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**STATE OF MINNESOTA  
STATE ETHICAL PRACTICES BOARD  
625 NORTH ROBERT STREET  
ST. PAUL, MINNESOTA 55101-2520  
PHONE: (612) 296-5148**

**A D V I S O R Y**

**O P I N I O N S**

**NUMBERS 90 - 95**

**June 2, 1984 - April 30, 1987**

(under Minn. Stat. §10A.02, subd. 12)

**J U N E, 1 9 8 7**

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===== ABOUT ADVISORY OPINIONS =====

- . The Ethical Practices Board is authorized to issue advisory opinions on the requirements of the Ethics in Government Act, Minn. Stat. Ch. 10A, enacted in 1974. (Minn. Stat. §10A.02, subd. 12 (1986)) and the Hennepin County Disclosure Law (Minn. Stat. §383B.055 (1986)) Individuals or associations may ask for advisory opinions about these laws to guide their own conduct.
- . A request for an advisory opinion is published in the **State Register** before action is taken by the Board to approve an opinion. Public comment is invited. A summary of each approved advisory opinion is published in the **State Register**; full texts of opinions are available for public inspection in the Board office, 625 North Robert St., St. Paul, Minnesota.
- . An advisory opinion lapses the day the regular legislative session adjourns in the second year following the date of the opinion (Minn. Stat. §10A.02, subd. 12).

===== ABOUT THE BOARD =====

Purpose

- . To maintain public confidence in the integrity of government through public disclosure and public financing of candidates through administration of the Ethics in Government Act, Minn. Stat. Ch. 10A.

Members

- . Six member citizen body;
- . Appointed by the governor; confirmed by a 3/5th vote of both houses of the legislature;
- . One former legislator of each major party;
- . Two individuals who have not been a public official nor a political party officer in the last three years;
- . No more than three members of the same political party.

===== An Advisory Opinion Index is available at the Board office. =====



**STATE OF MINNESOTA  
STATE ETHICAL PRACTICES BOARD**

41 STATE OFFICE BUILDING  
ST. PAUL, MINNESOTA 55155-1289  
PHONE: (612) 296-5148

Approved by the Ethical Practices Board  
November 15, 1984

Issued to:

Walter J. Duffy, Jr., Treasurer  
(Rudy) Perpich Volunteer Committee  
2300 Multifoods Tower  
33 South Sixth Street  
Minneapolis, MN 55402

**RE: Campaign Expenditures**

**ADVISORY OPINION #90**

**SUMMARY**

90. Volunteer services by a state officeholder on behalf of legislative candidates need not be allocated to or reported by any candidate.

**FACTS**

You are the treasurer of Governor Perpich's principal campaign committee. In 1984 the governor has taken a number of airplane trips in order to appear on behalf of legislative candidates in their election campaigns. The expenses incurred by the Governor on these trips are reported through the Governor's campaign committee as campaign expenses.

You ask the Board to answer the following question:

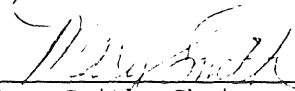
What, if any, portion of the Governor's transportation expenses should be allocated to the candidates as expenses incurred on behalf of the individual candidates and therefore reportable by them?

You state that you are not referring to the situation where the Governor is transporting other candidates.

**OPINION**

The Board agrees that the Governor's expenses for the airplane trips which are paid by his principal campaign committee are reportable as campaign expenses of his committee. However, in the opinion of the Board, the Governor's volunteer service on behalf of legislative candidates is neither a contribution nor an expenditure which must be allocated to or reported by any candidate. Minn. Stat. §10A.01, subs. 7 and 10(c).

Dated: \_\_\_\_\_

  
Mary Smith, Chairman

**AN EQUAL OPPORTUNITY EMPLOYER**



**STATE OF MINNESOTA  
STATE ETHICAL PRACTICES BOARD**

41 STATE OFFICE BUILDING  
ST. PAUL, MINNESOTA 55155-1289  
PHONE: (612) 296-5148

Approved by the Ethical Practices Board  
January 31, 1985

Issued to:

L. Ashley Whitesell, Jr., M.D., Chairman  
Minnesota Medical Political Action Committee (MINNPAC)  
P. O. Box 14469  
Minneapolis, MN 55414

**RE: Replacement of Lost Contribution Check**

**ADVISORY OPINION #91**

**SUMMARY**

91. When a candidate has received and acknowledged a political committee's contribution check in an election year, but lost the check before it could be deposited, the political committee should be allowed to replace the intended contribution and the candidate should be allowed to accept the replacement contribution even though both actions occur in a nonelection year.

**FACTS**

You are the chairman of the Minnesota Medical Political Action Committee (MINNPAC). In 1984, your committee personally delivered a contribution check to a state representative candidate who filed for election in 1984 and received the candidate's written acknowledgement of the contribution. However, the contribution check was not presented to your committee's depository for payment prior to December 31, 1984, when your committee treasurer's books closed for election year 1984. Now, in nonelection year 1985, MINNPAC desires to honor the contribution authorized in 1984 and issue a replacement check.

You ask the Board the following questions:

1. May MINNPAC issue a check in 1985 to a candidate's principal campaign committee to replace a check which was written and delivered in 1984 but lost by the candidate before the check could be deposited in the candidate's committee's account?
2. May a candidate's principal campaign committee accept a replacement check in 1985 for a check originally issued in 1984 in an amount in excess of the nonelection year contribution limit?

**OPINION**

A political committee must report the sum of all contributions made to candidates and must itemize contributions to candidates which, in aggregate, exceed \$100 during a calendar year. Minn. Stat. §10A.20, subs. 2 and 3(g). A contribution which is not presented for payment would be reported as "miscellaneous income" and, if over \$100, would be itemized on the periodic report in which the nonpayment occurred. Minn. Stat. §10A.20, subs. 2 and 3(e).

A political committee may replace an uncashed contribution check to a candidate's principal campaign committee at any time. In a particular circumstance where, during an election year: (1) a contribution check in the sum of \$700 dollars was physically delivered to a candidate for the Minnesota House of Representatives by a political committee, (2) the candidate reported the contribution by telegram to the Board as required by Minn. Stat. §10A.20, subd. 5, (3) the candidate acknowledged the contribution by submission of a letter to the political committee and (4) the candidate loses the contribution check and neither the candidate nor the political committee reasonably discover the loss until January of a nonelection year, the political committee should be allowed to replace the intended contribution and the candidate should be allowed to accept the replacement contribution even though both actions occur in a nonelection year.

Issued: February 7, 1985

  
\_\_\_\_\_  
Mary Smith, Chairman  
Minnesota Ethical Practices Board



**STATE OF MINNESOTA  
STATE ETHICAL PRACTICES BOARD**

41 STATE OFFICE BUILDING  
ST PAUL, MINNESOTA 55155-1289  
PHONE: (612) 296-5148

Approved by the Ethical Practices Board  
August 9, 1985

Issued to:

Hon. Richard J. Cohen  
Attorney at Law  
200 City Place  
730 Hennepin Avenue  
Minneapolis, MN 55403

**RE: Campaign Contributions**

**ADVISORY OPINION #92**

**SUMMARY**

92. Principal campaign committees established by a candidate seeking more than one office must abide by applicable contribution limits, even in the repayment of a loan to one of the committees. One of the principal campaign committees should be allowed to return a contribution to a contributor to that committee more than 60 days after receipt and furnish disclosure of the transaction.

**FACTS**

You are a state representative who is about to commence a campaign to run for the state senate. You would like to conduct a great deal of your fund raising during calendar year 1985 in order to have it out of the way before the campaign. However, you would like to retain the option that, lacking support for the senate race, you would be able to run again for the house.

You ask the Board the following questions relative to raising money for the senate race versus the house race, the maintenance of separate campaign accounts, and what happens to such monies if unused:

1. What ability exists to transfer money from a senate committee to a house committee in the situation described?
2. Would there be any problem with returning campaign contributions to all the contributors to a senate committee subsequent to the 60 days after receipt with the proper reporting conducted?
3. You made a personal loan to your house committee. If you transfer to a senate race, is there any way you can raise money to pay back the loan to your house committee? Would this be done by maintaining the house committee and using it strictly for the purpose of paying back the loan or could you use the senate committee? Would there be any problem with simply having a loan paid back to you personally whether it's through a house or a senate

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August 9, 1985

campaign?


**OPINION**

A candidate may permit his principal campaign committee to accept contributions from another principal campaign committee formed by that candidate in seeking another office to further his nomination or election to the other office. The candidate must ensure that the recipient committee abides by the applicable contribution limit for a political committee as imposed by Minn. Stat. §10A.27. Minn. Rules Part 4500.1400.

The return of a contribution to the contributor is deemed a noncampaign disbursement under Minn. Stat. §10A.01, subd. 10c (b). In the situation described, a principal campaign committee should be allowed to return a contribution to a contributor more than sixty days after its receipt provided the principal campaign committee furnishes to the Board a copy of the check which returned the contribution with the committee's report of receipts and expenditures for the reporting period in which the contribution was returned.

An agreement to make a loan to a particular political committee must be made in writing and must be reported by that committee on the appropriate schedule until repaid or forgiven. Minn. Stat. §10A.20, subd. 3(d); Minn. Rules Part 4500.0300. A committee shall not dissolve until it has settled all its debts. Minn. Stat. §10A.24. A house committee with a loan outstanding could continue to receive contributions up to the applicable contribution limit until sufficient funds would have accrued to repay the loan. Should a candidate's senate committee contribute to the house committee for this or any other purpose, the candidate must ensure that the house committee does not accept, in aggregate, in any year, more than the applicable contribution limit from the senate committee.

Issued: August 13, 1985

  
Martin J. McGowan, Chairman  
Minnesota Ethical Practices Board



**STATE OF MINNESOTA  
STATE ETHICAL PRACTICES BOARD**

41 STATE OFFICE BUILDING  
ST. PAUL, MINNESOTA 55155-1289  
PHONE: (612) 296-5148

Issued to:

Approved by the Ethical Practices Board  
October 24, 1985

Hon. Robert W. Mattson  
State Treasurer  
303 State Administration Building  
St. Paul, MN 55155

Re: Reporting Requirements

**ADVISORY OPINION #93**

**SUMMARY**

93. A statewide officeholder must disclose the costs of sending a written communication to the voters of a specific legislative district under certain circumstances.

**FACTS**

As State Treasurer, you indicate your intention to distribute a letter throughout Senate District 4 which you had sent to District 4's State Senator. You consider this letter to be informational and educational in nature and designed to inform voters in District 4 as to some of the activities in the Minnesota Legislature of District 4's State Senator.

You ask the Board to address the following question:

Do constituent communications of this type fall within the jurisdiction of the Board?

**OPINION**

Because a constitutional officer holds a statewide office, all residents of the state may be deemed to be constituents of the officeholder. The Board is not authorized to govern the use of funds allocated to constitutional officers, including communications with constituents. However, if more than \$100 from state funds or other funds is spent to influence the nomination or election of a candidate, registration with and reporting to the Board under Minn. Stat. §10A.14 and 10A.20 would be required.

For purposes of Minn. Stat. Ch. 10A, an individual remains a candidate until the candidate's principal campaign committee is dissolved as provided in Minn. Stat. §10A.24. Minn. Stat. §10A.01, subd. 5.

If an individual makes an independent expenditure within the meaning of Minn. Stat. §10A.01, subd. 10b, to influence the nomination or election of a candidate,



Advisory Opinion #93

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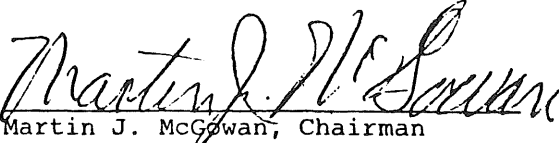
disclosure is required. Minn. Stat. §10A.20, subds. 2, 3, and 6.

In the opinion of the Board, a written communication sent by a statewide officeholder to the voters of a particular legislative district may be considered an action to influence the nomination or election of a candidate in that legislative district when

- a) the name and office of the candidate are clearly identified in the communication; and
- b) the content of the communication is clearly addressed to the voters of that legislative district.

The Board concludes that the costs of sending a communication which meets these criteria must be disclosed, together with the source of the funds, in accordance with Minn. Stat. Ch. 10A. If the action is an independent expenditure, the written communication must bear on the front page in conspicuous type a statement that the activity is not approved by the candidate nor is the candidate responsible for it. Minn. Stat. §10A.17, subd. 4. The disclosure required under sec. 10A.20 must include a certified statement that the expenditure was made without the express or implied consent, authorization, request, suggestion, or in concert with or cooperation of any candidate, any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to any candidate. Minn. Stat. §§10A.01, subd. 10b; 10A.20.

Dated: October 24, 1985

  
Martin J. McGowan, Chairman  
MINNESOTA ETHICAL PRACTICES BOARD



**STATE OF MINNESOTA**  
**STATE ETHICAL PRACTICES BOARD**  
625 NORTH ROBERT STREET  
ST. PAUL, MINNESOTA 55101-2520  
PHONE: (612) 296-5148

Issued to:

Approved by the Ethical Practices Board  
March 27, 1986

Hon. Fred C. Norton  
House Minority Leader  
267 State Office Building  
St. Paul, MN 55155

**Re: Constituent Services**

**ADVISORY OPINION #94**

**SUMMARY**

94. Costs of providing constituent services in 1986 paid by the principal campaign committee of a legislator or executive officeholder incurred on or before May 20, 1986, must be reported as noncampaign disbursements.

**FACTS**

As House Minority Leader, you note that Minn. Rules 4500.3100, subpts. one - four, allow officeholders a period of 60 days following adjournment of the legislature in an election year to provide constituent services through their principal campaign committees and report these costs as noncampaign disbursements. You furnish the March 19, 1986, Attorney General's opinion that sine die adjournment of the Legislature requires action by both the House and the Senate. The House voted to adjourn on March 18, 1986. In the opinion of the Attorney General, final adjournment of the 1985-1986 legislative session will occur upon the final sine die adjournment of the Senate. The Senate adjourned sine die on March 21, 1986.

You ask the Board to specify when the 60-day time period begins and expires for the 1986 election year.

**OPINION**

"Noncampaign disbursement" includes services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from the beginning of the term of office to 60 days after adjournment sine die of the legislature in the election year for the office held. Minn. Stat. §10A.01, subd. 10c(f).

Accordingly, Minn. Rules pt. 4500.3100 directs the treasurer of an officeholder's campaign committee to disclose certain expenses for constituent services in nonelection years and in election years.

When the period of time for the performance of an act is fixed by law, the

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time is calculated by excluding the first day and including the last day of the prescribed period. Minn. Stat. §645.15.

In the opinion of the Board, the 60-day period in the 1986 election year began on March 22, 1986, and will end on May 20, 1986. Minn. Stat. §§10A.01, subd. 10c(f), 645.15; Minn. Rules pt. 4500.3100.

Dated:

March 29, 1986

  
Martin J. McGowan, Chairman  
Ethical Practices Board

ETHICAL PRACTICES BOARD . 625 N. Robert St. . St. Paul, MN 55101-2520

Issued to:  
David L. Sasseville  
Lindquist & Vennum  
4200 IDS Center  
Minneapolis, MN 55402-2205

RE: Lobbyist Disbursement Report

ADVISORY OPINION #95

SUMMARY

95. Because reference to "rate setting, power plant and powerline siting" in Minn. Stat. S 10A.01, subd. 2, is not modified by "Ch. 116J", a lobbyist's attempts to influence rate setting by an executive branch agency must be reported under Minn. Stat. S 10A.04.

FACTS

You are an attorney with Lindquist & Venum, which is local counsel to US Sprint Communications Co. (Sprint). Although you have been registered with the Board for several years as a lobbyist representing Sprint, it is your opinion that you are not a lobbyist within the meaning of "lobbyist", as defined at Minn.Stat.S 10A.01, subd. 11. Your activity on behalf of Sprint has been in connection with non-rulemaking contested cases before the Public Utilities Commission (PUC) to which Sprint was a party. The contested cases involved investigations and miscellaneous dockets, rather than rulemaking or rate setting proceedings.

You ask the Board the following questions:

1. Is the clause "except in cases of rate setting" in subd. 2 of Minn.Stat.S 10A.01 modified by the reference to Ch. 116J or does it apply to all administrative rate setting procedures?
2. Do your activities on behalf of Sprint require registration and reporting as a lobbyist under Minn. Stat. SS 10A.01, subd. 11, and 10A.03 - 10A.04?

OPINION

An individual who is engaged for pay who spends more than five hours in any month for the purpose of attempting to influence administrative action must register with the Board as a lobbyist. Minn. Stat. SS 10A.01, subds. 2 and 11, and 10A.03.

Since rate setting and power plant and powerline siting have not appeared in Ch. 116J, or its predecessor Ch. 116H, the Board concludes that reference in Minn. Stat. S 10A.01, subd. 2, to rate setting, power plant and powerline siting is not modified by reference to Ch. 116J in that citation.