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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH  
SESSION

HOUSE FILE No. **3821**

May 3, 2010

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The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform,  
Technology and Elections

1.1 A bill for an act  
1.2 relating to campaign finance reporting; requiring reports; requiring disclaimer  
1.3 on certain campaign material; modifying provisions related to independent  
1.4 expenditures; appropriating money; amending Minnesota Statutes 2008, sections  
1.5 10A.01, subdivision 18; 10A.02, subdivision 10; 10A.025, subdivision 4;  
1.6 10A.20, subdivision 6; 211B.04; 211B.15, subdivision 3; proposing coding for  
1.7 new law in Minnesota Statutes, chapter 10A; repealing Minnesota Statutes 2008,  
1.8 sections 72A.12, subdivision 5; 211B.15, subdivision 12.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2008, section 10A.01, subdivision 18, is amended to  
1.11 read:

1.12 Subd. 18. **Independent expenditure.** "Independent expenditure" means an  
1.13 expenditure expressly advocating the election or defeat of a clearly identified candidate,  
1.14 if the expenditure is made without the express or implied consent, authorization, or  
1.15 cooperation of, and not in concert with or at the request or suggestion of, any candidate or  
1.16 any candidate's principal campaign committee or agent. An independent expenditure is  
1.17 not a contribution to that candidate. ~~An expenditure by a political party or political party~~  
1.18 ~~unit in a race where the political party has a candidate on the ballot is not an independent~~  
1.19 ~~expenditure.~~

1.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.21 Sec. 2. Minnesota Statutes 2008, section 10A.02, subdivision 10, is amended to read:

1.22 Subd. 10. **Audits and investigations.** The board may make audits and investigations  
1.23 with respect to statements and reports that are filed or that should have been filed under  
1.24 this chapter. In all matters relating to its official duties, the board has the power to issue

2.1 subpoenas and cause them to be served. If a person does not comply with a subpoena,  
 2.2 the board may apply to the District Court of Ramsey County for issuance of an order  
 2.3 compelling obedience to the subpoena. A person failing to obey the order is punishable by  
 2.4 the court as for contempt. An investigation initiated by the board pursuant to its authority  
 2.5 under this subdivision must comply with the procedures established in subdivision 11 for  
 2.6 investigating written complaints filed with the board.

2.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.8 Sec. 3. Minnesota Statutes 2008, section 10A.025, subdivision 4, is amended to read:

2.9 Subd. 4. **Changes and corrections.** Material changes in information previously  
 2.10 submitted and corrections to a report or statement must be reported in writing to the board  
 2.11 within ten days following the date of the event prompting the change or the date upon  
 2.12 which the person filing became aware of the inaccuracy. The change or correction must  
 2.13 identify the form and the paragraph containing the information to be changed or corrected.

2.14 A person who willfully fails to report a material change or correction is guilty of a  
 2.15 gross misdemeanor and is subject to a civil penalty imposed by the board of up to \$3,000.

2.16 The board must send a notice by certified mail to any individual who fails to file a  
 2.17 report required by this subdivision. If the individual fails to file the required report within  
 2.18 ten business days after the notice was sent, the board may impose a late filing fee of ~~\$5~~  
 2.19 \$100 per day up to ~~\$100~~ \$2,000 starting on the 11th day after the notice was sent. The  
 2.20 board must send an additional notice by certified mail to an individual who fails to file a  
 2.21 report within 14 days after the first notice was sent by the board that the individual may  
 2.22 be subject to a civil penalty for failure to file a report. An individual who fails to file a  
 2.23 report required by this subdivision within seven days after the second notice was sent by  
 2.24 the board is subject to a civil penalty imposed by the board of up to \$1,000.

2.25 **EFFECTIVE DATE.** This section is effective June 1, 2010, and applies to reports  
 2.26 required to be filed on or after that date.

2.27 Sec. 4. **[10A.165] DECEPTIVE SOLICITATIONS PROHIBITED; PENALTY.**

2.28 (a) A principal campaign committee, political committee, political fund, political  
 2.29 party unit, or other entity may not solicit a contribution or donation in a manner that  
 2.30 deceptively or falsely states or implies that the contribution or donation will not be used to  
 2.31 support or oppose a candidate for office or to support or oppose a ballot question. For  
 2.32 purposes of this section, a deceptive solicitation includes an offer to sell goods or services  
 2.33 that fails to disclose prior to the sale that the proceeds will be considered a contribution or

3.1 donation for political purposes and used in whole or in part to support a political campaign  
 3.2 or to make a political expenditure.

3.3 (b) A principal campaign committee, political committee, political fund, political  
 3.4 party unit, or other entity that knowingly violates this section is guilty of a gross  
 3.5 misdemeanor and subject to a civil penalty imposed by the board of up to \$3,000.

3.6 **EFFECTIVE DATE.** This section is effective June 1, 2010, and applies to  
 3.7 solicitations made on or after that date.

3.8 Sec. 5. Minnesota Statutes 2008, section 10A.20, subdivision 6, is amended to read:

3.9 Subd. 6. **Report when no committee.** (a) As used in this subdivision, "entity"  
 3.10 means an association, corporation, or partnership incorporated or registered to do business  
 3.11 in this state, a nonprofit organization that is exempt from taxation under section 501 of  
 3.12 the Internal Revenue Code, and any labor union with dues-paying members employed in  
 3.13 this state.

3.14 (b) A candidate who does not designate and cause to be formed a principal campaign  
 3.15 committee and ~~an~~ any entity or individual who makes independent expenditures or  
 3.16 expenditures expressly advocating the approval or defeat of a ballot question in aggregate  
 3.17 in excess of \$100 in a year must file with the board a report containing the information  
 3.18 required by subdivision 3. Reports required by this subdivision must be filed on the dates  
 3.19 on which reports by committees, funds, and party units are filed.

3.20 **EFFECTIVE DATE.** This section is effective June 1, 2010, and applies to  
 3.21 expenditures made on or after that date.

3.22 Sec. 6. **[10A.201] 48-HOUR INDEPENDENT EXPENDITURE AND BALLOT**  
 3.23 **QUESTION EXPENDITURE REPORTS.**

3.24 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this  
 3.25 section.

3.26 (b) "Campaign material" has the meaning provided in section 211B.01, subdivision 2.

3.27 (c)(1) "Electioneering communication" means any campaign material that is publicly  
 3.28 communicated which:

3.29 (i) unambiguously refers to a candidate for public office;

3.30 (ii) is publicly communicated within 60 days before a primary election or within 90  
 3.31 days before a general election; and

3.32 (iii) is publicly communicated to an audience that includes voters subject to  
 3.33 representation by the public office to be elected.

4.1 (2) "Electioneering communication" does not include:

4.2 (i) news items or editorial comments by the news media, or letters to the editor  
4.3 printed in a newspaper, magazine, or other periodical not owned or controlled by a  
4.4 candidate or political party or aired by a broadcast facility not owned or controlled by a  
4.5 candidate or political party;

4.6 (ii) communication by persons made in the regular course and scope of their  
4.7 business or any communication made by a membership organization solely to members of  
4.8 that organization and their families; and

4.9 (iii) communication which refers to a candidate only as part of the popular name  
4.10 of a bill or statute.

4.11 (d) "Entity" means an individual, association, political committee, political party  
4.12 unit, political fund, a corporation or partnership incorporated or registered to do business in  
4.13 this state, a nonprofit organization exempt from taxation under section 501 of the Internal  
4.14 Revenue Code, and any labor union with dues-paying members employed in this state.

4.15 (e) "Publicly communicated" means a communication or dissemination of campaign  
4.16 material by means of a broadcast, cable, or satellite communication, newspaper, magazine,  
4.17 outdoor advertising facility, mass mailing, telephone bank, personal delivery, Web site, or  
4.18 any other form of distribution of campaign material to the general public.

4.19 Subd. 2. **48-hour report required; timing.** (a) A report must be provided to the  
4.20 board by an entity under this section if the entity:

4.21 (1) makes an independent expenditure that exceeds \$5,000 to promote or defeat a  
4.22 candidate for state office, or an expenditure that exceeds \$5,000 expressly advocating  
4.23 approval or defeat of a proposed state constitutional amendment; or

4.24 (2) engages in electioneering communication that, in the aggregate, represents an  
4.25 expenditure that exceeds \$25,000.

4.26 (b) A report must be provided to the board no later than 48 hours after the campaign  
4.27 material or electioneering communication that is the direct result of the expenditure is  
4.28 first publicly communicated. At a minimum, the report must contain the information  
4.29 required as provided in subdivision 3. An entity may include information on more than  
4.30 one expenditure in a single report, provided that the report must be submitted so that all  
4.31 expenditures covered by the report meet the deadline for filing provided by this section.

4.32 Subd. 3. **Contents of report.** A report required under this section must include:

4.33 (1) the amount, date, and purpose of the expenditure;

4.34 (2) if an independent expenditure was made to promote or defeat a candidate for  
4.35 public office, the name of the candidate and the office sought, the candidate's political

5.1 party affiliation, and whether the expenditure was made in support of or in opposition to  
 5.2 the candidate; and

5.3 (3) if an expenditure was made to advocate approval or defeat of a proposed state  
 5.4 constitutional amendment, a description of the proposed amendment, and whether the  
 5.5 expenditure was made in support of or in opposition to the amendment.

5.6 Subd. 4. **Filing.** A report that must be filed with the board under this section must be  
 5.7 filed electronically and is otherwise subject to the filing requirements provided in section  
 5.8 10A.025 and the filing deadline provided in this section. The board shall post a copy of a  
 5.9 report received under this section on the board's Web site.

5.10 Subd. 5. **Administrative penalty.** The board may impose an administrative  
 5.11 penalty against any entity that violates this section in an amount up to four times the  
 5.12 amount of the expenditure that results in the violation. One-half of any administrative  
 5.13 penalty assessed under this section must be deposited in the general fund of the state  
 5.14 treasury. The remaining amounts from administrative penalties assessed under this section  
 5.15 must be deposited in a special revenue account and are appropriated to the board for  
 5.16 the enforcement of this chapter.

5.17 **EFFECTIVE DATE.** This section is effective June 1, 2010, and applies to  
 5.18 expenditures made on or after that date.

5.19 Sec. 7. **[10A.205] CORPORATE POLITICAL ACTIVITY; NOTIFICATION TO**  
 5.20 **SHAREHOLDERS AND PUBLIC REPORT REQUIRED.**

5.21 Subdivision 1. **Definitions.** For purposes of this section, the following terms have  
 5.22 the meanings given:

5.23 (1) "corporation" means any corporation incorporated or registered to do business in  
 5.24 this state, and any partnership registered to do business in this state; and

5.25 (2) "shareholders" means: (i) in the case of a corporation registered to do business  
 5.26 in this state, all shareholders of the corporation residing in the state; (ii) in the case of a  
 5.27 corporation incorporated in this state, all shareholders of the corporation; and (iii) in the  
 5.28 case of a partnership registered to do business in this state, all partners.

5.29 Subd. 2. **Notification to shareholders.** (a) At least quarterly, a corporation that  
 5.30 directly or indirectly makes a contribution or expenditure must notify the corporation's  
 5.31 shareholders in writing of the nature of its contribution and expenditure activity during  
 5.32 the previous quarter. For purposes of this section, a corporation makes a contribution or  
 5.33 expenditure if the contribution or expenditure is funded through its general corporate  
 5.34 treasury, a separate segregated fund, or any other entity or account established and  
 5.35 controlled by the corporation.

6.1 (b) A notification required by this section must contain:

6.2 (1) the date of the disbursement and amount of each contribution and expenditure;

6.3 (2) if the contribution or expenditure was made to support or oppose a candidate for  
 6.4 public office, the office sought by the candidate, the candidate's political party affiliation,  
 6.5 and whether the contribution or expenditure was made in support of or in opposition to  
 6.6 the candidate;

6.7 (3) if the contribution or expenditure was made to support or oppose a ballot  
 6.8 question, a description or the purpose of the ballot question, and whether the contribution  
 6.9 or expenditure was made in support of or in opposition to the question; and

6.10 (4) if the contribution or expenditure was made as part of an issue advocacy  
 6.11 campaign, the nature of the issue and the corporation's position on the issue.

6.12 (c) A corporation required to provide a notification to shareholders under this section  
 6.13 must make a copy of the notification accessible on the corporation's Web site for at least  
 6.14 one year following the date of the notification.

6.15 Subd. 3. **Public report.** A corporation required to provide a notification to  
 6.16 shareholders under this section must provide a copy of the notification to the board,  
 6.17 subject to the requirements and penalties provided in section 10A.025 for filing reports.  
 6.18 The board must maintain a copy of each shareholder notification received under this  
 6.19 section on the board's Web site.

6.20 Subd. 4. **Annual audit.** On an annual basis, the board shall randomly audit the  
 6.21 extent of compliance or noncompliance by corporations required to provide shareholder  
 6.22 notification under this section. No later than June 30 of each year, the board shall submit a  
 6.23 report to the legislature on the results of audits conducted in the preceding year. An audit  
 6.24 required by this subdivision shall be conducted in the manner provided for audits and  
 6.25 investigations by the board under section 10A.02, subdivision 10.

6.26 **EFFECTIVE DATE.** This section is effective June 1, 2010, and applies to  
 6.27 contributions and expenditures made on or after that date.

6.28 Sec. 8. Minnesota Statutes 2008, section 211B.04, is amended to read:

6.29 **211B.04 CAMPAIGN LITERATURE MUST INCLUDE DISCLAIMER.**

6.30 Subdivision 1. **General requirement; definitions.** (a) A person who participates in  
 6.31 the preparation or dissemination of campaign material other than as provided in section  
 6.32 211B.05, subdivision 1, that does not prominently include the name and address of the  
 6.33 person or committee causing the material to be prepared or disseminated in a disclaimer

7.1 substantially in the form ~~provided in paragraph (b) or (c)~~ required by this section is guilty  
7.2 of a misdemeanor.

7.3 ~~(b) Except in cases covered by paragraph (c), the required form of disclaimer is:~~  
7.4 ~~"Prepared and paid for by the ..... committee, .....(address)" for material prepared~~  
7.5 ~~and paid for by a principal campaign committee, or "Prepared and paid for by the .....~~  
7.6 ~~committee, .....(address), in support of .....(insert name of candidate or ballot~~  
7.7 ~~question)" for material prepared and paid for by a person or committee other than a~~  
7.8 ~~principal campaign committee.~~

7.9 ~~(c) In the case of broadcast media, the required form of disclaimer is: "Paid for by~~  
7.10 ~~the ..... committee."~~

7.11 ~~(d) Campaign material that is not circulated on behalf of a particular candidate~~  
7.12 ~~or ballot question must also include in the disclaimer either that it is "in opposition~~  
7.13 ~~to .....(insert name of candidate or ballot question.....)"; or that "this publication is not~~  
7.14 ~~circulated on behalf of any candidate or ballot question."~~

7.15 (b) As used in this section, the following terms have the meanings given:

7.16 (1) "association" has the meaning given in section 10A.01, subdivision 6;

7.17 (2) "political committee" has the meaning given in section 10A.01, subdivision 27;

7.18 (3) "political fund" has the meaning given in section 10A.01, subdivision 28;

7.19 (4) "political party unit" has the meaning given in section 10A.01, subdivision  
7.20 30; and

7.21 (5) "principal campaign committee" means a principal campaign committee formed  
7.22 under section 10A.105, or a committee formed at the direction of a candidate who is  
7.23 subject to reporting under chapter 211A.

7.24 Subd. 2. **Candidates; candidate's principal campaign committee.** The required  
7.25 form of disclaimer for campaign material prepared or disseminated by a candidate or a  
7.26 candidate's principal campaign committee on behalf of the candidate is: "Prepared and  
7.27 paid for by the ..... (name of candidate or committee), ..... (address)." If the material is  
7.28 prepared or disseminated by a principal campaign committee, the disclaimer must also  
7.29 state: "..... (name of candidate) has approved the content of this material."

7.30 Subd. 3. **Political committees, political funds, and party units.** (a) The required  
7.31 form of disclaimer for campaign material that advocates nomination, election, or defeat of  
7.32 a candidate for office and is prepared or disseminated by a political fund, political party  
7.33 unit, or a political committee that is not a candidate's principal campaign committee, is:  
7.34 "..... (name of entity), ..... (address) is responsible for the content of this material. This  
7.35 material was created in ..... (support of/opposition to) ..... (name of candidate(s))."  
7.36 If the campaign material constitutes an independent expenditure under section 10A.01,

8.1 subdivision 18, the disclaimer must also state: "This material is not authorized by any  
8.2 candidate or candidate's committee."

8.3 Subd. 4. **Other committees, associations, and certain individuals.** The required  
8.4 form of disclaimer for campaign material that advocates the nomination, election, or  
8.5 defeat of a candidate for office and is prepared or disseminated by a committee that is not  
8.6 otherwise subject to the provisions of subdivision 2 or 3, an association, or an individual  
8.7 who is not exempt under subdivision 6, is: "..... (name), ..... (address) is responsible  
8.8 for the content of this material. This material was created in ..... (support of/opposition  
8.9 to) ..... (name of candidate(s)). This material is not authorized by any candidate or  
8.10 candidate's committee."

8.11 Subd. 5. **Ballot question campaigns.** The required form of disclaimer for campaign  
8.12 material that advocates approval or defeat of a ballot question, when the material is  
8.13 prepared or disseminated by a principal campaign committee, political committee,  
8.14 political fund, political party unit, corporation, association, or an individual who is not  
8.15 exempt under subdivision 6, is: "..... (name), ..... (address) is responsible for  
8.16 the content of this material. This material was created in ..... (support of/opposition  
8.17 to) ..... (name of ballot question)."

8.18 Subd. 6. **Exemptions.** ~~(e)~~ (a) This section does not apply to objects stating only  
8.19 the a candidate's name and the office sought, fund-raising tickets, or personal letters that  
8.20 are clearly being sent by the a candidate.

8.21 ~~(f)~~ (b) This section does not apply to an individual ~~or association~~ who acts  
8.22 independently of any candidate, candidate's committee, political committee, ~~or~~ political  
8.23 fund, corporation, or association, and spends only from the individual's ~~or association's~~  
8.24 own resources a sum that is less than ~~\$500~~ \$5,000 in the aggregate to produce or distribute  
8.25 campaign material ~~that is distributed at least seven days before the election to which the~~  
8.26 ~~campaign material relates~~ that does not violate section 211B.06.

8.27 ~~(g)~~ (c) This section does not modify or repeal section 211B.06.

8.28 **EFFECTIVE DATE.** This section is effective June 1, 2010, and applies to  
8.29 campaign material prepared or disseminated on or after that date.

8.30 Sec. 9. Minnesota Statutes 2008, section 211B.15, subdivision 3, is amended to read:

8.31 Subd. 3. **Independent expenditures.** A corporation may not make an ~~independent~~  
8.32 expenditure or offer or agree to make an ~~independent~~ expenditure to promote or defeat  
8.33 the candidacy of an individual for nomination, election, or appointment to a political  
8.34 office unless the expenditure is an independent expenditure. For the purpose of this  
8.35 subdivision, "independent expenditure" means an expenditure that is not made with the



9.1 authorization or expressed or implied consent of, or in cooperation or concert with, or  
9.2 at the request or suggestion of, a candidate or the candidate's committee established to  
9.3 ~~support or oppose a candidate.~~

9.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.5 Sec. 10. **REPEALER.**

9.6 Minnesota Statutes 2008, sections 72A.12, subdivision 5; and 211B.15, subdivision  
9.7 12, are repealed.

9.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.