

Report of the Minnesota Campaign Finance and Public Disclosure Board



Covering the Biennium for Fiscal Years 2010 and 2011

JULY 1, 2009 - JUNE 30, 2011

Issued: February, 2012

CAMPAIGN FINANCE and PUBLIC DISCLOSURE BOARD

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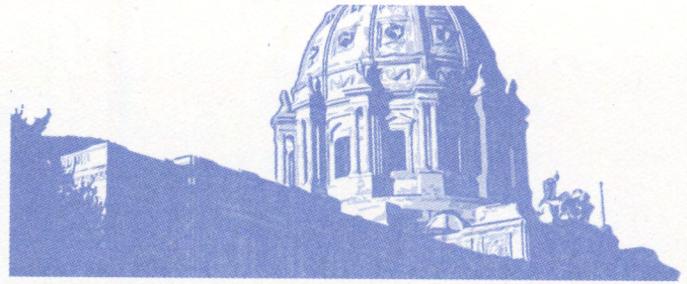
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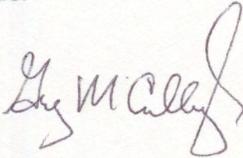
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Minnesota
*Campaign Finance and
Public Disclosure Board*



DATE: February 14, 2012

TO: The Honorable Mark Dayton, Governor
The Honorable Michelle Fischbach, President of the Senate
The Honorable David Senjem, Senate Majority Leader
The Honorable Kurt Zellers, Speaker of the House
The Honorable Matt Dean, House Majority Leader
The Honorable Thomas Bakk, Senate Minority Leader
The Honorable Paul Thissen, House Minority Leader

FROM: Greg McCullough, Chair
Campaign Finance and Public Disclosure Board 

SUBJECT: Annual Report, for the Biennium July 1, 2009, through June 30, 2011

Pursuant to Minnesota Statutes, chapter 10A.02, subd. 8 (a), the Campaign Finance and Public Disclosure Board submits this report of the Board's activities during the 2010 – 2011 Biennium.

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 the campaign finance disclosure associated with the 2010 election cycle, 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 which will 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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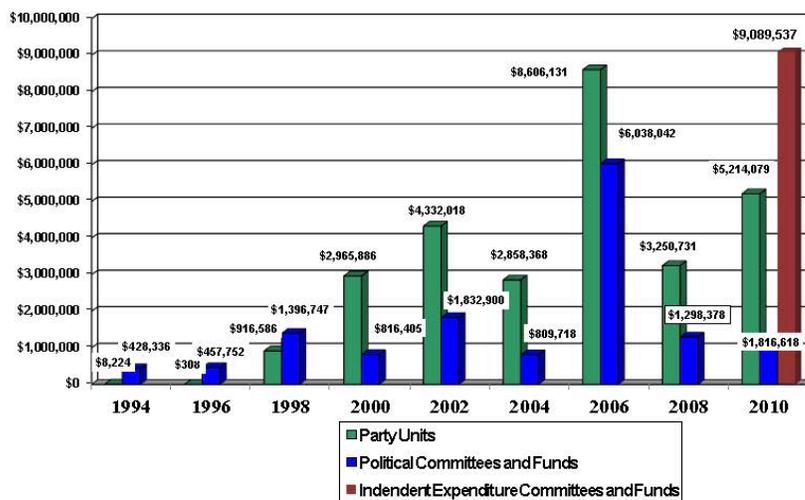
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EXECUTIVE SUMMARY

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. During fiscal years 2010 and 2011 the Board was challenged to administer the campaign finance provisions of Chapter 10A in light of the United States Supreme Court Ruling in *Citizens United v. Federal Election Commission*. This decision overturned Minnesota's prohibitions on the use of corporate funds to finance independent expenditures for or against candidates. The effect of this decision on the Board's clients and activities was dramatic. Board staff spent much of the 2010 legislative session providing analysis, assisting in the drafting of proposed statutory language, and supporting efforts by the legislature to amend provisions of Minnesota statutes to comply with the *Citizens United* ruling. At the same time, the Board worked on a plan to integrate corporate independent expenditures into Chapter 10A in the event that a legislative solution was not achieved. Through hard work by all parties involved major legislation to modify Chapter 10A was passed with strong bipartisan support on the last day of the 2010 legislative session.

However, for the Board, the passage of the legislation was only the beginning of the work needed to implement the *Citizens United* ruling. Forms and processes for registration and reporting for the newly authorized independent expenditure committees and funds had to be created in time for the 2010 election reporting periods later that same year. During 2010 newly created independent expenditure committees and funds made independent expenditures of \$9,134,914. The new sources of funding for independent expenditures as well as an apparent shift in the types of committees that made independent expenditures are seen in the following graph.

Independent Expenditures by Party Units, Political Committees and Funds and Independent Expenditure Committees and Funds



As the 2010 election year unfolded the Board was the subject of a federal lawsuit that challenged both the new statutes regulating independent expenditures, and some long established provisions of Chapter 10A. Staff supported the Attorney General's Office defense of Minnesota statutes with many hours of analysis and research during the litigation. As of the date of this report, the Board is awaiting a decision on the litigation by the full Court of Appeals for the Eighth Circuit.

Even without the *Citizens United* decision, the 2010 election year was set to be challenging as all legislative and constitutional offices were on the ballot. Public subsidy payments totaling \$4,011,037 were made to 364 eligible candidates at the 2010 election. Additionally, 2010 was the first election at which political committees and funds were required to file five reports of financial activity, compared to three reports in prior election years. With the additional reports came more report processing and client support demands on Board staff.

While the Board faced challenges in administering the campaign finance provisions of Chapter 10A in a changing landscape of court decisions and new statutory provisions, the lobbyist program remained relatively stable. About 1,450 lobbyists were registered with the Board at any one time throughout the two year period. The lobbyists represented about 1,300 principals. The principals reported total expenditures of \$59,199,895 in calendar year 2010, and \$62,904,757 in calendar year 2009.

The economic interest disclosure program for public officials was also stable in number at about 2,200 individuals required to file Economic Interest Statements with the Board. However, the election of Governor Dayton in 2010 did create a wave of new appointments to public official positions with the requisite processing of statements filed with the Board. Unfortunately, the Board has not yet been successful in fully integrating into its systems the 800 soil and water management and conservation officials that were added as the result of 2008 legislation. Obtaining economic interest disclosure from these officials continues to be a difficult program to administer.

During the biennium the Board held twenty one scheduled meetings, one emergency meeting, and one special meeting at which public testimony was taken. During the meetings the Board issued nine advisory opinions; reviewed and approved sixty-one Findings of Probable Cause that resolved investigations based both on complaints filed with the Board and on inquiries initiated by the Board from the staff review of disclosure reports; and offered forty-two Conciliation Agreements to resolve contribution and spending limit violations of Chapter 10A.

Despite the increased work load the Board was able to operate within its budget. Primarily due to not filling staff vacancies, the Board returned over \$65,000 to the state general fund at the end of the 2010 – 2011 biennium. The decision to keep a position vacant for part of the biennium was difficult because it

decreased the services provided by the Board to both the general public and the regulated community. However, because of the considerable uncertainty over the Board's budget, filling the positions only to face one or more layoffs in the 2012 – 2013 biennium would have been even more damaging to Board operations due to unemployment compensation expenses.

The Board's budget is sufficient to maintain only 7.6 full-time equivalent staff positions. Based on its current and historical workloads, the Board needs nine staff members to maintain the levels of professionalism and service expected by its clients and the public. The Board looks forward to working with the legislature and the Governor's office in defining the type of disclosure and enforcement the people of Minnesota need and expect, as well as the budget that will be needed to accomplish the task.

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.

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:

- 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. Additional information about Board composition and members is found below.
- The Board is able to maintain only 7.6 full time equivalent positions. Based on its current and historical workloads, the Board needs nine staff members to maintain the levels of professionalism and service expected by its clients and the public. Additional information about Board staff is found beginning on page 26.

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 house 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, 2009 through June 30, 2011

Terri Ashmore - Left Board March, 2011



Terri Ashmore was appointed in January 2003, by Governor Tim Pawlenty and reappointed in January 2007 for a term ending in January 2011. Pending appointment of a new member she served through the March 1, 2011 Board Meeting. She served as a member of the Republican Party of Minnesota and 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 date of her appointment. Ms. Ashmore is the Managing Director of the Basilica of St. Mary. She serves on the Board of the Lundstrum Center of the Performing Arts which provides arts education and experiences for children and youth in North Minneapolis and volunteers for the Jeremiah Program, a housing and education program for single mothers.

Felicia Boyd - Left Board July, 2010



Felicia Boyd was appointed in April 2004, by Governor Tim Pawlenty and reappointed in January 2008. Ms. Boyd resigned from the Board July 29, 2010. She served as a member of the Republican Party of Minnesota with no restrictions on previous activities. Felicia J. Boyd is a partner with Barnes & Thornburg LLP in the firm's Minneapolis office, where she is a member of the firm's Intellectual Property Department. Ms. Boyd focuses her practice on complex intellectual property litigation and has led plaintiff and defense litigation on a large variety of claims related to patents, copyrights, trademarks, and trade dress. She is a graduate of the University of Minnesota Law School and St. Olaf College.

Bob Milbert - Left Board March, 2011 Board Chair Calendar Year 2010



Bob Milbert was appointed in January 2003, by Governor Tim Pawlenty and reappointed in January 2007 for a term ending in January 2011. Pending appointment of a new member he served through the March 1, 2011 Board Meeting. He is a former member of the legislature from the Democratic Farmer Labor party where he served as a member of the Minnesota House of Representatives for 16 years. He is a graduate of Dartmouth College. Mr. Milbert is the CEO of Milbert Company, a Culligan Water dealership. He is a Board member of the Minnesota Amateur Sports Commission, a former member of the USA Hockey Foundation, and volunteers for the United Way.



Hilda Bettermann - Board Chair Calendar Year 2009

Hilda Bettermann was appointed in April 2004, by Governor Tim Pawlenty and reappointed in January 2008 for a term ending in January 2012. She is a former member of the legislature from the Republican Party where she served in the Minnesota House of Representatives for eight years. Ms. Bettermann is currently a Board member of the Brandon History Center and the Douglas County Hospital Board. She is also a former member of the Central Lakes Area Sanitary District Advisory Council, Rural Health Advisory Council, the Workers Compensation Council and the MNSCU Trustee Advisory Council.



John Scanlon - Board Chair Calendar Year 2011

John Scanlon was appointed in October 2008, by Governor Tim Pawlenty to fill an unexpired term and reappointed in January 2010 for a term ending in January 2014. 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. Mr. Scanlon is an assistant general counsel with 3M Company. He currently provides general legal counsel to several 3M divisions and U.S.-based subsidiaries in a variety of substantive areas of law including contract, antitrust, product liability, product representation, and distribution. Previously he was an attorney with Dorsey and Whitney in Minneapolis and a law clerk to U.S. District Court Judge Paul A. Magnuson. He is a graduate of the University of Notre Dame and Notre Dame Law School.



Andy Luger

Andy Luger was appointed in March 2011, by Governor Mark Dayton for a term ending in January 2015. He fills a Board position requiring a member who supports a political party but otherwise has no restrictions on previous political activities. Mr. Luger is a partner at the Minneapolis law firm of Greene Espel, PLLP where he practices business litigation and white collar criminal defense. Previously, he was an Assistant United States Attorney in Minnesota and New York focusing on white collar criminal matters. He graduated from the Georgetown University Law Center magna cum laude and is a summa cum laude graduate of Amherst College.



Deanna Wiener

Deanna Wiener was appointed in March 2011 by Governor Mark Dayton for a term ending in January of 2015. She fills the position of a former DFL legislator and served as a state senator from 1993-2003. Ms. Wiener has been a Realtor since 1977 and is currently a Broker and Co-owner of Cardinal Realty Co. She is also a partner in land development businesses. Currently she serves as a director to the National Association of Realtors and is a board member of the St. Paul Association of Realtors and serves on the board of the Friends of Mississippi. She is a graduate of St. Mary's Jr. College, now St. Catherine's, with an associate degree in nursing.



Greg McCullough

Greg McCullough was appointed in May 2009 by Governor Tim Pawlenty for a term ending in January 2013. 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. Mr. McCullough is a communications leader at GE. In previous roles, he led marketing operations for Fortune-class companies in the information technology, chemical, and commercial real estate industries. He earned BA and MS degrees from Northwestern University and an MBA from the University of Minnesota.



David Swenson

David Swenson was appointed in December 2010, by Governor Tim Pawlenty, to complete a term ending in January 2012. He fills a Board position requiring a member who supports a political party but otherwise has no restrictions on previous political activities. He grew up in New Hope, MN, attended Boston College, then earned his law degree from the University of Minnesota Law School and his Masters in Public Affairs from the University's Humphrey Institute. After school, Mr. Swenson clerked for the Minnesota State Court of Appeals, followed by the U.S. Court of Appeals for the Federal Circuit in Washington, D.C., then practiced law in Washington for ten years. He returned to Minnesota in 2007, and is a partner at the law firm of Robins, Kaplan, Miller & Ciresi LLP, practicing in the area of patent litigation and appeals. Mr. Swenson also serves on the Community Board of the Blaisdell YMCA.

Summary of Board Activities

Meetings

The Campaign Finance and Public Disclosure Board held 21 scheduled meetings, one emergency meeting, and one special meeting at which public testimony was accepted, during the biennium. 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 (Minn. Stat. 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 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.

A total of nine advisory opinions were issued in fiscal years 2010 and 2011, and two advisory opinions were revoked. A summary of each advisory opinion issued during the biennium is provided in the review of programs administered by the Board.

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 biennium:

- 13 compliance training sessions for candidates, treasurers and chairs of principal campaign committees, political party units, and political committees and funds
- 13 computer lab training classes for clients who use the Campaign Finance Reporter software
- 1 seminar prior to the legislative session for lobbyists.

Recognizing the cost and inconvenience for clients to attend training in St. Paul the Board provided, for the first time, web based training to clients. The Board conducted two live training sessions over the internet for users of Campaign Finance Reporter and internally produced eight 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 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 ported 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 annual certification by public officials of 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 well over 90%, which indicates that clients also prefer electronic filing.

Additionally, beginning in 1998, the Board has offered a free PC based reporting application known as Campaign Finance Reporter for use by candidates, political parties, and political committees and funds. In 2010 the

legislature acknowledged the advantages of electronic filing in promoting disclosure to the public and passed a Board recommendation that electronic filing be mandatory for campaign finance reports beginning with the 2012 election cycle. Since the passage of this requirement Board staff has been developing a XML schema that will be the standard for the electronic filing of campaign finance reports using any vendor's software. The use of XML is also being incorporated into Campaign Finance Reporter so that the Board only needs to support one electronic file format.

The Board increasingly turns to the internet to provide the point of access for clients and the general public to Board applications and information. During fiscal year 2010 the Board's website received 103,650 separate visits; in fiscal year 2011 the site received 93,548 separate visits.

The 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 *Annual 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 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 biennium that affects the program, a review of any Board advisory opinion issued during the time period for the program area, and an overview of administrative activity that occurred during the biennium.

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 a non-election year these committees and funds file one year-end report disclosing receipts and expenditures to the Board. During the 2010 election year candidates and political party units filed three reports; all other committees and funds filed five. The 2010 election was the first year that political committees and funds were required to file more reports than candidates or party units. The number of filed reports will increase to six reports a year in 2012 for political committees and funds, but will remain at three a year for candidates and party units. Information on the number of reports filed is found on page 18.

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 Finding of Probable Cause. Information on Board investigations and enforcement actions is found on page 21.

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 is found on page 19.

Legislative Action

Legislation passed in 2010 amended Minnesota Statutes Chapter 10A in the following ways:

- If a volunteer using the volunteer's own personal automobile chooses not to be reimbursed for the expense the use of the automobile is NOT recognized as an in-kind contribution. Unreimbursed volunteer automobile use is no longer a reportable transaction. This treatment of automobile use also applies to use of the candidate's automobile by the candidate.
- Established two new registered entities, the independent expenditure political committee, and the independent expenditure political fund. These entities may accept contributions and transfers from corporations and other associations not registered with the Board. These entities may make independent expenditures on behalf of candidates or expenditures on ballot questions, but may NOT make contributions to candidates, political parties, or regular political committees or funds.
- Established standards for the disclosure of underlying contributions made to independent expenditure committees and funds from unregistered associations.
- An association that makes qualifying independent expenditures without registering an independent expenditure political committee or fund is subject to a civil penalty of up to four times the amount of the independent expenditure, not to exceed \$25,000, except when the violation was intentional.
- Announcing a formal public endorsement of a candidate for public office is not an independent expenditure, unless the act is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure.
- Established a new non-campaign disbursement; costs paid to a third party for processing contributions made by a credit card, debit card, or electronic check.

- All registered political committees and funds, political party units, and candidate committees must provide e-mail addresses for officers and the website address for the committee if one exists.
- Campaign Finance reports must be filed electronically in a standards-based open format specified by the Board beginning in 2012. For good cause, the Board must grant exemptions to this requirement.
- All campaign finance reports are nonpublic data until 8:00 a.m. on the day following the day the report was due.
- The campaign finance reports of the state central committees and legislative caucuses of the Republican and Democratic Farmer Labor parties may not be released to the public until the report from the equivalent unit of the opposing party is on file with the Board.
- During an election year political committees and funds must file Reports of Receipts and Expenditures 56, 28, and 15 days prior to the state primary election, 42 and 10 days prior to the state general election, and a year-end report.
- Political party units and candidate committees must file Reports of Receipts and Expenditures 15 days prior to the state primary election, 10 days prior to the state general election, and a year-end report.
- Each Report of Receipts and Expenditures includes activity from January 1 to the close of the reporting period.
- The late filing fee for a year-end report was increased from \$5 to \$25 per day, with the maximum total late fee raised from \$100 to \$1,000.

- The late fee for pre-primary and pre-general election reports begins the day after the report was due without notice. The maximum total late fee rose from \$500 to \$1,000.
- In an election year the contribution limit to Secretary of State and State Auditor candidates increased from \$500 to \$1,000. In a nonelection year the limit increased from \$100 to \$200.
- A contribution limit of \$2,000 in an election year for the office sought and \$500 in a year in which the candidate is not on the ballot was set for all judicial candidates.
- A candidate who is eligible for a public subsidy payment may not receive the payment until the candidate has filed the pre-primary Report of Receipts and Expenditures. A candidate who does not file the pre-primary report prior to the deadline for submitting the pre-general report is no longer eligible to receive a public subsidy payment.
- A candidate must sign the public subsidy agreement no later than 3 weeks prior to the date of the primary election in a state general election year, and no later than the day after the close of filing for office in the case of a special election.
- The Affidavit of Contributions must be signed and filed by the candidate no later than the deadline for filing the pre-primary report in a state general election year, and within 5 days of the close of the filing period for a special election.
- Eligible contributions received during the calendar year prior to the year on which the candidate is on the ballot may be counted towards the amount of qualifying contributions needed to receive a public subsidy payment.

Advisory Opinions Issued Related to the Campaign Finance Program

- Advisory Opinion 408 answered questions on whether the use of a motor vehicle as an advertising device for a principal campaign committee would result in an in-kind contribution from the vehicle owner to the committee even when the vehicle is not being used specifically for campaign activities.
- Advisory Opinion 410 provided that an independent expenditure is an expenditure that 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.” Communications with others that do not involve any candidate, candidate's principal campaign committee, or agent, will not defeat the independence of an expenditure.
- Advisory Opinion 411 stated that the use of the noncampaign disbursement category for expenses of serving in office is not available to pay for home health care of a close relative while a public official is traveling. The Board declined to establish a new noncampaign disbursement category to permit this proposed use of principal campaign committee funds.
- Advisory Opinion 412 considered whether a candidate's contribution to, or support of, an independent expenditure political committee or fund affects the independence of expenditures by that political committee or fund benefitting other candidates. The opinion provided that in specific situations a candidate as an individual may contribute to or otherwise support an independent expenditure committee, but that a candidate who has signed the public subsidy agreement may not use their committee funds to contribute to an independent expenditure committee or fund.
- Advisory Opinion 415 considered whether a candidate's committee could make a contribution to a fund established to pay for the costs of that candidate's election ballot recount. The opinion provided that such a contribution could be made and that the Board would use the opinion to create a new

noncampaign disbursement category for candidates.

- On June 30, 2011, the Board revoked Advisory Opinions 257 and 343. These two opinions provided that a corporation that donates to ballot question committees and funds are not required to disclose information on the underlying source(s) of the corporation's funding. The Board determined that the conclusions of these two opinions were not consistent with provisions of Minnesota Statutes requiring disclosure from unregistered associations.

Campaign Finance Disclosure Reports Filed

Number of Reports of Receipts and Expenditures filed by candidates, political party units, political committees, and political funds during the biennium.

2010 Election Year	Paper Reports Filed	Electronic Reports Filed	Total
Candidate Committee (3 reports)	1,004	963	1,967
Political Party Unit (3 reports)	729	267	996
Political Committee or Fund (5 reports)	1,547	422	1,969
2010 Totals	3,280	1,652	4,932
2009 Nonelection Year			
Candidate Committee (1 report)	453	292	745
Political Party Unit (1 reports)	253	82	335
Political Committee or Fund (1 report)	327	72	399
2009 Totals	1,033	446	1,479

Electronic Filing of Campaign Finance 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 warning 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.

Number of Committees Filing Electronically	Reporting year	Principal campaign committees	Political committees, political funds, and political party units
	2010	376	174
	2009	292	154
	2008	278	135
	2007	201	114
	2006	228	126
	2005	174	75

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 Made for the 2010 State General Election

To be eligible to participate in the public subsidy program, a candidate must sign and file a public subsidy agreement with the Board in which the candidate agrees to abide by statutory campaign expenditure limits and to limit contributions by the candidate to the candidate's principal campaign committee. A candidate must also raise a specified amount in individual contributions and file an affidavit stating that this requirement has been met. Overall 416 of the 473 candidates who filed for a legislative seat or constitutional office in 2010 (or 88%) voluntarily signed public subsidy agreements.

The Campaign Finance and Public Disclosure Board distributed \$3,998,646 in public subsidy payments to 361 candidates in 2010 (fiscal year 2011). The 361 candidates who received a public subsidy payment represent 85% of the 422 major or minor party candidates who were on the general election ballot.

Public subsidy payments made by office and party in 2010 were as follows:

Office	DFL	RPM	IPMN
Governor	\$0	\$515,953	\$348,279
Attorney General	\$180,409	\$0	\$0
Secretary of State	\$67,214	\$58,967	\$0
State Auditor	\$67,214	\$58,967	\$0
State Senate	\$813,551	\$618,818	\$6,488
State House	\$750,620	\$496,934	\$15,226
Total	\$1,879,010	\$1,749,641	\$369,994

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. As part of the response to a state budget shortfall Governor Pawlenty used his authority of unallotment to eliminate funding for the political contribution refund program during fiscal years 2010 and 2011.

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 for the 2010 – 2011 biennium payments to political parties were as follows:

Party	FY 2010	FY 2011
Democratic Farmer Labor	\$45,582	\$40,391
Green Party of Minnesota	\$3,567	\$2,893
Independence Party of Minnesota	\$6,423	\$8,648
Republican Party of Minnesota	\$27,189	\$21,923
Total payments to State Party Committees:	\$82,762	\$73,855

Campaign Finance Enforcement Actions

The Board conducts investigations of possible violations of the provisions of Chapter 10A. 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 possible violations of the contribution limits for a candidate, or the expenditure limit for a candidate who signs the public subsidy agreement, are typically resolved with the Board offering a Conciliation Agreement. The Conciliation Agreement will set the terms under which excess contributions are returned, and provide for a civil penalty to the committee for exceeding the contribution or expenditure limit.

Investigations of other possible violations of Chapter 10A are resolved through the issuing of a Board Finding of Probable Cause. The Board issues Findings if there is probable cause to believe that a violation of Chapter 10A occurred, and will issue a Finding stating that there is no probable cause to believe a violation occurred if warranted.

During fiscal year 2010 the Board issued thirty one Conciliation Agreements to resolve violations of Chapter 10A. In fiscal year 2011 an additional eleven Conciliation Agreements were offered. All of the Conciliation Agreements were accepted.

In fiscal year 2010 the Board issued twenty five Findings to conclude investigations. Of that total seven were in response to a complaint filed with the Board. In fiscal year 2011 the Board issued thirty six Findings, with ten of that total in response to complaints filed with the Board.

To insure 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 as enforcement of the campaign finance program is provided on page 30.

LOBBYIST PROGRAM

Program Overview

The Board administers the provisions of Chapter 10A of the Minnesota Statutes that govern registration and public disclosure by lobbyists and their 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

There were no statutory changes to the provisions of Chapter 10A that regulate lobbyists and principals during the 2010 – 2011 Biennium.

Advisory Opinions Issued Related to the Lobbying Program

- Advisory Opinion 407 provided that an offer by the Minnesota Twins (a principal) to allow Hennepin County local officials the right to purchase a ticket to the Minnesota Twins opening game from a pool of tickets reserved for people directly and substantially involved in bringing the ballpark project to successful completion was a prohibited gift.

- Advisory Opinion 409 looked at situations in which communication with public officials for compensation would bring an individual within the definition of a lobbyist. The opinion also provided that once a person is a lobbyist all support for the lobbyist's communication is reported as lobbyist disbursements. Underlying support activities for a project are not lobbyist disbursements unless they support a lobbyist's communications.
- Advisory Opinion 413 reviewed how corporate structure may affect the registration of lobbyists with the Board. The opinion states that lobbyists must register on behalf of each association whose interests they promote, regardless of the mechanism used to retain or direct the efforts of the lobbyists.
- Advisory Opinion 414 reviewed a very specific set of facts regarding an award given to a public official by a principal and found that a presentation item that is in the form of a decorative axe is a plaque with a resale value of five dollars or less and, thus, is exempt from the gift prohibition.

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
2010	3,950	98%
2009	4,028	93%
2008	4,022	92%
2007	3,798	90%
2006	3,445	88%

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. Total principal expenditures for calendar years 2009 and 2010 are shown below.

2010	\$59,172,799
2009	\$62,909,757

Lobbyist Program Enforcement Actions

The Board completed one investigation and issued one Finding regarding the requirement to register as a lobbyist during the biennium. In addition during the biennium eight lobbyists were penalized for making contributions to candidates during a legislative session.

Information on late fees and civil penalties paid by lobbyist and principals for missing a report filing deadline is found on page 30.

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 are approximately 2,200 public officials who file with the Board. 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 file annually by April 15th of each year a supplemental statement if there are changes to be reported from the previously filed statement. The Board has developed a web based system for submitting supplemental economic interest statements.

Legislative Action

There were no statutory changes to the provisions of Chapter 10A that regulate economic interest statements during the 2010 – 2011 Biennium.

Advisory Opinions Issued

No advisory opinions related to economic interest statements were issued during the biennium.

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 interest 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.

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 in 2008. Minn. Stats. §§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 powerline 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.

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 Legislative and 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.

**Office Manager
Office Services Supervisor**

The duties of this position were distributed to other Board staff and the Smart Team offered by the Department of Administration for small agencies.

**Policy and Planning Analyst
Management Analyst 2**

Develop documentation of Board operations and policies. Serves as an internal management consultant providing support and analysis of agency operations, policy, procedures, and management structures and makes recommendations for improvement based on those studies.

**Compliance Officer
Investigator**

Investigate complaints and draft Conciliation Agreements and Findings for Board consideration. Serve as investigative liaison to the Board, Executive Director, and Attorney General's office. Monitor cases for Revenue Recapture and Minnesota Department of Revenue Collections Division. Prepare and submit reports to the Department of Finance regarding civil penalties. Prepare and conduct training classes for clients on campaign finance reporting requirements.

**Programs Administrator
Office and Administrative
Specialist Principal**

Provide for distribution, collection, data entry, and filing of disclosure required by Minn. Stat. 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.

**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**

Insure 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.

**Programs Assistant
Office and Administrative
Specialist Intermediate**

Provide assistance with data entry and initial desk review for all filed reports. Assist with mailing, copying, and filing of all documents filed with the Board in all agency programs. Maintain agency receipts for deposit with the State Treasurer. Provide general administrative and program support.

Staff Salaries

Fiscal Years 2010 and 2011

Position	Staff	FY 2010	FY 2011
Executive Director	Gary Goldsmith	\$90,619	\$94,226
Assistant Executive Director	Jeffrey Sigurdson	\$88,439	\$86,439
Office Manager	LuAnn Swanson	\$6,898	NA
Policy and Planning Analyst	Rebecca Shedd	\$39,399	\$28,738
Investigator	Joyce Larson	\$51,386	\$51,385
Information Technology Specialist III	Jon Peterson	\$54,051	\$54,374
Information Technology Specialist II - III	Jon Glass	\$41,572	\$44,352
Office and Administrative Specialist Principal	Marcia Waller	\$38,356	\$39,134
Office and Administrative Specialist Intermediate	Yalana Johnstone	\$4,938	NA
Office and Administrative Specialist Intermediate	Elizabeth White	\$11,365	\$30,521
Total Salaries		\$425,086	\$429,172

BOARD FINANCIAL INFORMATION

Biennial Budget Fiscal Years 2010 and 2011

Income Summary	FY 2010	FY 2011
Original Appropriation	\$748,000	\$748,000
Fiscal Year 2010 Unallotment	(\$28,000)	
Fiscal Year 2011 Unallotment		(\$9,000)
Photocopy Revenue	\$117	\$90
Service Processes Fees Recovered		
Miscellaneous Income		\$495
Carry Forward from fiscal year 2010 (A)		\$58,882
Total	\$720,117	\$798,467

Expenditure Summary		
Operating budget expenditures	(\$661,235)	(\$732,910)
Operating budget balance forward to fiscal year 2011 (B)	(\$58,882)	
Returned to State General Fund at End of Biennium		\$65,557

Board Operating Budget

The Campaign Finance and Public Disclosure Board is funded by a direct appropriation from the Minnesota Legislature. Over 80% of the Board's budget is used to pay the fixed costs of salary and benefits, rent, and postage for required mailings.

Salary and Benefits	FY 2010	FY 2011
Full time staff (salary and fringe)	561,144	563,512
Workers compensation	233	206
Per diem	2,475	2,860
Vacation payment/retirement	13,086	0
Unemployment Benefit	3,900	2,414
Salary and Benefits Sub Total	580,838	568,992
Operating Expenses		
Office rent	40,262	41,931
Postage	10,169	10,915
Telephone	4,838	5,048
Miscellaneous Rents	350	0
Photocopy machine leases	6,087	3,151
Travel	3,403	3,833
Printing	33	1,675
Board meeting expenses	2,312	2,364
Staff / Board development	2,969	7,836
Subscriptions, Memberships	685	612
Supplies/Equipment	5,403	52,925
Purchased services	1,581	27,745
Legal costs	1,016	572
Repairs and Maintenance	0	1,341
E-Government	937	3,969
Operating Expense Sub Total	80,398	163,917
Board Operating Budget Total	\$661,235	\$732,910

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 biennium. Some fees and fines may have been assessed prior to fiscal year 2010, and some fees and fines assessed during the biennium were not paid by June 30, 2011.

Late Filing Fees	FY 2010 Dollars Paid	Number of Violations	FY2011 Dollars Paid	Number of Violations
Principal Campaign Committees	3,534	28	17,139	124
48 Hour Notice	350	3	5,665	33
Political Committees and Funds	500	5	14,305	110
Political Party Units	200	1	6,150	36
Economic Interest Statements	705	14	820	19
Lobbyist Disbursement Report	653	13	450	7
Lobbyist Principal Annual Report	950	33	2,095	60
Total Late Fees	6,893	97	46,624	389

Civil Penalties	FY 2010 Dollars Paid	Number of Violations	FY2011 Dollars Paid	Number of Violations
Contribution from Unregistered association				
Unregistered association	3,025	6	3,508	6
Political Committees and Funds	2,850	3	400	1
Political Party Units	1,380	2		
Candidate			2,050	2
Contribution limits violations				
Candidates accepted in excess of limit	14,130	15	670	4
Special source (20%) aggregate limit	3,716	13	1,598	8
PCF Contribution exceeded limits	16,353	6	170	2
Excess lobbyist contributions	100	1		
Excess Party Unit Contribution	850	2		
Candidate Exceeded Spending Limit			664	1
Prohibited contributions during session				
Political Committee and Funds	2,000	2	1,250	2
Terminating Candidates	500	1	930	5
Lobbyist	550	2	800	3
Failure to file disclosure report				
Candidate Committees	5,970	20	3,057	15
Political Committees and Funds	1,000		400	1
Political Party Units			300	1
Lobbyist Principal	400	1	2,300	5
Failure to file amended report			1,281	5
Economic Interest Statement	300	1		
Certified False Information	3,000	1		
Total Civil Penalties	56,124		19,378	
Total Late Fees and Civil Penalties Deposited in State General Fund	63,017		66,002	