, see M.S.1990]*

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 this chapter, 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.

*[For text of subd 7, see M.S.1990]*

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 this chapter 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 this chapter;

(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. "Commercial purpose" does not include purposes related to elections, political activities, or law enforcement. Any individual or association violating the provisions of this clause may be subject to a civil penalty of up to \$1,000. An individual who knowingly violates this subdivision is guilty of a misdemeanor;

(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. **Documents; information.** The executive director of the board or the director's staff shall inspect all material filed with the board as promptly as is necessary to comply with the provisions of this chapter, and other provisions of law requiring the filing of a document with the board. 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 this chapter, or that the individual has failed to file a document required by this chapter. The executive director and staff may provide an individual required to file a document under this chapter with factual information concerning the limitations on corporate campaign contributions imposed by section 211B.15.

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 this chapter. 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.

*[For text of subds 11 and 11a, see M.S.1990]*

Subd. 12. The board may issue and publish advisory opinions on the requirements of this chapter 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 the individual's or the association's 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 14 apply to the board. The board may adopt rules to carry out the purposes of this chapter.

Subd. 14. Notwithstanding the provisions of section 8.15, the board must not be assessed the cost of legal services rendered to it by the attorney general's office.

**History:** 1991 c 233 s 36; 1991 c 349 s 3-8

## **10A.065 CONTRIBUTIONS AND SOLICITATIONS DURING LEGISLATIVE SESSION.**

**Subdivision 1. Registered lobbyist contributions; legislative session.** A candidate for the legislature or for constitutional office, a candidate's principal campaign committee, any other political committee with the candidate's name or title, or any committee authorized by the candidate, shall not solicit or accept a contribution on behalf of the candidate's principal campaign committee, any other political committee with the candidate's name or title, or any committee authorized by the candidate, from a registered lobbyist, political committee, or political fund during a regular session of the legislature.

*[For text of subds 2 to 4, see M.S.1990]*

**Subd. 5. Political committee.** This section does not apply to a political committee established by a state political party; by the party organization within a congressional district, county, legislative district, municipality, or precinct; by all or part of the party organization within each house of the legislature, except for individual members; by a candidate for a judicial office; or to a member of such a political committee acting solely on behalf of the committee.

**History:** 1991 c 349 s 9,10

## **10A.20 CAMPAIGN REPORTS.**

*[For text of subds 1 and 2, see M.S.1990]*

**Subd. 3. Contents of report.** 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 \$100 for legislative or statewide candidates or ballot questions, 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 campaign 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, identification of the ballot question which the expenditure is intended to promote or defeat, 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) Except for contributions to a candidate or committee for a candidate for office in a municipality as defined in section 471.345, subdivision 1, the name and address of each individual or association to whom aggregate noncampaign disbursements in excess of \$100 have been made within the year by or on behalf of a principal campaign committee, political committee, or political fund, together with the amount, date, and purpose of each noncampaign disbursement; and

(m) The sum of all noncampaign disbursements made within the year by or on behalf of a principal campaign committee, political committee, or political fund.

*[For text of subds 3a and 4, see M.S.1990]*

**Subd. 5. Preelection reports.** In any statewide election any loan, contribution, or contributions from any one source totaling \$2,000 or more, or in any legislative election

totaling more than \$400, 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 loans and contributions must also be reported in the next required report.

The 48-hour notice requirement does not apply with respect to a primary if the statewide or legislative candidate is unopposed in that primary.

*[For text of subds 6 to 13, see M.S.1990]*

**History:** 1991 c 349 s 11,12

## 10A.25 LIMITS ON CAMPAIGN EXPENDITURES.

*[For text of subds 1 to 4, see M.S.1990]*

**Subd. 5. Primary races.** Notwithstanding the limits imposed by subdivision 2, the winning candidate in a contested race in a primary who received fewer 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, as adjusted by section 10A.255. A candidate in a contested primary race may not, under this subdivision, make aggregate expenditures and approved expenditures of more than 100 percent of the expenditure limits imposed by subdivision 2 until after the primary.

*[For text of subd 6, see M.S.1990]*

**Subd. 7.** On or before December 31 of each nonelection 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.

**Subd. 10. Effect of opponent's agreement.** (a) The expenditure limits imposed by this section apply only to candidates whose major political party opponents agree to be bound by the limits and who themselves agree to be bound by the limits as a condition of receiving a public subsidy for their campaigns in the form of an allocation of money from the state elections campaign fund.

(b) A candidate of a major political party who agrees to be bound by the limits and receives a public subsidy, who has an opponent who: (1) is a candidate of a major political party; and (2) does not agree to be bound by the limits but is otherwise eligible to receive a public subsidy:

(i) is no longer bound by the limits, including those in section 10A.324, subdivision 1, paragraph (c); and

(ii) is eligible to receive a public subsidy.

For purposes of this subdivision, "otherwise eligible to receive a public subsidy" means that a candidate meets the requirements of sections 10A.31, 10A.315, 10A.321, and 10A.322, but does not mean that the candidate has filed an affidavit of matching funds under section 10A.323.

**History:** 1991 c 349 s 13-15

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

*[For text of subds 1 and 2, see M.S.1990]*

**Subd. 3. Publication of expenditure limit.** By June 15 of each election year the board shall publish in the State Register the expenditure limit for each office for that calendar year under section 10A.25 as adjusted by this section.

**History:** 1991 c 349 s 16

**10A.27 ADDITIONAL LIMITATIONS.**

Subdivision 1. **Contribution limits.** 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, \$20,000 in an election year for the office sought and \$3,000 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 one-third of that amount in other years; and

(e) To a candidate for state representative, \$750 in an election year for the office sought and one-third of that amount in the other year.

*[For text of subds 2 to 9, see M.S.1990]*

**History:** 1991 c 349 s 17

**10A.30 STATE ELECTIONS CAMPAIGN FUND.**

*[For text of subd 1, see M.S.1990]*

Subd. 2. **Separate account.** Within the state elections campaign fund account there shall be maintained a separate political party account for the state committee and the candidates of each political party and a general account.

**History:** 1991 c 349 s 18

**10A.31 DESIGNATION OF INCOME TAX PAYMENTS.**

*[For text of subds 1 and 2, see M.S.1990]*

Subd. 3. **Form.** The commissioner of the department of revenue shall provide on the first page of the income tax form and the renter and homeowner property tax refund return a space for the individual to indicate a wish to allocate \$5 (\$10 if filing a joint return) from the general fund of the state to finance election campaigns. The form shall also contain language prepared by the commissioner which permits the individual to direct the state to allocate the \$5 (or \$10 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 renter and homeowner property tax refund return shall include instructions that the individual filing the return may designate \$5 on the return only if the individual has not designated \$5 on the income tax return.

*[For text of subds 3a to 9, see M.S.1990]*

Subd. 10. **Distribution.** 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 in the form of checks made "payable to the campaign fund of .....(name of candidate)....." Any money accumulated after the final certification shall be maintained in the respective accounts for distribution in the next general election year.

*[For text of subd 11, see M.S.1990]*

**History:** 1991 c 349 s 19,20

#### **10A.322 PUBLIC SUBSIDY AGREEMENTS.**

**Subdivision 1. Agreement by candidate.** (a) As a condition of receiving a public subsidy from the state elections campaign fund, a candidate shall sign and file with the board a written agreement in which the candidate agrees that the candidate will comply with sections 10A.25 and 10A.324.

(b) Before the first day of filing for office, the board shall forward agreement forms to all filing officers. The board shall also provide agreement forms to candidates on request at any time. The candidate may sign an agreement and submit it to the filing officer on the day of filing an affidavit of candidacy or petition to appear on the ballot, in which case the filing officer shall without delay forward signed agreements to the board. Alternatively, the candidate may submit the agreement directly to the board at any time before September 1 preceding the general election. An agreement may not be signed or rescinded after that date.

(c) The board shall forward a copy of any agreement signed under this subdivision to the commissioner of revenue.

(d) Notwithstanding any provisions of this section, when a vacancy occurs that will be filled by means of a special election and the filing period does not coincide with the filing period for the general election, a candidate may sign and submit a spending limit agreement at any time before the deadline for submission of a signed agreement under section 10A.315.

*[For text of subs 2 and 3, see M.S.1990]*

**Subd. 4. Refund receipt forms; penalty.** The board shall make available to a political party on request and to any candidate for whom an agreement under this section is effective, a supply of official refund receipt forms that state in boldface type that (1) a contributor who is given a receipt form is eligible to claim a refund as provided in section 290.06, subdivision 23, and (2) if the contribution is to a candidate, that the candidate has signed an agreement to limit campaign expenditures as provided in this section. The forms must provide duplicate copies of the receipt to be attached to the contributor's claim. A candidate who does not sign an agreement under this section and who willfully issues an official refund receipt form or a facsimile of one to any of the candidate's contributors is guilty of a misdemeanor.

**History:** 1991 c 291 art 6 s 1,2

#### **10A.324 RETURN OF PUBLIC SUBSIDY.**

*[For text of subs 1 and 2, see M.S.1990]*

**Subd. 3. How return determined.** Whether or not a candidate is required under subdivision 1 to return all or a portion of the public subsidy received from the state elections campaign fund must be determined from the report required to be filed with the board by that candidate by January 31 of the year following an election. For purposes of this section, a transfer from one principal campaign committee to another principal campaign committee or to a political party is considered to be a noncampaign disbursement. Any amount required to be returned must be submitted in the form of a check or money order and must accompany the report filed with the board. The board shall forward the check or money order to the state treasurer for deposit in the general fund. The amount returned must not exceed the amount of public subsidy received by the candidate from the state elections campaign fund.

*[For text of subd 4, see M.S.1990]*

**History:** 1991 c 349 s 21

**10A.43 EXPENDITURE LIMIT AGREEMENT.**

Subdivision 1. **Financial incentive.** (a) The state treasurer shall pay a financial incentive to each congressional candidate of a major political party or minor political party whose name will appear on the ballot in a general or special election, who has signed an agreement to limit campaign expenditures as provided in this section, and who is abiding by the agreement. In the case of an independent or new political party candidate, the congressional candidate must in addition receive more than three percent of the vote cast at the general election for the office sought. An incentive is not payable to a congressional candidate whose name appears only on the ballot in a primary election, but an incentive paid to a candidate in a general or special election may be used to pay expenses or retire debt incurred in the primary campaign. The state treasurer shall distribute the financial incentive in the form of a check made "payable to the campaign fund of ....(name of candidate)....."

(b) The amount of the incentive is up to 25 percent of the expenditure limit for a congressional candidate for the office of United States senator and up to 25 percent of the expenditure limit for a congressional candidate for the office of representative in Congress.

*[For text of subd 2, see M.S.1990]*

Subd. 3. **Submission of agreement.** (a) Before the first day of filing for office, the board shall forward agreement forms to all filing officers. The board shall also make agreement forms available to congressional candidates on request at any time.

(b) The congressional candidate may sign an agreement and submit it, along with a copy of the candidate's federal designation of a principal campaign committee, to the filing officer on the day of filing an affidavit of candidacy or petition to appear on the ballot, in which case the filing officer shall without delay forward signed agreements to the board. Alternatively, for a general election the congressional candidate may obtain an agreement form from the board and submit the agreement, along with a copy of the candidate's federal designation of a principal campaign committee, directly to the board at any time before September 1 preceding the general election.

(c) An agreement may not be signed or rescinded after September 1 preceding the general election.

(d) The board shall forward a copy of any agreement signed under this subdivision to the commissioner of revenue.

(e) Notwithstanding any provisions of this section, when a vacancy in a congressional office occurs that will be filled by means of a special election, and the filing period does not coincide with the filing period for the general election, a congressional candidate may sign and submit a spending limit agreement at any time before one day after the candidate files an affidavit of candidacy or nominating petition for the office.

Subd. 4. **How long agreement is effective.** The agreement, insofar as it relates to the expenditure limits in section 10A.44, remains effective for congressional candidates until the termination of the authorized committees of the congressional candidate, as provided under United States Code, title 2, section 433(d), the day filings open for the next succeeding election to the office held or sought at the time of agreement, or the agreement is rescinded by the candidate within the time limits provided by law, whichever occurs first.

*[For text of subd 5, see M.S.1990]*

**History:** 1991 c 291 art 6 s 3,4; 1991 c 349 s 22-24

**10A.44 CONGRESSIONAL CAMPAIGN SPENDING LIMITS.**

Subdivision 1. **Limits.** During the calendar year in which an election is held for an office sought by a congressional candidate, no expenditures may be made by the authorized committees of that congressional candidate that result in an aggregate amount in excess of the following:



- (1) for United States senator, \$3,400,000; and
- (2) for representative in Congress, \$425,000.

A congressional candidate whose name will appear on the ballot in more than one general or special election in a year is subject to a separate spending limit for each election. For a candidate for representative in Congress in a special election, the expenditure limits apply during the ten months before and the two months after the special election. For purposes of calculating aggregate expenditure amounts under this section, an expenditure by an authorized committee of a congressional candidate does not include an expenditure from an authorized committee of a congressional candidate to a state political party.

*[For text of subds 2 and 3, see M.S.1990]*

**Subd. 4. Postelection year expenditures.** In any year preceding or following an election year for the office held or sought, the aggregate amount of expenditures on behalf of a congressional candidate for or holder of that office must not exceed 20 percent of the expenditure limit in subdivisions 1 and 2.

*[For text of subd 5, see M.S.1990]*

**Subd. 6. Certain postelection costs.** After the election, a congressional candidate who is not a congressional incumbent and has been elected to Congress may spend an amount up to ten percent of the limits under subdivision 1 or 2 to defray transition costs, unless restricted by federal law. This money may be spent only for the costs of the transition that are incurred between the election and the date on which the elected candidate begins congressional service and cannot be used to retire debts remaining from the primary or general election campaign.

**History:** 1991 c 291 art 6 s 5; 1991 c 349 s 25-27