

Report of the Minnesota Campaign Finance and Public Disclosure Board



Covering Fiscal Year 2018

July 1, 2017 - June 30, 2018

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MINNESOTA CAMPAIGN FINANCE BOARD

DATE: December 5, 2018

TO: The Honorable Mark Dayton, Governor
The Honorable, Paul Gazelka Senate Majority Leader
The Honorable Kurt Daudt, Speaker of the House
The Honorable Thomas Bakk, Senate Minority Leader
The Honorable Melissa Hortman, House Minority Leader
The Honorable Mary Kiffmeyer, Chair State Government Finance and Policy and Elections
The Honorable Tim O'Driscoll, Chair Government Operations and Elections Policy

FROM: Carolyn Flynn, Chair
Campaign Finance and Public Disclosure Board

SUBJECT: Report of Board activities during fiscal year 2018.

Pursuant to Minnesota Statutes section 10A.02, subdivision 8 (a), the Campaign Finance and Public Disclosure Board submits this report of the Board's activities during fiscal year 2018.

The Board, consistent with its objectives and administrative procedures, provided guidance to the thousands of individuals and associations whose disclosure of certain political, economic interest, and lobbying activities is regulated by the Campaign Finance and Public Disclosure Act, Minnesota Statutes Chapter 10A.

Included in this report is information about campaign finance disclosure, the filing of lobbyist disbursement and lobbyist principal reports, and the filing of statements of economic interest by public officials.

Throughout its activities the Board strives to accomplish its mission; which is to promote public confidence in state government decision-making through development, administration, and enforcement of disclosure and public financing programs and ensure public access to and understanding of information filed with the Board.

We recognize the importance the State of Minnesota places on public disclosure laws and the regulation of campaign finance activity and appreciate the trust placed in the Board and its staff by the Legislature and the Office of the Governor.

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EXECUTIVE SUMMARY

The Campaign Finance and Public Disclosure Board is charged with the administration of the Campaign Finance and Public Disclosure Act, Chapter 10A of Minnesota Statutes. There are three major programs governed by Chapter 10A: 1) the regulation of campaign finance contributions and expenditures for state-level candidates, party units, and political committees; 2) the registration and reporting of lobbyists and the principals the lobbyists represent; and 3) the collection and disclosure of economic interest statements required of public officials. A brief overview of each program is provided here, with reference to the page in the annual report where detailed information is located. Additionally, the annual report provides information on Board members who served during the fiscal year beginning on page 3, and on the Board's staff, budget, and other financial activity during the fiscal year starting on page 23.

During fiscal year 2018, the Board presented the Governor and the Legislature with a number of legislative recommendations to improve the disclosure provided in the economic interest statement and to improve the regulation and identification of independent expenditures. The Board also worked with the Legislature to codify administrative rules being developed by the Board. The codification of the proposed administrative rules provided an opportunity to both update and integrate standards provided in the rules with existing statutory requirements. The Board's legislative recommendations and proposed administrative rules were combined into Senate File 3306. The Senate passed the bill by a vote of 57 to 10, the House passed the bill by a vote of 123 to 0, and the Governor signed the bill on May 8, 2018. The Board appreciates the bipartisan support of the legislation, and hopes that the Legislature will continue to work with the Board to improve Minnesota's campaign finance and disclosure laws. Information on the statutory changes contained in the legislation is provided in this report by program area.

On the filing date for the 2017 year-end report of campaign receipts and expenditures there were 601 state-level candidates, 318 political party units, and 386 political committees and funds registered with the Board. Collectively, the year-end reports disclosed \$33,724,814 in receipts and \$21,127,382 in expenditures during the 2017 calendar year. Additional information regarding the campaign finance program begins on page 9.

About 1,450 lobbyists were registered with the Board at any one time throughout the fiscal year. The lobbyists represented 1,460 principals. The principals reported total lobbying expenditures of \$75,670,666 in calendar year 2017. Additional information on the lobbyist program is found on page 18.

The economic interest disclosure program requires public officials in approximately 2,900 positions to file economic interest statements with the Board. Depending on the position, these officials file their statements when they initially file their affidavits of candidacy for state-level office or when they take office. Additionally, public officials must review and update their statements in January of each year. Details on the economic interest disclosure program start on page 20.

During the fiscal year, the Board held ten scheduled meetings. At these meetings, the Board issued four advisory opinions, reviewed and approved six conciliation agreements resolving violations of Chapter 10A, and resolved twelve complaints and Board investigations involving alleged violations of Chapter 10A.

INTRODUCTION TO THE BOARD

Authority

The Campaign Finance and Public Disclosure Board was established by the state legislature in 1974 through enactment of Chapter 10A of the Minnesota Statutes. Throughout its history the Board has enforced the provisions of Chapter 10A, promulgated and enforced Minnesota Rules 4501 through 4525, and issued advisory opinions to guide clients in meeting the chapter's requirements.

New authority was given to the Board in 2013, which extended the Board's jurisdiction to three sections of Chapter 211B. Those sections are (1) 211B.04, which governs the "prepared and paid for" form of disclaimer, (2) 211B.12, which specifies the purposes for which campaign money may be legally used, and (3) 211B.15, which governs corporate contributions. The new authority is limited to those individuals and associations already under the Board's jurisdiction under Chapter 10A. The Board's new jurisdiction means that it may conduct investigations of possible violations of these statutes and may also issue advisory opinions on these provisions.

Mission Statement

To promote public confidence in state government decision-making through development, administration, and enforcement of disclosure and public financing programs which will ensure public access to and understanding of information filed with the Board.

Functions

Core functions of the Board include administration and management of the following:

- registration and public disclosure by state legislative, constitutional office, and judicial office candidates, political party units, political committees, and political funds;
- state public subsidy program that provides public funding to qualified state candidates and the state committees of political parties;
- registration and public disclosure by lobbyists and principals attempting to influence state legislative action, administrative action, and the official action of metropolitan governmental units;
- disclosure of economic interest, conflicts of interest, and representation of a client for a fee under certain circumstances for designated state and metropolitan governmental unit officials.

Goals and Objectives

- Create better compliance with the Campaign Finance and Public Disclosure Act by moving to an educational model in which providing easy to access information and training reduces the number of violations.
- Provide fair and consistent enforcement of the Act.
- Help citizens become better informed about public issues related to the Act.

Board and Staff

- The Board consists of six members, none of who may be an active lobbyist, a state elected official, or an active candidate for state office. The Board is not non-partisan; rather it is multi-partisan, with no more than three of the members of the Board supporting the same political party.
- The Board was able to maintain eight full time and one part time equivalent positions during the fiscal year. Additional information about Board staff is found beginning on page 23.

Board Member Qualifications

The Board consists of six citizen members who are responsible for the administration of the Campaign Finance and Public Disclosure Act. Members of the Board are appointed by the Governor to staggered four-year terms. Their appointments must be confirmed by a three-fifths vote of the members of each body of the legislature. Two members must be former members of the legislature who support different political parties; two members must 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 must support different political parties. The Board holds regular monthly meetings, which are open to the public, and executive session meetings, which are closed to the public.

Board Members - July 1, 2017, through June 30, 2018



Carol Flynn – Board Chair, 2018

Carol Flynn was appointed to the Board in February of 2015 by Governor Dayton for a term ending in January of 2019. She fills a Board position requiring a former DFL legislator. Ms. Flynn served as a state senator from 1990-2000 where she was Majority Whip and chaired the Judiciary and Transportation Committees. She studied at the University of Minnesota. A retired public employee, Ms. Flynn volunteers on the Minneapolis Transportation Management Organization and as Vice President of the Loring Green West Association Board.

Margaret Leppik



Margaret (Peggy) Leppik was appointed to the Board in May of 2015 by Governor Dayton for a term ending in January of 2016. Governor Dayton re-appointed Ms. Leppik in January 2016 for a term ending in January of 2020. Because the Senate was not able to schedule a vote to confirm her appointment before adjourning sine die, her appointment ended in May of 2016. She was reappointed by Governor Dayton in July of 2016 to the same position, and was appointed again in June of 2017 for a term that expires in January of 2020. She fills a Board position requiring a former Republican legislator. Ms. Leppik served as a state representative from 1991-2003 where she chaired the Higher Education Finance Committee. She served on the Metropolitan Council from 2003-2011 where she was vice chair for three years and chaired the Environmental Committee. A graduate of Smith College, Ms. Leppik is an active volunteer for numerous nonprofit organizations.

Robert Moilanen



Robert Moilanen was initially appointed by Governor Dayton to the Board in October of 2016. Mr. Moilanen was reappointed in June of 2017 for a term ending in January of 2019. He occupies a Board position for a member who has not been a public official, 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 member's appointment. Mr. Moilanen is a graduate of Gustavus Adolphus College and George Washington University Law School. Mr. Moilanen spent the early part of his legal career working in the public sector. Subsequently, he spent nearly thirty years in the private practice of law with the majority of that time spent as a partner at the law firm of Popham, Haik, Schnobrich, Kaufman and Doty. His private practice career primarily focused on securities fraud. Mr. Moilanen concluded his professional career working as the Director of Securities for the State of Minnesota from 2011-2014.

Daniel N. Rosen



Daniel N. Rosen was initially appointed in July of 2014, by Governor Dayton for a term ending in January of 2018. Governor Dayton re-appointed Mr. Rosen in January 2018 for a term ending in January of 2022. He fills a Board position requiring a member who has not been a public official, 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 member's appointment to the Board. A lawyer in Minneapolis, Mr. Rosen is a graduate of the University of Minnesota Law School and the lead Minnesota partner of the Kluger Kaplan law firm, where he practices in the field of business and real estate litigation. Prior to law school Mr. Rosen was as an officer in the United States Navy and served in Operations Desert Shield and Desert Storm.

Stephen Swanson



Stephen D. Swanson was appointed to the Board in July of 2017 by Governor Dayton for a term ending in January of 2020. He occupies an unrestricted Board position and supports the DFL party. Mr. Swanson is a graduate of the University of Cincinnati College of Law, and holds a Master of Laws degree from New York University. Following a career as an attorney with Mid-Minnesota Legal Assistance, Inc. Mr. Swanson served as a Hennepin County District Court Judge from July 1989 to February 2007 and as a Senior Judge from January 2009 to April 2014. Most recently, he served as a temporary administrative law judge with the Minnesota Office of Administrative Hearings from May 2014 to May 2017. Mr. Swanson has served as an international judge on the Court of Bosnia and Herzegovina, and worked in USAID-sponsored rule of law projects in Afghanistan, Kosovo, and Lebanon. He volunteers with the Conflict Resolution Center, and is a member of the Volunteer Lawyer's Network.

Gary Haugen



Gary J. Haugen was appointed to the Board in September 2017 by Governor Dayton for a term ending in January 2020. He fills a Board position that has no restrictions on previous political activities. Mr. Haugen is an attorney with Maslon LLP where he has handled complex litigation matters for more than 35 years. A central focus of his practice has been the litigation of product liability, mass tort, insurance-related disputes and professional liability claims. Mr. Haugen has also been a member of the adjunct faculty at Vanderbilt University Law School and the University of Minnesota Law School, where he currently serves on the Board of Advisors. He is the former chair of the Federal Practice Committee for the U.S. District Court for the District of Minnesota. He is a graduate of St. Olaf College and the University of Minnesota Law School.

Summary of Board Activities

Meetings

The Campaign Finance and Public Disclosure Board held ten scheduled meetings during the fiscal year. Minutes of Board meetings are published on the Board's web site.

Advisory Opinion Procedure

The Board is authorized to issue advisory opinions on the requirements of the Campaign Finance and Public Disclosure Act, Minnesota Statutes Chapter 10A; Minnesota Statutes sections 211B.04, 211B.12, and 211B.15 if the requestor is under the jurisdiction of Chapter 10A; and the Hennepin County Disclosure Law (Minn. Stat. §§ 383B.041 - 383B.058). Individuals or associations may ask for advisory opinions based on real or hypothetical situations to guide their compliance with these laws.

A request for an advisory opinion and the opinion itself are nonpublic data. The Board provides consent to release information forms to individuals requesting opinions as part of the procedures under this law. If the requester does not consent to the publication of the requester's identity, the Board generally publishes a public version of the opinion, which does not identify the requester.

A written advisory opinion issued by the Board is binding on the Board in any subsequent Board proceeding concerning the person making or covered by the request and is a defense in a

**Advisory Opinion
Procedure (continued)**

judicial proceeding that involves the subject matter of the opinion and is brought against the person making or covered by the request unless: 1) the Board has amended or revoked the opinion before the initiation of the Board or judicial proceeding, has notified the person making or covered by the request of its action, and has allowed at least 30 days for the person to do anything that might be necessary to comply with the amended or revoked opinion; 2) the request has omitted or misstated material facts; or 3) the person making or covered by the request has not acted in good faith in reliance on the opinion.

Four advisory opinions, Advisory Opinions 444-447, were issued in fiscal year 2018. Summaries of Advisory Opinions 444 and 445 are provided in the review of the lobbying program. Summaries of Advisory Opinions 446 and 447 are provided in the review of the campaign finance program.

**Education and Training
Outreach**

To accomplish the goal of educating clients and the interested public on the compliance and reporting requirements of Chapter 10A Board staff conducted the following training during the fiscal year:

- 19 compliance training sessions attended by 240 candidates and treasurers of principal campaign committees, political party units, and political committees and funds;
- Eight computer lab training classes attended by 113 treasurers who use the Campaign Finance Reporter software.

An ongoing problem in providing compliance training to treasurers is the difficulty in reaching St. Paul from many locations in Minnesota. Board staff scheduled seven training classes in greater Minnesota, but training sessions held outside of the metro area are always going to be limited in number and may still be inconvenient to attend for some treasurers.

As an effort to provide training available at any time and at any location with web access the Board contracted to develop five online training videos for treasurers. The modules allow viewers to move at their own pace through the topics covered and incorporate quizzes during the training to make the modules more interactive. The Board also maintains videos on specific topics related to using Campaign Finance Reporter. The videos are available on the Board's web site. Based on favorable client feedback both of these training tools will be developed and used more extensively in the future.

Additionally Board staff participated in numerous panels, presented at many continuing legal education courses, and spoke to interested groups of the public on the requirements of Chapter 10A.

Use of Technology

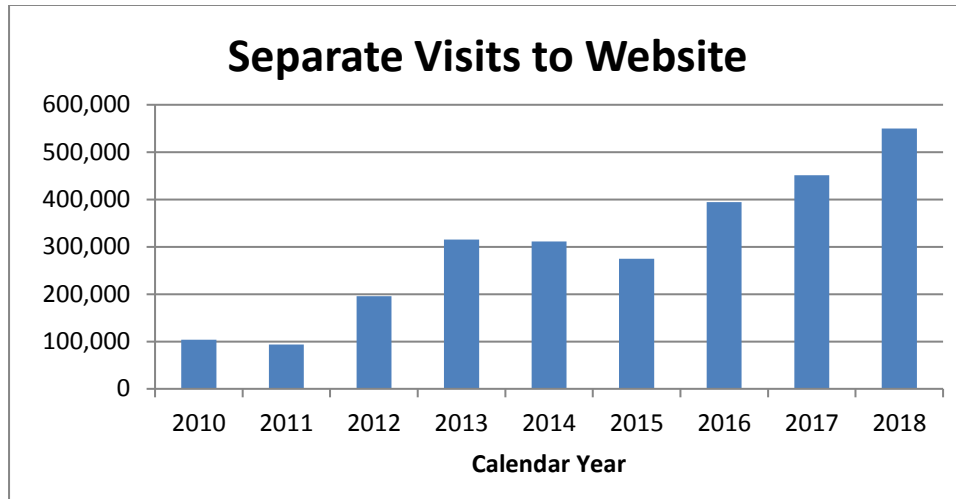
The Board has long recognized the value of receiving disclosure reports in electronic format. Electronic reports may be moved directly into Board databases where the records are analyzed for compliance issues and then exported to the Board's website for faster disclosure to the public. Electronic filing eliminates the cost and errors associated with data entry of paper reports.

To facilitate electronic filing, the Board developed web based applications for filing lobbyist disbursement reports, lobbyist principal reports, and the economic interest statement. Use of these web based applications is optional, clients may still file a paper report, but all three applications have participation rates of over 85%, which indicates that clients also prefer electronic filing.

In July of 2017 the Board launched a new website.

The new Board website offers:

- Board meeting notices and minutes;
- Board enforcement actions - findings and conciliation agreements;
- Advisory opinions;
- Lists of lobbyists and associations, candidate committees, political committees, political funds, party units, and public officials;
- Copies of all campaign finance and lobbyist reports;
- Electronic filing for lobbyists and lobbyist principals;
- Electronic filing of the statement of economic interest for public officials;
- All Board publications and forms;
- Searchable databases of campaign finance contributions;
- Searchable database of independent expenditures;
- Campaign Finance Summaries;
- Lobbyist Disbursement Summaries;
- Annual Report of Lobbyist Principal Expenditures;
- Training videos on campaign finance compliance and the use of Campaign Finance Reporter.



PROGRAM REVIEWS

The Board administers three major and several minor programs as authorized by Minnesota Statutes Chapter 10A. The major programs are campaign finance, lobbying, and economic interest disclosure. The review of each major program includes a general description of the program, a review of legislation passed during the fiscal year that affects the program, a review of any Board advisory opinions issued during the time period for the program area, and an overview of administrative activity that occurred during the fiscal year.

CAMPAIGN FINANCE PROGRAM

Program Overview

The Board administers the provisions of Chapter 10A of the Minnesota Statutes that govern campaign finance laws for principal campaign committees, political committees, political funds, political party units, and independent expenditure committees and funds.

During 2017, a non-election year, these committees and funds filed one year-end report disclosing receipts and expenditures to the Board. Information on the number of reports filed is found on pages 15 and 16.

Each filed report is reviewed by Board staff for compliance with the disclosure law requirements, including accurate accounting and reporting, and adherence to applicable contribution and expenditure limits. Violations of contribution and expenditure limits are resolved through either a conciliation agreement, or in

some cases, a Board order. Information on Board investigations and enforcement actions is found on pages 17 and 18.

As a part of the campaign finance program the Board administers and regulates the distribution of payments for the state's public subsidy program, which provides public funding to qualified state candidates and the state committees of political parties. Payments are made following the state primary election to candidates and monthly to the state committees of political parties. Information on the payments made to political parties during fiscal year 2018 is found on page 17.

Legislative Action and Rulemaking

The Board proposed several legislative recommendations to the 2018 legislature. Most of the recommendations were based on proposals developed during the rulemaking that the Board began in fiscal year 2017. Although the legislature did not adopt all of the Board's proposals and amended others, the majority of the Board's recommendations were enacted into law at 2018 Minnesota Laws, chapter 119. Chapter 119 was effective on June 1, 2018. Because the proposals from the rulemaking had been enacted into statute, the Board withdrew that proceeding on June 18, 2018

Coordinated expenditures

Expenditures that expressly advocate for the election of a candidate, or the defeat of the candidate's opponent, are coordinated, and therefore not independent, under the following circumstances.

- The candidate, on or after January 1 of the year in which the candidate will appear on the ballot, engages in fundraising of money to be used for political purposes for a spender that makes an expenditure on the candidate's behalf. This provision **does not apply** to (1) fundraising for a party unit, or (2) fundraising of money that is not raised for political purposes (which is called general treasury money in the statute).
- The candidate, on or after January 1 of the year in which the candidate will appear on the ballot, was a chair or treasurer, or a deputy chair or treasurer, of the spender that makes an expenditure on the candidate's behalf. This provision **does not apply** to party units.
- The candidate and the spender obtain consulting services from the same vendor and the vendor does not have the specified firewall procedures in place to separate vendor staff working for the candidate from vendor staff working for the spender.

**Coordinated expenditures
(continued)**

- The spender makes an expenditure after receiving information from the candidate that is not publicly available about the candidate's campaign plans, strategy, or needs.
- The spender provides information to the candidate about an expenditure's content, audience, timing, location or mode, volume, or frequency before the expenditure is communicated to the public.
- The candidate participates in any of the processes required for the creation and development of the expenditure or any decision regarding the content, timing, location, audience, volume of distribution, or frequency of the expenditure.

The actions listed below, by themselves, do not establish that an expenditure was coordinated.

- A candidate asks a spender not to make any independent expenditures supporting the candidate or opposing the candidate's opponent.
- A candidate provides the spender with a list of donors provided that the spender does not state or suggest to the candidate that the list will be used to raise funds for independent expenditures to benefit the candidate.
- An expenditure uses a photo, video, or audio recording from a publicly available source or event.
- An expenditure uses information about a candidate from a publicly available source or event.
- A spender makes a contribution to or endorses the candidate.
- A spender includes a hyperlink to the candidate's website or social media page in the expenditure.
- The expenditure is referenced in a news story.
- The spender discusses the candidate's positions on legislative or policy issues with the candidate or the candidate completes a survey distributed by the spender.
- The candidate participates in an event before the spender's members, employees, or shareholders, provided that the event does not promote the candidate's campaign.

Noncampaign disbursements

Expenses that are recognized as noncampaign disbursements may be paid for with committee funds and do not count towards the spending limits. The following expenses now are statutorily recognized as noncampaign disbursements:

- Contributions to a fund established to support the candidate's recount efforts,
- Costs of one reception given in honor of the candidate's retirement from office,
- Donations to the state general fund, and
- Donations to a county obligated to pay for the costs of a special election needed because the candidate resigned from office.

One of the statutory noncampaign disbursement categories is expenses for services to a constituent. The following expenses now are recognized as services for a constituent:

- Paying for a charter bus to bring constituents to an educational day at the capitol,
- Costs for a legislative intern if the intern is used for constituent services,
- Congratulatory letters to high school graduates or other constituents if information on registering to vote or other government services is provided in the letter,
- Refreshments for constituents at meetings, but amount spent is limited to \$5 per person,
- Food and beverages for volunteers when they are distributing a sessional wrap up, and
- Production and mailing of sessional wrap up.

The cost of food and beverages consumed by the candidate and volunteers when they are campaigning outside the candidate's district cannot be claimed as a noncampaign disbursement unless the candidate intends to terminate the candidate's committee within 12 months.

The cost of food and beverages consumed by other legislators and legislative staff at a reception or meeting may be claimed as a noncampaign disbursement for food and beverages; legislative duties. The cost of food and beverages consumed by anyone other than the legislators or legislative staff at the reception or meeting, however, cannot be claimed under this category.

The following expenses now are recognized as noncampaign disbursements for the costs of serving in office:

- Transportation, lodging, and other expenses necessary to attend conferences related to legislative duties,

Noncampaign disbursements (continued)

- Mileage to the capitol for scheduled committee meetings and regular and special legislative session if the mileage is not reimbursed by other sources, and
- Cost of staff meals while the staff member is working on legislative duties.

The following expenses, however, cannot be claimed as costs of serving in office:

- Membership dues and fees necessary to belong to organizations located in the office holder's district,
- Cost of trips taken outside of the office holder's district for the purpose of relationship building, and
- Additional costs incurred by someone accompanying an office holder on a trip, unless the office holder is a person with a disability and the accompanying individual is providing services made necessary by the disability.

Chapter 119 codifies the administrative rule definition of "constituent services" into statute.

Notice to contributors

A political committee or fund, party unit, or candidate committee that raises contributions from the sale of goods or services must disclose to potential customers that the proceeds of the sale are a political contribution and to whom the contribution is being made. The disclosure may be provided verbally at the time of purchase or through the prominent display of a sign in immediate proximity to the point of sale. Knowingly failing to provide notice is punishable by a civil penalty of up to \$1,000. This provision does not apply to goods or services sold at a fundraiser that requires the purchase of a ticket to attend or at an event where the main purpose is to conduct fundraising.

Disclaimers

The independent expenditure disclaimer requirement was moved from Chapter 10A to Minnesota Statutes section 211B.04 where the campaign material disclaimer requirement is located. The independent expenditure disclaimer requirement now applies to local candidates and committees. The statute specifies the language that must be used for independent expenditure disclaimers. For both campaign material and independent expenditure disclaimers, a committee may use its website address in the disclaimer if the website includes the committee's mailing address. The disclaimer requirements are satisfied for an entire website or social media page if the required disclaimer appears once on the homepage of the site. A required disclaimer must be printed in at least 8-point font or larger on written communications other than outdoor signs, on websites, and on social media pages.

Campaign finance recordkeeping and reporting

Chapter 119 codifies administrative rules providing when monetary contributions not made through electronic means are received by a committee.

Contributions made through electronic means, such as PayPal, are received for purposes of the deposit requirement when the treasurer has access to the funds under the terms of the agreement with the contribution processor. A contribution made through electronic means is received for all other purposes, such as reporting to the Board and affidavits of contribution, on the date that the contribution was made by the contributor.

Committees must use the IRS business rate for mileage reimbursement payments and must obtain mileage logs to document those mileage reimbursements.

When a committee chooses to report an expense as a reimbursement, the committee must include information about the vendor supplying the good or service for which reimbursement was made and a description of the specific good or service purchased. When an expense has both campaign and noncampaign disbursement components, the committee must allocate the expense between those two purposes according to the proportion of actual use for each purpose. Reports of receipts and expenditures must include an explanation of how an expenditure was used.

Public Subsidy Program

If the committee of a candidate who has signed a public subsidy agreement makes a contribution to an independent expenditure committee or fund during the year in which the candidate's office appears on the ballot, the independent expenditure committee or fund may not make an independent expenditure on behalf of that candidate.

When a special election is held without a filing period under Minnesota Statutes section 204B.13, subdivision 2, paragraph (c), the public subsidy agreement must be signed and filed within eight calendar days after the general election and the affidavit of contributions must be signed and filed within 12 calendar days after the general election.

Procedures for Board investigations

Staff must secure the authorization of the Board to expand the scope of an investigation started in response to a complaint. Streamlined procedures are established to resolve apparent violations that actually were just reporting errors. Other streamlined procedures are established to resolve violations that do not require formal investigation, such as when a committee admits a violation.

Procedures for Board investigations (continued)

Chapter 119 codifies administrative rules that specify the procedures to be used when a violation is resolved by a conciliation agreement and when staff seeks Board authorization of a formal investigation in a matter.

Chapter 119 codifies administrative rules that specify when a filing to the Board is complete and how contribution limits apply when the committees of candidates for governor and lieutenant governor merge.

A vendor that provides online contribution services is not required to register or report as a political committee.

For purposes of the sessional contribution prohibition, the legislative session begins at 12:00 a.m. on the first day of an annual session and ends at 11:59 p.m. on the last day of the annual session.

Advisory Opinions Issued Related to the Campaign Finance Program

The Board issued two advisory opinions in the campaign finance program in fiscal year 2018. Advisory Opinion 446 provided that principal campaign committee funds may not be used to pay for the cost of a home security system or for a subscription to an identity theft monitoring service. The opinion concluded that these expenses did not constitute either campaign expenditures or noncampaign disbursements for the costs of serving in office.

Advisory Opinion 447 provided that a principal campaign committee must consider an unregistered association's sources of funding to determine whether the committee can accept a contribution from that unregistered association. The opinion stated that a principal campaign committee cannot accept contributions from an unregistered association that has received cash or in-kind contributions from a corporation.

Campaign Finance Disclosure Reports Filed

Number of reports of receipts and expenditures filed by candidates, political party units, political committees, and political funds during a reporting year. Reporting years overlap multiple fiscal years.

2017 Non-Election Year

	Paper	Electronic	Total
Candidate Committee	148	499	647
Political Party Unit	100	218	318
Political Committee or Fund	85	307	392

Electronic Filing of Reports

Principal campaign committees, political committees, political funds, and political party units have been using the Campaign Finance Reporter software since 1998. The Board provides the software to registered committees without charge. The maintenance, upgrade, training, and helpdesk support of the software is provided by Board staff. The software provides compliance checks and warnings as records are entered, generates electronic reports for filing that reduce the data entry demands on Board staff, and provides contact management tools for the committees that use the software.

Electronic filing of campaign finance reports became mandatory beginning with the 2012 election cycle. The Board may grant a waiver from the requirement to file electronically if the total financial activity of a committee is less than \$5,000, or if there are technical or other valid reasons why the electronic filing requirement would be an unreasonable burden to the committee.

The Board has developed and distributed a XML schema that is the standard for the electronic filing of campaign finance reports using a third party vendor's software. 24 committees filed electronically using the XML standard.

Number of Committees Filing Electronically

Reporting year	Candidate Campaign Committees	Political Committees, Political Funds, and Political Party Units
2017	499	525
2016	557	548
2015	442	524
2014	516	543
2013	479	526
2012	581	594
2011	327	237
2010	376	174
2009	292	154
2008	278	135
2007	201	114
2006	228	126

Public Subsidy Payments The Board administers the distribution of payments for the state’s public subsidy program, which provides public funding to qualified state candidates and the state committees of political parties. Payments to qualified candidates during the 2018 state general election were made in fiscal year 2019 and are not included in this report.

Political Contribution Refund Program By statute, candidates who sign the public subsidy agreement and political parties are allowed to give political contribution refund receipts to individual contributors. In calendar year 2017 the Department of Revenue issued \$1,056,572 in refunds based on contributions to candidates, and another \$1,430,640 in refunds based on contributions to political parties.

Political Party Payments The state committees of political parties receive 10% of the tax check-offs to the party account of the State Elections Campaign Fund. Based on monthly certification from the Department of Revenue during fiscal year 2018 the payments to political parties were as follows:

Party	FY 2018
Democratic Farmer Labor	\$40,982
Independence Party of Minnesota	\$2,505
Grassroots Party	\$615
Green Party	\$1,479
Legalize Marijuana Now Party	\$1,164
Libertarian Party	\$1,049
Republican Party of Minnesota	\$17,967
Total Payments to State Party Committees:	\$ 65,761

Campaign Finance Enforcement Actions The Board conducts investigations of possible violations of the provisions of Chapter 10A or those sections of 211B under the Board’s jurisdiction. An investigation is started in response to a complaint filed with the Board or may be initiated by staff based on information disclosed on documents filed with the Board.

Investigations of many types of violations are typically resolved by conciliation agreement. The conciliation agreement will set the terms under which the violation is to be remedied, provide for remedial measures to correct the offending behavior, and provide for a civil penalty to the committee. Violations not resolved by conciliation agreement are resolved through the issuance of a Board order. The Board may also issue an order stating that no violation occurred, if warranted.

**Campaign Finance
Enforcement Actions
(continued)**

During fiscal year 2018 the Board issued six agreements to resolve violations of Chapter 10A or those sections of Chapter 211B under the Board's jurisdiction. In fiscal year 2018 the Board also issued six findings or orders to conclude investigations, dismissed three complaints at the probable cause stage, and dismissed two complaints that did not state a prima facie violation of the campaign finance laws.

To ensure compliance with disclosure deadlines Chapter 10A provides for late fees applied at the rate of \$25 dollars a day for year-end reports of receipts and expenditures, and \$50 a day for pre-primary-election and pre-general-election reports of receipts and expenditures. Disclosure reports that are filed after a \$1,000 late fee has accumulated may also be subject to an additional \$1,000 civil penalty. Civil penalties and late fees collected by the Board are deposited in the state general fund. A breakdown of late fees and civil penalties collected through enforcement is provided on page 27.

LOBBYIST PROGRAM

Program Overview

The Board administers the provisions of Chapter 10A that govern registration and public disclosure by lobbyists and principals attempting to influence state legislative action, administrative action, and the official action of metropolitan governmental units.

Lobbyists are required to report disbursements for lobbying purposes to the Campaign Finance and Public Disclosure Board two times each year (January 15 and June 15). On the June 15th report the lobbyist must provide a general description of the subject(s) lobbied on during the previous 12 months.

Individuals or associations that hire lobbyists or spend \$50,000 or more to influence legislative action, administrative action, or the official action of certain metropolitan governmental units, are principals and are required to file an annual report disclosing total expenditures on these efforts. The report is due March 15th, and covers the prior calendar year.

**Legislative Action and
Rulemaking**

In fiscal year 2018 there were no statutory changes to the lobbying provisions.

**Advisory Opinions
Issued Related to the
Lobbying Program**

The Board issued two advisory opinions in the lobbying program in fiscal year 2018. Advisory Opinion 444 provided that wind project siting proceedings before the Public Utilities Commission are administrative actions that subject individuals attempting to influence the Commission on those matters to the lobbyist registration requirements in Chapter 10A.

**Advisory Opinions
Issued Related to the
Lobbying Program
(continued)**

Advisory Opinion 445 stated that informational material provided by a principal to public officials may qualify for the exception in the gift prohibition for services to assist an official in the performance of official duties if the principal or the principal's lobbyist had a significant role in the creation, development, or production of the information.

**Lobbyist Disbursement
Reports**

The Board has developed a web based reporting system for lobbyists. Use of the system is voluntary, but as shown below it is used by most lobbyists as the reporting method of choice. Lobbyist disbursement reports are available for review on the Board web site.

Reporting year	Reports filed	Electronically filed
2017	4,231	95%
2016	4,174	98%
2015	4,076	97%
2014	4,041	96%
2013	3,998	97%
2012	3,823	93%
2011	3,959	94%
2010	3,950	98%
2009	4,028	93%
2008	4,022	92%
2007	3,798	90%

Principal Expenditures

Chapter 10A requires principals to file an annual report disclosing expenditures made in Minnesota to influence legislative, administrative, or official actions by a metropolitan governmental unit. The disclosure is a single number which may be rounded to the nearest \$20,000. Starting in 2012 principals are required to break out the amount spent influencing administrative action of the Minnesota Public Utilities Commission from all other lobbying.

	All Other Lobbying in Minnesota	MN Public Utilities Commission	Total
2017	\$66,029,622	\$9,641,044	\$75,670,666
2016	\$62,140,012	\$6,222,560	\$68,362,572
2015	\$63,947,699	\$5,177,020	\$69,124,719
2014	\$64,517,472	\$5,889,000	\$70,406,472
2013	\$69,185,283	\$5,568,210	\$74,753,493
2012	\$59,060,155	\$2,749,590	\$61,809,745
2011	\$65,241,174		\$65,241,174
2010	\$59,172,799		\$59,172,799

**Lobbyist Program
Enforcement Actions**

During fiscal year 2018, the Board issued one order dismissing a complaint at the probable cause stage.

Information on late fees and civil penalties paid by lobbyist and principals for missing a report filing deadline is found on page 27.

ECONOMIC INTEREST PROGRAM

Program Overview

The Board administers the provisions of Chapter 10A of the Minnesota Statutes that govern disclosure of economic interests by public officials and local officials in metropolitan governmental units. There were over 3,100 public officials and over 340 candidates who filed with the Board in fiscal year 2018. Local officials use forms developed by the Board, but file with the local government unit.

Original statements of economic interest must be filed at the time of appointment, or for candidates, when the candidate files for office. All incumbent candidates and appointed officials must annually review and recertify their statements. The annual recertification is due by the last Monday in January and covers all time served during the previous calendar year. The Board has developed a web based system for submitting economic interest statements.

During fiscal year 2018, there were 370 state offices, boards, agencies, or commissions with elected or appointed public officials. The Board processed 3,450 statements of economic interest during the fiscal year, 76% of which were submitted using the Board's electronic filing system, and 24% were submitted on paper forms.

During the annual recertification period in January of 2018, staff processed 2,763 statements, of those statements 86% were filed electronically.

**Legislative Action and
Rulemaking**

The Board proposed several economic interest program recommendations to the 2018 legislature. Many of the recommendations were based on proposals developed during the rulemaking that the Board started in fiscal year 2017. Most of the Board's recommendations were enacted into law at 2018 Minnesota Laws, chapter 119. Chapter 119 was effective on June 1, 2018. Because the proposals from the rulemaking had been enacted into statute, the Board withdrew that proceeding on June 18, 2018.

Legislative Action and Rulemaking (continued)

Chapter 119 included the following economic interest program provisions:

Increased disclosure thresholds

The dollar-level threshold at which disclosure of sources of compensation is required on a statement of economic interest increased from \$50 of compensation in a month to \$250 in a month. The dollar-level threshold at which disclosure of securities is required increased from a fair market value of \$2,500 to a fair market value of \$10,000. The dollar-level threshold at which disclosure of a business or professional activity category is required for officials who are both owners and employees of a business increased from \$50 of compensation in a month to \$250 in a month.

Miscellaneous changes

Chapter 119 codifies the administrative rule definition of securities with the following changes:

- Annuities now are securities;
- Shares in mutual funds and exchanged-traded funds are not securities;
- Shares in the underlying assets of an annuity or a defined benefit pension plan are not securities; and
- The underlying assets of a blind trust are not securities for the beneficiary of the blind trust.

Chapter 119 codifies administrative rules that specify what real property must be disclosed on original and annual statements of economic interest, how to determine the fair market value of an official's real property; and how to determine when the official started serving in office.

Chapter 119 also codifies administrative rules related to potential conflicts of interest and representation disclosure. The codified rules define the terms "financial interests," "fee," and "initial appearance at a hearing;" describe how to abstain from an action or decision with which the official may have a potential conflict; and list the information that an official must include in a representation disclosure statement.

Advisory Opinions Issued Related to the Economic Interest Program

No advisory opinions were issued in the economic interest program in fiscal year 2018.

OTHER BOARD PROGRAMS

Potential Conflict of Interest

A public or local official who in the discharge of the official's duties would be required to take an action or make a decision that would substantially affect the official's financial interests or those of an associated business must under certain circumstances file a *Potential Conflict of Interest Notice*, or a written statement describing the potential conflict. If there is insufficient time to comply with the written requirements, oral notice must be given to the official's immediate supervisor of the possible conflict. If the official is not permitted or is otherwise unable to abstain from action in connection with the matter, the public official must file the notice with the Board and a local official must file with the governing body of the official's political subdivision. The statement must be filed within one week of the action taken.

During fiscal year 2018, the legislature codified two administrative rules related to potential conflicts of interest. The rules, codified in 2018 Minnesota Laws, chapter 119, define the term "financial interests" and describe how to abstain from an action or decision with which the official may have a potential conflict.

Public Employees Retirement Association (PERA) Trustee Candidates

Candidates for election as PERA Trustees are required to file certain campaign finance disclosure reports with the Campaign Finance and Public Disclosure Board under Minn. Stat. § 353.03, subd. 1. Under this statute, the Board prescribes and furnishes to trustee candidates the reporting form and instructions for completing the form.

Enterprise Minnesota, Inc.

The agency name was changed from Minnesota Technology, Inc. (MTI) to Enterprise Minnesota, Inc. in 2008. Minn. Stat. §§ 116O.03 and 116O.04 require certain disclosure by the board of directors and the president of Enterprise Minnesota upon appointment and annually thereafter during their terms in office. Under these statutes, the Board prescribes and furnishes to the directors and president the reporting form and instructions for completing the form.

State Board of Investment (SBI)

Minn. Stat. § 11A.075 requires certain disclosure by SBI members upon appointment and SBI employees upon hire and by both annually until termination of appointment or employment. Under this statute, the Board prescribes and furnishes to the members and employees the reporting form and instructions for completing the form.

Representation Disclosure A 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 Minnesota Statutes chapter 14, and in the cases of rate setting, power plant and power line siting, and granting of certificates of need under Minn. Stat. § 216B.243, must file a *Representation Disclosure Statement* within 14 days after the appearance has taken place, disclosing the official's part in the action.

During fiscal year 2018, the legislature codified administrative rules related to representation disclosure. The rules, codified in 2018 Minnesota Laws, chapter 119, define the terms "fee" and "initial appearance at a hearing" and list the information that an official must include in a representation disclosure statement.

Local Pension Plans

Members of a governing board of a covered pension plan and the chief administrative officer of the plan are required to file certain statements of economic interest with the governing board under Minn. Stat. § 356A.06, subd. 4.

The Office of the State Auditor prescribes the statement and instructions for completing the statement. The chief administrative officer of each covered pension plan must submit to the Campaign Finance and Public Disclosure Board a certified list of all pension board members who filed statements with the pension board no later than January 15th. Approximately 755 pension plans are required to file with the Board under this law. The Board does not have jurisdiction over enforcement of this certification requirement.

STAFF DUTIES

Executive Director

Facilitate achievement of the Board's goals and objectives. Set agenda and prepare materials for Board and committee meetings. Direct all agency and staff operations. Draft advisory opinions for Board consideration. Serve as the Board's representative to the Legislature and the Executive Branch. Educate and assist clients in compliance with reporting requirements, limits, and prohibitions. Administer the preparation of the biennial budget.

Assistant Executive Director

Serve as advisor to the executive director and assist in management of the operations for the agency. Conduct complex investigations and prepare drafts for Board consideration. Reconcile and report on the Board's financial systems. Supervise the agency's compliance programs and information resources. Administer the state public subsidy payment program. Prepare and conduct training classes for clients on campaign finance reporting requirements.

Legal Analyst - Management Analyst (2 staff members hold this position)

Perform legal analysis, make recommendations, and assist in agency administrative rulemaking and the conduct of Board investigations and drafting findings and orders for Board consideration. These positions also serve as an internal management consultant providing support and analysis to the executive director and assistant executive director.

Compliance Officer Investigator

Review reconciliation of reported contributions; perform compliance checks on campaign finance reports filed with the Board. Assist in the conduct of Board audits. Monitor cases for Revenue Recapture and Minnesota Department of Revenue Collections Division. Prepare and submit reports to the Department of Finance regarding civil penalties.

Programs Administrator

Provide for distribution, collection, data entry, and filing of disclosure required by Chapter 10A. Collect, store, and retrieve data for the preparation and analysis of summaries of documents filed with the Board. Provide database advice and guidance to Board staff and clients.

Programs and Education Analyst

Provide for distribution, collection, data entry, and filing of economic interest disclosure required by Chapter 10A. Provide database advice and guidance to Board staff and clients. Design and maintain electronic training materials. Administer website content.

Information Technology Specialist III

Develop, maintain, and manage complex database applications to support administration of all Board programs and activities. Provide technical service, assistance and training to Board staff. Develop, administer, and provide technical support for the Board's website. Provide client training and support in the use of the Campaign Finance Reporter Software.

Information Technology Specialist III

Ensure that the technology resources of the Board support applicable business rules and statutory obligations. Provide application design development and administration in response to management requests. Provide high-level programming. Design and support multiple complex relational databases.

Staff Salaries

Fiscal Year 2018

Position	Staff	FY 2018
Executive Director	Jeffrey Sigurdson	\$116,904
Assistant Director (Started 2/14/2018)	Megan Engelhardt	\$35,789
Legal - Management Analyst	Jodi Pope	\$72,461
Legal - Management Analyst (Retired – 5/1/2018)	Gary Goldsmith	\$40,139
Investigator (Retired – 5/1/2018)	Joyce Larson	\$49,545
Investigator (Started 4/23/2018)	Melissa Stevens	\$9,924
Information Technology Specialist 3	Jon Peterson	\$83,478
Information Technology Specialist 3	Gary Bauer	\$72,263
Office and Administrative Specialist	Marcia Waller	\$53,726
Program and Education Analyst (Started 12/13/2017)	Kevin Lochner	\$23,304
Total Salaries		\$557,533

BOARD FINANCIAL INFORMATION

Biennial Budget - Fiscal Year 2018

Income Summary	FY 2018
Appropriation	\$1,036,000
Total	\$1,036,000
Expenditure Summary	
Operating budget expenditures	(\$886,607)
Carryforward to fiscal year 2019	\$149,392

Board Operating Budget

The Campaign Finance and Public Disclosure Board is funded by a direct appropriation from the Minnesota Legislature. The appropriation for fiscal 2018 was one million thirty six thousand dollars. Funds not expended in the first year of a biennium roll forward into the next fiscal year. Almost the entire amount available for carryforward to fiscal year 2019 is a result of salary savings for positions that were not filled immediately after a vacancy occurred.

Board Operating Budget (continued)

Salary and Benefits	FY 2018
Full time staff (salary and fringe)	\$707,715
Part time staff (salary and fringe)	\$45,988
Per diem for Board Members	\$3,465
Retirement Benefit Payouts	\$33,416
Workers Compensation Insurance	\$389
Salary and Benefits Sub Total of Expenditures	\$790,973
Operating Expenses	
Office rent	\$40,862
Copier Lease	\$3,737
Postage	\$9,864
Travel	\$3,820
Printing	\$1,276
Staff development	\$1,060
Supplies	\$5,409
MNIT services	\$12,382
Court Reporter, Subpoena, and Court Filing Costs	\$1,456
Equipment	\$10,069
Computer Systems Development - Software	\$1,060
Repairs	\$72
Other purchased services	\$4,567
Operating Expense Sub Total of Expenditures	\$95,634
Board Operating Total Expenditures	\$886,607

Penalties Paid for Late Filing of Disclosure Reports and Other Violations of Chapter 10A

The following is a listing of fees and fines paid during the fiscal year. Some fees and fines may have been assessed prior to fiscal year 2018, and some fees and fines assessed during the fiscal year were not paid by June 30, 2018.

Late Filing Fees	FY 2018 Dollars Paid	Number of Violations
Candidate Campaign Committees	\$3,742	41
24-Hour Notice	\$4,500	10
Political Committees and Funds	\$7,475	29
Political Party Units	\$475	3
Economic Interest Statements	\$1,115	33
Lobbyist Disbursement Report	\$14,258	61
Lobbyist Principal Annual Report	\$2,250	18
Total Late Fees	\$33,816	195

Civil Penalties	FY 2018 Dollars Paid	Number of Violations
Contribution from Unregistered association		
Unregistered Association	\$0	0
Political Committees and Funds	\$0	0
Political Party Units	\$0	0
Candidate	\$125	1
Contribution limits violations		
Candidates accepted in excess of limit	\$0	0
Special source (20%) aggregate limit	\$400	4
PCF Contribution exceeded limits	\$0	0
Excess lobbyist contributions	\$0	0
Excess party unit contribution	\$225	1
Candidate exceeded spending limit	\$0	0
Prohibited contributions during session		
Political Committee and Funds	\$0	0
Lobbyist	\$0	0
Lobbyist failure to provide reg. number	\$0	0
Candidate	\$0	0
Failure to file disclosure report		
Candidate Committees	\$600	1
Political Committees and Funds	\$0	0
Political Party Units	\$0	0
Lobbyist	\$0	0
Lobbyist Principal	\$0	0
Failure to file amended report	\$0	0
Economic Interest Statement	\$0	0
Independent expenditure violation	\$0	0
Commingling of Funds	\$15,000	1
Candidate – Certified False Information	\$8,080	12
Other	\$1,000	1
Total Civil Penalties	\$25,430	21
Total Late Fees and Civil Penalties Deposited in State General Fund	\$59,462	216

