

# House Research Act Summary

**CHAPTER:** 220

**SESSION:** 1999 Regular Session

**TOPIC:** Campaign Finance and Lobbying Law Recodification

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## Overview

This act recodifies chapter 10A, the campaign finance, lobbyist, gift, and economic interest law. It makes stylistic improvements throughout the chapter, refines some definitions, relocates provisions more logically to make them easier to find, repeals obsolete provisions, repeals provisions that have been held unconstitutional and thus unenforceable, makes explicit some Campaign Finance and Public Disclosure Board (board) interpretations, amends the statute to confirm it to practice in some areas, and resolves internal conflicts.

### Section

**1 Definitions.** Stylistic improvements are made throughout the section. Provisions are also relocated within subdivisions or among subdivisions of this section, as appropriate. In addition, changes of note are made in the following subdivisions.

**Subd. 2. Administrative action.** Corrects a statutory reference.

**Subd. 7. Contribution.** Strikes provision that a contribution to defeat a candidate is made to influence the nomination of that candidate or his or her opponent. Any money given to a principal campaign committee will be considered a contribution, without determining the purpose for which it was given.

Throughout this subdivision, reference is made to "principal campaign committee" and "party unit." The act recognizes these as distinct entities with individual roles under chapter 10A that have grown as the statute was amended over the years. Previously a principal campaign committee was treated merely as a type of political committee, and a party unit was defined only for purposes of one section (10A.275).

**Subd. 7a. Transfer of funds.** Strikes the term "transfer of funds" from the definitions as being confusing. Instead, reference will be made throughout chapter 10A to whichever of the following is intended: (1) the component parts of a transfer of funds: money and negotiable

instruments or (2) "contribution," because a transfer is a kind of contribution.

**Subd. 7b. Donation in kind.** A donation in kind is a type of contribution. Consistent with the revision of the definition of "contribution" in subdivision 7, a donation in kind is anything of value, without specifying any purpose for which it is given.

**Subd. 10c. Noncampaign disbursement.** This term is relevant only to principal campaign committees because it is used in determining campaign expenditures, and these are the only entities with spending limits. Therefore, the term is re-defined to apply only to principal campaign committees.

Repeats here the timing rule found in prior subdivision 10 on expenditures: a noncampaign disbursement is considered made in the year the candidate purchased the goods or services or incurred an obligation to pay for them.

**Subd. 11. Lobbyist.** Strikes as redundant: excluding stockholders of family farm corporations from the definition of lobbyist. No one, whether or not a farm stockholder, who engages in the activity described in this exclusion would be considered a lobbyist.

**Subd. 15. Political committee.** Excludes from this term "principal campaign committee" and "party unit" for the reasons discussed in subdivision 7.

**Subd. 17. Political party.** Adds to the prior definition: that a party is the aggregate of all its party units in the state.

**Subd. 17a. Political party unit.** Relocates and rewrites the definition previously found in section 10A.275.

**Subd. 18. Public official.** Re-arranges some elements of this definition. Stricken specific offices are covered by the general descriptions in clauses (5) and (6).

**Subd. 19. Office holder.** Strikes this term because it is used in its ordinary English sense and does not need a special definition.

**Subd. 20. Advance of credit.** Language is stricken to avoid conflict with the existing definitions of "expenditure" and "noncampaign disbursement."

**Subd. 26. Metropolitan government unit.** Strikes from this term: the state high school league and Minnesota Technology Inc. Instead, members of these two entities are now listed under the definition of public official in subdivision 18.

**Subd. 27. Political subdivision.** Same change as subdivision 26.

**2 Board of campaign finance and public disclosure.** Aside from stylistic changes throughout the section, subdivisions 4 and 5 are amended to provide that the executive director of the board serves as its secretary (this is typical practice in executive branch boards). The prior statute provided for a board member to be secretary.

**Subd. 8. Duties.** Prohibition on commercial use of reports and statements is moved to section 47.

**Subd. 9. Documents; information.** Requires the board to notify an individual whenever a complaint is received alleging the individual did not comply with a reporting duty under the act. Prior law required notice only if a complaint was made by a registered voter.

**3 Filing date.** Provides that if a scheduled filing date under chapter 10A falls on a weekend or legal holiday, the filing is due the next regular business day. Moved from prior section 10A.20, subdivision 2.

**4 Lobbyist registration.** Lists in the statute the specific kinds of entities on behalf of whom a lobbyist appears under existing law.

**5 Lobbyist reports.** The following changes may not be obvious.

**Subd. 3. Information to lobbyist.** The reference to "employer or employee" in subdivision 3 is a clarification that tracks the reporting requirement about employer or employee gifts and contributions in subdivision 4, paragraph (c).

**Subd. 4. Content.** Changes in paragraph (c) conform this law to the gift ban requirements in section 10A.071.

**Subd. 4a. Statement in lieu of report.** This lobbyist reporting option is struck because no lobbyist uses it. Instead, they file regular reports.

**Subd. 8. Reports by solicitors.** The substance of this stricken subdivision is incorporated in section 10A.20, subdivision 14 (section 23 of the act).

6 **Lobbyist report.** Strikes the requirement that the board give the governor, legislature, and metropolitan government units the names of registered lobbyists. Requires instead that the names be published (they are on the Internet), where they will be readily available to the named officials and the general public.

7 **Contingent fees prohibited.** Stylistic change.

8 **Contributions during legislative session.** Strikes obsolete references to "friends of" committees; these committees have been abolished.

Includes the legislative caucuses in the session fund-raising ban. This in turn allows repeal of section 10A.065, subdivision 5, which allows session fund-raising by all party units except the legislative caucuses (i.e., the amendment and repealer together get to the same result with less language).

9 **Party unit solicitations.** Consistent with term changes described earlier.

10 **Civil penalty.** Clarifies that the board has the power to impose fines and goes to district court only when it needs to enforce collection of fines.

11 **Representation disclosure.** Stylistic.

12 **Statements of economic interest.** Clarifies that economic interest statements are filed with the board for state officers and for officers of metropolitan government units.

Strikes the requirement that the board notify the county auditors and secretary of state when individuals file statements of economic interest with the board.

13 **Penalty for false statements.** Combines in section 10A.10 all the penalties for false statements in reports required by chapter 10A. Prior law separated the penalties between this section and 10A.22, subdivision 1. The act repeals the latter subdivision.

14 **Organization of committees and party units.** Reflects the terminology breakout of campaign committee and party unit as separate from political committees. Otherwise, stylistic.

15 **Political funds.** Makes terminology changes already explained in earlier sections.

16 **Accounts that must be kept.**

**Subd. 1.** Clause (c) is stricken as redundant because the act includes "donation in kind" under the term "contribution," so donations in kind will be reported as contributions and do not need a separate listing.

**Subd. 2.** The requirement that receipts be kept for four years is struck as redundant because there is a broader four year record retention provision in section 10A.22, subdivision 6.

17 **Registration.** Eliminates requirement that a political fund have a chair since such a fund is essentially an accounting unit rather than an organization.

18 **Contributions.** Stylistic changes and terminology changes already described earlier.

19 **Earmarking contributions prohibited.** Inserts terminology changes described earlier.

20 **Expenditures.** Stylistic and terminology changes described earlier.

- 21 **Times for rendering bills, charges, or claims; penalty.** Stylistic.
- 22 **Principal campaign committee.** Stylistic. Also strikes cross-reference changed by the relocation of language by the act. Strikes obsolete provision for dissolving friends of committees.
- 23 **Campaign reports.** Changes that may not be obvious include:  
**Subd. 2. Time for filing.** Strikes permission for a committee to file the report due after a special election on January 31, if the special election is held less than 60 days before that date. Stricken because a committee can do that without this language.  
    Makes the pre-primary filing date for entities other than principal campaign committees the same as the date for principal campaign committees: 15 days before the primary.  
    The provision on filing deadlines that fall on a weekend or holiday was moved to its own section (section 3).  
**Subd. 3. Contents of report.** Requires committees to report contributions from associations because under existing law an unregistered association can make a contribution (see section 10A.22, subdivision 7). The requirement that multiple contributions from one contributor all be listed together comes from section 10A.22, subdivision 4, and that subdivision is repealed. The requirement in paragraph (g) that a reporting entity making an expenditure for more than one candidate must allocate the amount among the candidates was moved from section 10A.22, subdivision 5, and that subdivision is repealed. The reference in paragraph (l) to chapter 10A candidate contributions to municipal candidates is stricken because those contributions are no longer allowed. The reporting requirement in paragraph (o) is stricken and relocated in subdivision 14.  
**Subd. 3a. Counties in legislative district.** This subdivision was needed when the board was required to file copies of campaign reports with the county auditors. That requirement was repealed some years ago, so this subdivision can also be repealed.  
**Subd. 5. Preelection reports.** Applies the "last minute" contribution report requirement to district judge candidates, in accord with board interpretation of the statute.  
**Subd. 14. Reports by solicitors.** Reporting language added here was moved from sections 10A.04, subdivision 8; and 10A.20, subdivision 3, paragraph (o).
- 24 **Recordkeeping; penalty.** Stylistic.
- 25 **Unregistered association limit; statement; penalty.** Stylistic changes and terminology changes described in earlier sections.
- 26 **Changes and corrections.** Stylistic changes.
- 27 **Dissolution or termination.** Stylistic changes.
- 28 **Transfer of debts.** Makes a reference more specific.
- 29 **Dissolution of inactive committees and funds.** Carries out terminology changes described in earlier sections.
- 30 **Spending limits.** The following changes may not be obvious:  
**Subd. 1. Limits are voluntary.** Stricken language is moved to subdivision 3. New language stating that spending limits are voluntary and apply only to candidates who take a public subsidy states a constitutional requirement and replaces language inadvertently stricken from section 10A.25, subdivision 10, in 1996.  
**Subd. 2. Amounts.** Places here the spending limit for a candidate for endorsement for lieutenant governor which is now found in subdivision 3.  
**Subd. 3. Governor and lieutenant governor a single candidate.** Stricken language moved to

subdivision 2. New language was moved from subdivision 1.

**Subd. 4. Expenditures before February 20, 1970.** Repealed as obsolete.

**Subd. 6. Limit in nonelection year.** Clarifies that this limit applies to a year or years within the same election cycle for an office.

**Subd. 11. Carryforward; disposition of other funds.** Adopts a board interpretation that a candidate may carry forward an amount up to 50 percent of the election year sending limit for the office. Strikes a reference to a public matching subsidy that was repealed by Laws 1993, First Special Session, chapter 3, section 5.

**Subd. 13. Independent expenditures; limits increased.** Repealed because it was found unconstitutional in *Day v. Halahan*, 34 F.3d 1356 (CA8, 1996) and cannot be enforced.

31 **Method of calculation.** Provides for rounding spending limits, which are indexed to inaction, to the next highest \$10 increment; to be easier to remember. Prior law provided for rounding to the next highest whole dollar.

32 **Publication of expenditure limit.** Moves from June 15 to April 15 in an election year the deadline for the board to publish in the state register spending limits for an office being elected that year. Requires the revisor to insert those updated figures in the next edition of the statutes.

33 **Freedom to associate and communicate.** Stylistic.

34 **Contribution limits.** The following changes may not be obvious:

**Subd. 4. Definition of political party.** This definition has application throughout chapter 10A, not just in this section, so this subdivision is repealed and the definition was relocated to section 1, subdivisions 17 (political party) and new 17a (party unit).

**Subd. 5. Independent expenditures.** Stricken as redundant given the prior definition of an independent expenditure as not being a contribution to a candidate (see section 1, subdivision 10b).

**Subd. 7. Contributions and expenditures before 1978.** Obsolete.

**Subd. 9. Contributions to and from other candidates.** Paragraph (c) prohibits a chapter 10A candidate from contributing to a candidate for political subdivision office in any state, not just in Minnesota. Reflects a 1993 board opinion.

**Subd. 10. Limited personal contributions.** Consistent with board interpretation, provides that a candidate who accepts a public subsidy may not contribute to his or her own campaign in one year more than ten times the election year limit for the office sought.

**Subd. 12. Contributions to other political committees or funds.** Strikes this subdivision as required by *Day v. Halahan*, 34 F.3d 1356 (CA8 1994). The case found the limit on contributions to political committees and funds was unconstitutional.

35 **Exceptions.** Re-writes the political party multi-candidate spending provision to reflect the change in political party terminology and the relocation of some language within chapter 10A.

36 **Penalty for exceeding limits.** The following change may not be obvious:

**Subd. 2. Exceeding contribution limits.** Strikes the penalty that applied to political committee and fund treasurers who took contributions in excess of the limit; this limit was found unconstitutional (see section 34, subdivision 12 above).

37 **Circumvention prohibited.** Stylistic.

38 **Establishment.** Stylistic.

39 **Designation of income tax payments.**

**Subd. 1. Designation.** New language is moved from subdivision 2.

**Subd. 2. Designation of account.** Language in the stricken subdivision is moved to subdivision

1.

**Subd. 3a. Qualification of political parties.** Requires a minor party to be certified for the taxpayer check off by July 1 of the taxable year (same as major parties). Adds to the requirement a minor party must meet: that its candidates received votes in each county that in aggregate total at least one percent of the total number of individuals who voted in the election. Consistent with the minor party definition proposed in section 48.

**Subd. 4. Appropriation.** Clarifies how money moves from the general fund to the state election campaign fund.

**Subd. 5. Allocation.** This subdivision is broken into subdivisions 5 and 5a to make it easier to read. Provision under subdivision 5, clause (6), for the board rather than the state treasurer to pay out party account money is consistent with changes made over the years to have the board rather than the treasurer pay subsidies under the act. Also, the treasurer's office is abolished as of January, 2003.

The act, recognizing that there will no longer be treasurer candidates, re-allocates the check-off money for that office to the candidates for attorney general and secretary of state.

**Subd. 5a. Party account for legislative candidates.** The last paragraph of this subdivision is stricken and moved to its own new subdivision 6a; except the final sentence is omitted because it has not been followed in practice.

**Subd. 6. Distribution of party accounts.** Provides that a public subsidy only goes to a candidate who has opposition in either the primary or general election. This is moved from subdivision 12 of this section, which is repealed by the act.

Prohibits paying a party account subsidy to a candidate in an amount greater than the spending limit that applies to the candidate's office. Under section 10A.324, subdivision 1, a candidate must return any public subsidy received that is greater than the spending limits for the office. The new language prevents a candidate from getting a subsidy in an amount he or she would have to return.

**Subd. 6a. Party account money not distributed.** This new subdivision consists of the substance of a paragraph moved from subdivision 5.

**Subd. 7. Distribution of general account.** States in the provision on distributing general account money the requirements that apply to all candidates who get a public subsidy -- signing a spending limit, filing the affidavit of matching contributions, and being opposed in the primary or general election.

Paragraph (b) strikes a reference to the subsidy paid to match independent expenditures. This is part of the independent expenditure law that was held unconstitutional in the *Day* case cited earlier in this summary.

Also strikes reference to another provision held unconstitutional and thus not enforceable: the provision that a candidate whose opponent refuses spending limits gets what would have been the opponent's share of the public subsidy. *Rosenstiel v. Halahan* (D. Minn. 1995).

The new language referencing the spending limit that would have applied if the candidate's opponent agreed to spending limits reflects the ceiling in cases where a candidate's opponent declines spending limits. Such a candidate is released from spending limits but still receives the same maximum subsidy as candidates who agree to limits (i.e., 50 percent of the spending limits for the office).

The last sentence in subdivision 7 is stricken as meaningless. The board does not use the report due before the general election to reduce the amount a candidate received from

the general account.

**Subd. 12. Unopposed candidate not eligible.** This requirement that a candidate have primary or general election opposition in order to get a public subsidy is repealed and relocated in subdivisions 6 and 7.

**40 Special election subsidy.** Moves provisions out of this section and into sections on the candidate's spending limits (section 42) and the affidavit of contributions (section 43). Appropriates the special election public subsidy to the board rather than to the state treasurer, as is done with the general election subsidy. (See section 39, subdivision 5)

**41 Estimates of minimum amounts to be received.** Strikes a requirement that the board estimate the public subsidy each candidate will receive. The sentence after this one specifies that the board must notify candidates of their estimated minimum subsidy on August 15. It is not necessary to have both.

**42 Spending limit agreements.**

**Subd. 1. Agreement by candidate.** Adds a reference to the limit on how much of a candidate's own money he or she can spend. This makes complete the list of what provisions in existing law a candidate must agree to in order to get a subsidy.

Strikes the prior option for a candidate to file a spending agreement where he or she files for office, as using this option would be confusing. In practice candidates file with the board.

Inserts a reference that a candidate signs a spending agreement only in a general election year when the candidate is up for election. Clarification for candidates with four year terms.

Requires the board to notify the commissioner of revenue which candidates agree to spending limits, rather than sending revenue a copy of the spending agreement.

Provides that if a special election is held at a time other than the general election, the deadline for filing a spending agreement is the day after the candidate files for the office. Comes from section 10A.315, paragraph (c).

**Subd. 2. How long agreement is effective.** For completeness, adds a reference to the limit on spending from one's own funds if one accepts a public subsidy.

**Subd. 3. Estimate; actual amount.** Stricken as meaningless. Candidates will never receive the kind of excess payment contemplated by this subdivision.

**43 Affidavit of contributions.** Revises the content of this affidavit so it includes just the total contributions from eligible voters, disregarding the portion of contributions over \$50. This is all the board needs to enforce the law requiring candidates to raise a minimum amount of funds. Strikes references to various payout dates that never took effect because they were repealed in the 1993 special session.

Inserts in statute the deadline for filing this affidavit at a special election that is now set by rule: five days after the candidate files a spending agreement.

**44 When return required.** Paragraph (a) is stricken because the board will never pay a subsidy in an amount over the spending limits for an office, so the candidate will never have to return such an excess.

The new language about postage and credit balances is moved from section 10A.324, subdivision 3.

**45 How return determined.** The first stricken sentence here is moved to the definition of a noncampaign disbursement (see section 1, subdivision 10c, clause 17). The second stricken sentence moved to section 44.

- 46 **Remedies.** Technical.
- 47 **Commercial use of information prohibited.** Moved from section 10A.02, subdivision 8, paragraph (e).
- 48 **Minor party.** Adds a definition to the election code that is also used in chapter 10A. The definition was part of the fusion candidate law, Laws 1996, chapter 419. The law provided that this definition would expire if the lower court decision on fusion candidates was reversed. The case was reversed, so there was no definition of minor party in the statutes (except for conflicting provisions in sections 10A.01, subdivision 13; and 290.06, subdivision 23). The definition here re-instates the 1996 language but eliminates references to candidates nominated by more than one party, since the courts did not ultimately require that. Since some definition of minor party is needed for the check off, this language that previously passed the legislature was adopted here.
- 49 **Refund of contributions.** Strikes reference to the congressional candidate funding program in chapter 10A because it was found unconstitutional by virtue of being pre-empted by federal election laws. *Weber v. Heaney*, 793 F. Supp. 1438 (D. Minn. 1992).
- 50 **Instruction to revisor.** Directs the revisor to re-organize the chapter 10A definitions in alphabetical order and make necessary cross-reference changes. Directs other section re-numbering to reflect re-organization of the chapter. Directs the revisor to revise chapter 10A so that it uses "must" rather than "shall" to impose duties.
- 50 **Repealer.** Section 10A.065, subdivision 5 (substance incorporated in section 10A.065, subdivision 1).  
Section 10A.22, subdivisions 1, 4, and 5 (subdivision 1 is incorporated in section 10A.10; the others are incorporated in section 10A.20, subdivision 3, paragraphs (b) and (g)).  
Section 10A.255, subdivision 2, is obsolete.  
Section 10A.275, subdivisions 2 and 3, are incorporated in section 10A.01, subdivision 17a.  
Section 10A.324, subdivisions 2 and 4, relate to an aggregate contribution limit that was in effect before the 1993 carry forward provision was enacted and that was not fully repealed at that time.  
Section 10A.325 deals with (1) return to the state general fund of party account money when a party has no senate or house candidate, which the act moves to section 10A.31, subdivisions 6a; and (2) reallocation of party account money for a party that has no candidate for a constitutional office. This section provides for reallocation among other candidates the same election year. It conflicts with section 10A.31, subdivision 5, which provides for returning the money to the party account and reallocating it the next year. The recodification takes the approach of section 10A.31, subdivision 5, and puts the language in section 10A.31, subdivision 6a.  
Sections 10A.40 to 10A.51 provide the public subsidy for congressional candidates that was found unconstitutional in *Weber v. Heaney*, 793 F. Supp. 1438 (D. Minn. 1992).