

# **Report of the Minnesota Campaign Finance and Public Disclosure Board**



## **Covering Fiscal Year 2014**

July 1, 2013 - June 30, 2014

Issued: February 3, 2015

CAMPAIGN FINANCE and PUBLIC DISCLOSURE BOARD

Suite 190, Centennial Building

658 Cedar Street

St. Paul MN 55155-1603

Telephone: (651)539-1180 or (800)657-3889

Fax: (651)539-1196 or (800)357-4114

Email: [cf.board@state.mn.us](mailto:cf.board@state.mn.us)

Website: <http://www.cfboard.state.mn.us>

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Minnesota

# *Campaign Finance and Public Disclosure Board*

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**DATE:** February 3, 2015

**TO:** The Honorable Mark Dayton, Governor  
The Honorable Sandra Pappas, President of the Senate  
The Honorable Thomas Bakk, Senate Majority Leader  
The Honorable Kurt Daudt, Speaker of the House  
The Honorable Joyce Peppin, House Majority Leader  
The Honorable David Hann, Senate Minority Leader  
The Honorable Paul Thissen, House Minority Leader

**FROM:** George Beck, Chair  
Campaign Finance and Public Disclosure Board

**SUBJECT:** Report of Board activities during fiscal year 2014 (July 1, 2013, through June 30, 2014)

Pursuant to Minnesota Statutes section 10A.02, subdivision 8 (a), the Campaign Finance and Public Disclosure Board submits this report of the Board's activities during fiscal year 2014.

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, the filing of lobbyist disbursement and lobbyist principal reports, and the filing of statements of economic interest by public officials.

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

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

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## **EXECUTIVE SUMMARY**

The Campaign Finance and Public Disclosure Board is charged with the administration of the Campaign Finance and Public Disclosure Act, Chapter 10A of Minnesota Statutes. During fiscal year 2014, the Board faced two challenges in addition to its usual work in the administration and enforcement of Chapter 10A. The first was preparing the Board's computer hardware and databases to support future technology enhancements, specifically including a redesigned website. The second was implementing new investigation procedures enacted in 2014 and undertaking an expedited rulemaking directed by the legislature to augment those procedures.

In 2013, the legislature appropriated additional funds to the Board in part to support technology projects that would better serve the regulated communities and provide better disclosure to the general public. One of the most anticipated projects is a redesigned Board website. The Board's existing computer infrastructure, however, was not adequate to support the type of interactive features and on-demand access to data that will be key features that will be enhanced on the redesigned website. Significant work was required during the fiscal year to upgrade the Board's hardware and to reconfigure both the current and upgraded systems to efficiently support the Board's existing operations and any future enhancements to the website.

Staff also worked on initiatives to insure that the data that will be accessible from the new website is reliable. Between 2000 and 2013, over \$141,000,000 was reported in contributions between political committees, candidate committees, and party units registered with the Board. Because these contributions are both made and received by registered committees it should be possible to reconcile the contributions on reports submitted to the Board. In the database of contributions available on the Board's website approximately \$26,000,000 in contributions between registered committees did not reconcile. At the Board's direction, staff focused on the most recent reporting years and reconciled 99.9% of the transactions for the years 2011, 2012, and 2013. Staff reconciled 97% and 98% of the transactions for 2009 and 2010, respectively. Due to these efforts, users will be able to rely on the accuracy of the data generated by enhanced search functions on the redesigned website. Further information on the reconciliation project is available on page 13.

In 2014, the legislature repealed the statutory directive requiring the Board to investigate every complaint and gave the Board more flexibility to allocate its investigative resources to match the seriousness of an alleged violation. The legislature also added two additional requirements to the process used by the Board to investigate complaints: a prima facie determination and a probable cause determination. The Board and staff worked quickly to implement these procedures and to develop the notices required by the legislation. Additional information on changes to Chapter 10A is found on pages 15 and 26.

The legislature also directed the Board to use the expedited process to adopt rules setting forth 1) the processes that the Board would use to initiate and oversee investigations; 2) when summary proceedings would be available; 3) the dedication of staff resources in taking witness testimony and conducting discovery; 4) the parties' rights and opportunities to be heard by the Board; and 5) Board hearings and dispositions of complaints, audits, and investigations.

The Board chair appointed three members to a rules committee. Over the course of four public meetings and a public hearing, the committee drafted proposed rules that were preliminarily approved by the Board. In addition to implementing the new legislative procedures related to complaints, the proposed rules establish less formal processes that can be used to review less serious violations and situations where the magnitude of a violation is not yet known. The proposed rules also protect individual due process rights by specifying the procedures that the Board will use to conduct all audits and investigations.

While the Board faced these unusual challenges in administering the campaign finance provisions of Chapter 10A, the lobbyist program remained relatively stable. About 1,400 lobbyists were registered with the Board at any one time throughout the fiscal year. The lobbyists represented about 1,300 principals. The principals reported total expenditures of \$74,753,493 in 2013. Additional information on the lobbyist program is found on page 23.

The economic interest disclosure program required public officials in approximately 2,180 positions to file economic interest statements with the Board. This number will grow significantly as legislation passed in 2013 takes effect to add judges and county commissioners elected on or after January 1, 2014, to the list of public officials who file with the Board. Details on the economic interest disclosure program are found on page 26.

During the fiscal year, the Board held nine scheduled meetings. During the meetings the Board issued three advisory opinions; reviewed and approved ten orders 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 fifteen conciliation agreements to resolve contribution and spending limit violations of Chapter 10A.

The Board looks forward to building on its accomplishments in fiscal year 2014 to further improve the services provided to the regulated community and to the public.

## **INTRODUCTION TO THE BOARD**

### **Authority**

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

New authority was given to the Board in Laws of 2013, Chapter 138, Article 1, which extended the Board's jurisdiction to three sections of Chapter 211B. Those sections are (1) 211B.04, which governs the "prepared and paid for" form of disclaimer, (2) 211B.12, which specifies the purposes for which campaign money may be legally used, and (3) 211B.15, which governs corporate contributions. The new authority is limited to those individuals and associations already under the Board's jurisdiction under Chapter 10A. The Board's new jurisdiction means that it may conduct investigations of possible violations of these statutes and may also issue advisory opinions on these provisions. Article 1 of Chapter 138 went into effect on May 25, 2013.

### **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 was able to maintain 9 full time equivalent positions during the fiscal year. Additional information about Board staff is found beginning on page 31.



## **Board Member Qualifications**

The Board consists of six citizen members who are responsible for the administration of the Campaign Finance and Public Disclosure Act. Members of the Board are appointed by the Governor to staggered four-year terms. Their appointments must be confirmed by a three-fifths vote of the members of each body of the legislature. Two members must be former members of the legislature who support different political parties; two members must be persons who have not been public officials, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the date of their appointment; and the other two members must support different political parties. The Board holds regular monthly meetings, which are open to the public and executive session meetings which are closed to the public.

## **Board Members - July 1, 2013, through June 30, 2014**



**George Beck**

George Beck was appointed to the Board in February of 2012 by Governor Mark Dayton for a term ending in January of 2016. 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. Judge Beck is a retired administrative law judge who served in that position for nearly 30 years. He presently works as an arbitrator with the American Arbitration Association and also serves on the Hennepin County Human Resources Board. Judge Beck holds a BA degree from the University of Chicago and a JD degree from the University of Minnesota Law School.



**Andy Luger - Left Board October 9, 2013**

Andy Luger was appointed in March 2011 by Governor Mark Dayton for a term ending in January 2015. Mr. Luger resigned from the Board on October 9, 2013. He filled a Board position requiring a member who supports a political party but otherwise has no restrictions on previous political activities. He graduated from the Georgetown University Law Center magna cum laude and is a summa cum laude graduate of Amherst College.

### **Neil Peterson**



Neil Peterson was appointed in February of 2012 by Governor Mark Dayton for a term ending in January of 2016. He fills the position of a former RPM legislator and served as a state representative from 2005 - 2008. Mr. Peterson is active in the second half of his business career in commercial/industrial real estate, client advisory and property management. The first half of his business career was in commercial banking. Concurrently, he was elected to public office in Bloomington, serving four terms on the city council and three terms as mayor; his last term overseeing the construction and opening of the Mall of America. He was appointed to the Metropolitan Council by Governor Carlson and served 4 years before withdrawing from public office in 1999. During his two terms in the state legislature Mr. Peterson was recognized for involvement in passage of legislation for the new Twins Stadium, Smoke Free Minnesota, and transportation funding. He has a degree in economics from Hastings College, Hastings Nebraska, and Stonier Graduate School of Banking, Rutgers University. He is married to his high school sweetheart Patricia, and they enjoy their three daughters and eight grandchildren.



### **Ed Oliver**

Ed Oliver was appointed in June of 2013 by Governor Dayton for a term ending in January of 2017. He fills a Board position that has no restrictions on previous political activities. Mr. Oliver was a member of the Minnesota State Senate from 1993 - 2002, and served as an Assistant Minority Leader from 1998 - 2002. Mr. Oliver is an arbitrator with FINRA Dispute Resolution, Inc., and is owner and president of Oliver Financial. He currently serves on the board of the Friends of the Mississippi River, and previously served on the Minnesota State Arts Board and as a member of the Great Lakes Commission. Mr. Oliver is a University of Minnesota, College of Liberal Arts graduate where he was awarded a Bachelor of Arts degree with a major in economics.

### **Christian Sande**



Christian Sande was appointed to the Board in October 2013, by Governor Mark Dayton to fill a vacancy in a term that ends in January of 2015. He occupies a Board position for a member who has not been a public official, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding the member's appointment. Mr. Sande is an attorney in private practice focusing on securities fraud litigation and antitrust and consumer fraud class actions. In the years prior to his appointment, Mr. Sande was a candidate for statewide office and has served as treasurer and legal counsel for several political funds and candidate committees. He is a member of the Minnesota and Washington State Bar Associations and the Public Investors Arbitration Bar Association. He is a graduate of Hamline University College of Liberal Arts and William Mitchell College of Law.

### **John Scanlon - - Left Board March 1, 2014**



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. Mr. Scanlon continued to serve until a new member was appointed by the Governor. He filled 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.



**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.

**Summary of Board Activities**

**Meetings**

The Campaign Finance and Public Disclosure Board held 9 scheduled meetings during the fiscal year. Minutes of Board meetings are published on the Board's web site. A rules committee was appointed in April 2014. This committee held four public meetings and a public hearing during the fiscal year.

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

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

A written advisory opinion issued by the Board is binding on the Board in any subsequent Board proceeding concerning the person making or covered by the request and is a defense in a 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 three advisory opinions were issued in fiscal year 2014. A summary of each advisory opinion issued during the fiscal year 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 fiscal year:

- 14 compliance training sessions for candidates and treasurers and chairs of principal campaign committees, political party units, and political committees and funds. Approximately 200 persons attended the compliance training classes
- 16 computer lab training classes for clients who use the Campaign Finance Reporter software
- 1 seminar for lobbyists prior to the 2014 legislative session.

The Board also maintains nine 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.

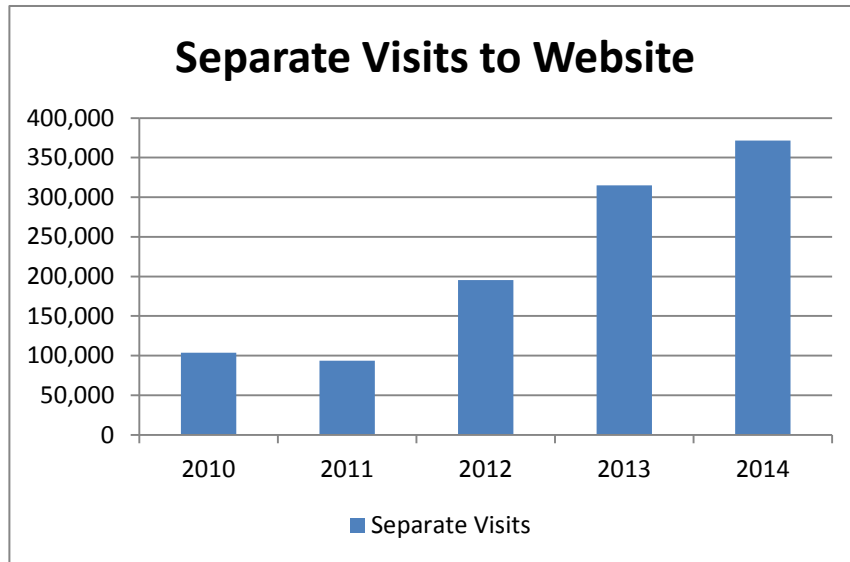
Additionally Board staff participated in numerous panels, presented at many continuing legal education courses, and spoke to interested groups of the public on the requirements of Chapter 10A.

## **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 exported to the Board's website for faster disclosure to the public. Electronic filing eliminates the cost and errors associated with data entry of paper reports.

To facilitate electronic filing the Board developed web based applications for filing lobbyist disbursement reports, lobbyist principal reports, and the 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 over 90%, which indicates that clients also prefer electronic filing.

The Board increasingly turns to the internet to provide the point of access for clients and the general public to Board applications and information. The Board's website monitoring tools are by calendar year, not fiscal year.



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 fiscal year that affects the program, a review of any Board advisory opinions issued during the time period for the program area, and an overview of administrative activity that occurred during the fiscal year.

## **CAMPAIGN FINANCE PROGRAM**

### **Program Overview**

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

During a non-election year these committees and funds file one year-end report disclosing receipts and expenditures to the Board. During an election year constitutional candidates and appellate court judicial candidates on the ballot file six reports as do state central political party units and legislative caucus party units. All other state level candidates on the ballot and all other party units file three reports during an election year. Political committees and funds file six reports during an election year. Information on the number of reports filed is found on page 19.

Each filed report is reviewed by Board staff for compliance with the disclosure law requirements, including accurate accounting and reporting, and adherence to applicable contribution and expenditure limits. Violations of contribution and expenditure limits are resolved through either a conciliation agreement or in some cases a Board order. Information on Board investigations and enforcement actions is found on page 22.

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 20 and 21.



## Reconciliation of Contributions

In order to ensure that information on contributions reported to the Board is as accurate as possible staff conducts an annual reconciliation of contributions issued by a registered committee to another registered committee. The reconciliation is to ensure that contributions reported as being made are also reported as being received. It became apparent in 2013 that a significant amount of contributions as recorded in the Board's databases did not reconcile.

For the years 2000 through 2012 a total of \$136,715,444 in contributions between donor and recipient registered committees was reported. Of that amount \$26,265,867 did not reconcile on November 1, 2013. The Board directed staff to identify the reasons for the discrepancies and if possible correct the database. Staff research found that most contributions did in fact reconcile based on the official records of the Board, but that information on paper reports and amendments were not always reflected in the Board database. Additionally, contributions given at the end of a reporting year were often not reported by the recipient committees until the following reporting year.

Using documentation already on file with the Board staff was able to dramatically reduce the amount of contributions that did not reconcile. The Board directed staff to initially focus on contributions reported in the years 2009 through 2012. The 2013 year-end reports were filed after the reconciliation project started. The progress made in the reconciliation of contributions is shown in the table below.

The left column represents the amounts of unreconciled contributions when the Board first focused on the issue in November 2013. The Current Status column represents the progress made by the time this report was issued. The amount of unreconciled contributions has been reduced from the initial \$26,265,867 to \$12,004,214 after adding in the contributions reported in reporting year 2013. The current level at which contributions reconcile for the years 2011 through 2013 is over 99%. Staff will continue to work on the reconciliation and provide the Board with options on improving the quality of the data available to the public.

**Reconciliation of  
Contributions by Year**

|              |                     |              |                     | <b>Total</b>         | <b>%</b>          |
|--------------|---------------------|--------------|---------------------|----------------------|-------------------|
|              | <b>November</b>     |              | <b>Current</b>      | <b>Transfers</b>     | <b>Reconciled</b> |
| <b>Year</b>  | <b>2013</b>         | <b>Year</b>  | <b>Status</b>       | <b>Reported</b>      | <b>Of Total</b>   |
|              |                     |              |                     |                      | <b>Transfers</b>  |
| 2000         | \$2,842,098         | 2000         | \$2,794,210         | \$7,236,994          | 61.39%            |
| 2001         | \$470,640           | 2001         | \$373,140           | \$2,098,449          | 82.22%            |
| 2002         | \$6,241,753         | 2002         | \$1,855,815         | \$19,019,603         | 90.24%            |
| 2003         | \$372,648           | 2003         | \$351,598           | \$1,472,060          | 76.12%            |
| 2004         | \$2,335,382         | 2004         | \$2,303,107         | \$7,320,368          | 68.54%            |
| 2005         | \$248,193           | 2005         | \$185,817           | \$2,621,924          | 92.91%            |
| 2006         | \$483,346           | 2006         | \$417,121           | \$18,527,074         | 97.75%            |
| 2007         | \$615,574           | 2007         | \$512,529           | \$2,557,740          | 79.96%            |
| 2008         | \$2,686,354         | 2008         | \$2,675,135         | \$10,633,611         | 74.84%            |
| 2009         | \$351,235           | 2009         | \$94,230            | \$2,907,453          | 96.76%            |
| 2010         | \$4,791,084         | 2010         | \$407,958           | \$25,459,972         | 98.40%            |
| 2011         | \$500,960           | 2011         | \$3,920             | \$4,087,836          | 99.90%            |
| 2012         | \$4,326,600         | 2012         | \$24,573            | \$32,772,360         | 99.93%            |
|              |                     | 2013         | \$5,061             | \$4,506,703          | 99.89%            |
| <b>Total</b> | <b>\$26,265,867</b> | <b>Total</b> | <b>\$12,004,214</b> | <b>\$141,222,147</b> | <b>91.50%</b>     |

## Legislative Action

The Board proposed a broad package of legislative recommendations to the 2014 legislature. The Board developed the recommendations based on extensive experience with real-world campaign finance and public disclosure issues. The recommendations were designed to strengthen Minnesota's regulation and disclosure of money used to influence elections. The Board's recommendations were drafted to provide Minnesota with disclosure that is more rigorous, yet remains consistent with the limits that the First Amendment places on public disclosure systems. The recommendations also included technical changes necessary for the efficient and fair administration of Chapter 10A.

Not all of the Board's recommendations were passed into law, and some amendments were made to the Board's recommendations. Nonetheless, many of the Board's recommendations were passed and became Laws of 2014, Chapter 309, when signed by the Governor on May 21, 2014. Chapter 309 amended Minnesota Statutes Chapter 10A in the following ways:

- **New investigation and audit procedures**

Before investigating a complaint, the Board first must determine whether the complaint states a prima facie violation of the campaign finance laws. If the complaint passes the prima facie test, the Board then must make a probable cause determination. If the Board finds that probable cause exists to believe a violation that warrants a formal investigation has occurred, the Board must initiate an investigation of the complaint.

The Board must conduct audits and investigations subject to the limits of available resources. Data related to an audit is confidential while the audit is being conducted. Upon completion of the audit, the final audit report is public.

The Board was directed to adopt expedited rules establishing additional procedures for audits and investigations. The Board began this rulemaking in May 2014 and held a public hearing on the proposed rules on June 19, 2014.

- **Authorization to develop online campaign finance reporting system**

The Board may develop and maintain an online campaign finance reporting system. The data entered into the online system is not government data until the information has been submitted to the Board in a filed report.

- **Cooperation required for reconciliation**

Individuals or associations that are required to file reports with the Board must cooperate with the Board's efforts to reconcile the transactions disclosed on those reports. Failure to cooperate with the reconciliation can result in late fees and civil penalties imposed by the Board.

- **Late fees and civil penalties**

The late filing fee and civil penalty process and amounts applicable to the failure to amend a report were amended to be consistent with the process and amounts applicable to the failure to file other reports governed by Chapter 10A. The Board is required to waive the portion of a late fee or civil penalty imposed for the late filing of a report or statement when the requester shows good cause for the late filing or submission.

- **Unnecessary reports eliminated**

Judicial and constitutional office candidates are exempted from filing the additional election year reports when their offices are not on the ballot that year or when the candidates lost in the primary election.

- **Standardization of registration, reporting, and disclosure thresholds**

The contribution and expenditure threshold at which someone is deemed a candidate under Chapter 10A was raised from \$100 to \$750 to match the threshold at which a candidate must register a campaign committee with the Board or, if self-funded, start filing reports with the Board. The threshold for disclosing the names of members whose dues were placed in an association's political fund

was raised from \$100 to \$200 to be consistent with other itemization thresholds.

- **Adjusted spending limits published on Board website**

The Board must publish the adjusted spending limits on its website instead of in the State Register.

- **Notice period for matters on Board agenda**

The Board may vote only on matters that were placed on an agenda distributed to all members at least seven days before the Board meeting. By majority consent, the Board may vote on a matter that does not satisfy this requirement.

## **Campaign Finance Litigation**

In 2014, a complaint was filed against the Board titled *Seaton, et. al. v. Wiener, et. al.* The plaintiffs (Douglas Seaton, Van Carlson, Linda Runbeck, and Scott Dutcher) filed the suit on April 9, 2014, in U.S. District Court as a First Amendment challenge to Minnesota's "special source limit" which provides an aggregate limit on the amount of contributions that state-level candidates may accept from political committees, political funds, lobbyists, associations not registered with the board, and large contributors. See Minn. Stat. § 10A.27, subd. 11. The plaintiffs are represented by the Institute for Justice, and the Board is represented by the Office of the Attorney General.

On May 19, 2014, in response to the plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction, the Court enjoined the Board from enforcing the limit as applied to large contributors (individuals who contribute to candidates in amounts equal to more than one-half of the individual contribution limit). The Board maintains its enforcement of the limit as applied to political committees, political funds, lobbyists, and associations not registered with the Board. Litigation is ongoing.

**Advisory Opinions Issued  
Related to the Campaign  
Finance Program**

- Advisory Opinion 436 provided that purchasing research and polling services from a commercial vendor as a defined package for a flat annual fee did not create an in-kind contribution to other committees who purchased the same services at the same flat annual fee. The opinion also provided that joint purchases of research and polling services from a commercial vendor by committees that had a bona fide use for the services were not in-kind contributions as long as each committee paid an equal or proportionate share of the cost of the service.
- Advisory Opinion 437 provided that participation by a candidate in the fundraising efforts or in the promotion of an independent expenditure political committee constituted cooperation or implied consent that would destroy the independence of an expenditure later made by the independent expenditure political committee to influence the candidate's election.
- Advisory Opinion 438 answered questions about when an individual would be deemed a candidate under Chapter 10A. The opinion discussed the various scenarios presented by the requester and concluded that only certain very limited activities could be undertaken by an individual exploring a candidacy without making the individual a candidate under Chapter 10A.

**Campaign Finance Disclosure Reports Filed**

Number of Reports of Receipts and Expenditures filed by candidates, political party units, political committees, and political funds during a reporting year. Reporting years overlap multiple fiscal years.

| <b>2013 Nonelection Year</b>       | <b>Paper</b> | <b>Electronic</b> | <b>Total</b> |
|------------------------------------|--------------|-------------------|--------------|
| <b>Candidate Committee</b>         | 212          | 479               | 691          |
| <b>Political Party Unit</b>        | 112          | 216               | 328          |
| <b>Political Committee or Fund</b> | 105          | 310               | 415          |
| <b>Calendar Year 2013 Totals</b>   | <b>429</b>   | <b>1,005</b>      | <b>1,434</b> |

**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 warnings as records are entered, generates electronic reports for filing that reduce the data entry demands on Board staff, and provides contact management tools for the committees that use the software.

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

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

|   | <b>Reporting year</b> | <b>Principal campaign committees</b> | <b>Political committees, political funds, and political party units</b> |
|---|-----------------------|--------------------------------------|---|
| <b>Number of Committees Filing Electronically (Numbers are based on calendar year, not fiscal year)</b> | <b>2013</b>           | 479                                  | 526   |
|   | <b>2012</b>           | 581                                  | 594   |
|   | <b>2011</b>           | 327                                  | 237   |
|   | <b>2010</b>           | 376                                  | 174   |
|   | <b>2009</b>           | 292                                  | 154   |
|   | <b>2008</b>           | 278                                  | 135   |
|   | <b>2007</b>           | 201                                  | 114   |
|   | <b>2006</b>           | 228                                  | 126   |
|   | <b>2005</b>           | 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 to qualified candidates during the 2014 state general election were made in fiscal year 2015 and are not included in this report.

### **Political Contribution Refund Program**

By statute candidates who sign the public subsidy agreement and political parties are allowed to give political contribution refund receipts to individual contributors. In calendar year 2013 the Department of Revenue issued \$1,142,938 in refunds based on contributions to candidates, and another \$1,423,779 in refunds based on contributions to political parties.



## Political Party Payments

The state committees of political parties receive 10% of the tax check-offs to the party account of the State Elections Campaign Fund. Based on monthly certification from the Department of Revenue during fiscal year 2014 the payments to political parties were as follows:

| <b>Party</b>                              | <b>FY 2014</b>  |
|---|-----------------|
| Democratic Farmer Labor                   | \$40,442        |
| Independence Party of Minnesota           | \$5,230         |
| Grassroots Party                          | \$749           |
| Libertarian Party                         | \$1,025         |
| Republican Party of Minnesota             | \$20,415        |
| Total Payments to State Party Committees: | <b>\$67,861</b> |

## **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 issuance of a Board order. The Board issues an order if a violation of Chapter 10A has occurred, and will issue an order stating that no violation occurred if warranted.

During fiscal year 2014 the Board issued fifteen conciliation agreements to resolve violations of Chapter 10A or those sections of Chapter 211B under the Board's jurisdiction. In fiscal year 2014 the Board issued ten findings to conclude investigations, one of which was also reconsidered in the fiscal year. Of that total seven were in response to a complaint filed with the Board.

To ensure compliance with disclosure deadlines Chapter 10A provides for late fees applied at the rate of \$25 dollars a day for year-end Reports of Receipts and Expenditures, and \$50 a day for pre-primary-election and pre-general-election Reports of Receipts and Expenditures. Disclosure reports that are filed after a \$1,000 late fee has accumulated may also be subject to an additional \$1,000 civil penalty.

Civil penalties and late fees collected by the Board are deposited in the state general fund. A breakdown of late fees and civil penalties collected through enforcement is provided on page 34.

## **LOBBYIST PROGRAM**

### **Program Overview**

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

Lobbyists are required to report disbursements for lobbying purposes to the Campaign Finance and Public Disclosure Board two times each year (January 15 and June 15). On the June 15<sup>th</sup> 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 15<sup>th</sup>, and covers the prior calendar year.

### **Legislative Action**

The 2014 legislature did not pass any changes to the statutes specifically regulating lobbyists and principals. However, the new procedures for investigations and audits that are described in the campaign finance section also apply to lobbyists and principals.

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

No advisory opinions related to lobbying were issued in the fiscal year.

**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.

| <b>Reporting year</b> | <b>Reports filed</b> | <b>Electronically filed</b> |
|-----------------------|----------------------|-----------------------------|
| <b>2013</b>           | 3,998                | 97%                         |
| <b>2012</b>           | 3,823                | 93%                         |
| <b>2011</b>           | 3,959                | 94%                         |
| <b>2010</b>           | 3,950                | 98%                         |
| <b>2009</b>           | 4,028                | 93%                         |
| <b>2008</b>           | 4,022                | 92%                         |
| <b>2007</b>           | 3,798                | 90%                         |
| <b>2006</b>           | 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. Starting in 2012 principals are required to break out the amount spent influencing administrative action of the Minnesota Public Utilities Commission from all other lobbying. Principal expenditures for the last four calendar years are shown below.

|             | <b>All Other Lobbying<br/>in Minnesota</b> | <b>MN Public<br/>Utilities<br/>Commission</b> | <b>Total</b> |
|-------------|--|---|--------------|
| <b>2013</b> | \$69,185,283                               | \$5,568,210                                   | \$74,753,493 |
| <b>2012</b> | \$59,060,155                               | \$2,749,590                                   | \$61,809,745 |
| <b>2011</b> | \$65,241,174                               |   | \$65,241,174 |
| <b>2010</b> | \$59,172,799                               |   | \$59,172,799 |
| <b>2009</b> | \$62,909,757                               |   | \$62,909,757 |

**Lobbyist Program  
Enforcement Actions**

The Board completed one investigation and issued one order regarding the requirement to register as a lobbyist or report as a principal during the fiscal year. This investigation was in response to a complaint filed with the Board. In addition during the fiscal year one lobbyist was fined for making a contribution without providing a lobbyist registration number.

Information on late fees and civil penalties paid by lobbyist and principals for missing a report filing deadline is found on page 34.

## **ECONOMIC INTEREST PROGRAM**

### **Program Overview**

The Board administers the provisions of Chapter 10A of the Minnesota Statutes that govern disclosure of economic interests by public officials and local officials in metropolitan governmental units. There were 2,180 public official positions that filed with the Board in fiscal year 2014. 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**

The 2014 legislative session produced the following changes to the economic interest program.

- **Disclosure of business and profession activity categories**

On statements of economic interest, public officials now must list the principal business or professional activity category of each business from which the official receives more than \$50 in any month as an employee when the official also owns 25% or more in the business. Public officials also must list each principal business or professional activity category from which the official received compensation of more than \$2,500 in the past 12 months as an independent contractor. Public officials must use the general topic headings developed by the Internal Revenue Service for reporting self-employment income on Schedule C as the business and professional activity categories.

- **Filing deadline for economic interest statements from judges and county commissioners**

Judges and county commissioners must file their statements

of economic interest within 60 days of taking office. Retired judges serving on senior status are not required to file statements of economic interest.

**Advisory Opinions Issued**

No advisory opinions were issued in the economic interest program in fiscal year 2014.

## OTHER BOARD PROGRAMS

### **Potential Conflict of Interest**

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

### **Public Employees Retirement Association (PERA) Trustee Candidates**

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

### **Enterprise Minnesota, Inc.**

The agency name was changed from Minnesota Technology, Inc (MTI) to Enterprise Minnesota, Inc. in 2008. Minn. 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 Legislature and the Executive Branch. Educate and assist clients in compliance with reporting requirements, limits, and prohibitions. Administer the preparation of the biennial budget.

### **Assistant Executive Director**

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

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

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

### **Compliance Officer Investigator**

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

### **Programs Administrator**

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

**Programs Assistant**

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.

**Information Technology Specialist III**

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

**Information Technology Specialist III**

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

**Staff Salaries**  
Fiscal Year 2014

| <b>Position</b>                                   | <b>Staff</b>        | <b>FY 2014</b>    |
|---|---------------------|-------------------|
| Executive Director                                | Gary Goldsmith      | \$104,570         |
| Assistant Executive Director                      | Jeffrey Sigurdson   | \$90,822          |
| Legal - Management Analyst                        | Jodi Pope           | \$30,581          |
| Legal - Management Analyst                        | Kyle Fisher         | \$22,541          |
| Investigator                                      | Joyce Larson        | \$53,975          |
| Information Technology Specialist 3               | Jon Peterson        | \$66,160          |
| Information Technology Specialist 3               | Gary Bauer          | \$57,097          |
| Office and Administrative Specialist Principal    | Marcia Waller       | \$44,910          |
| Office and Administrative Specialist Intermediate | Andrew Schons       | \$3,809           |
| Office and Administrative Specialist Intermediate | Elizabeth Schroeder | \$18,785          |
| <b>Total Salaries</b>                             |                     | <b>\$ 493,250</b> |

## BOARD FINANCIAL INFORMATION

Biennial Budget - Fiscal Year 2014

| <b>Income Summary</b>                                | <b>FY 2014</b>     |
|--|--------------------|
| Appropriation  | \$1,000,000        |
| <b>Total</b>   | <b>\$1,000,000</b> |
| <b>Expenditure Summary</b>                           |                    |
| Operating budget expenditures                        | (\$769,408)        |
| Operating budget balance forward to fiscal year 2015 | (230,592)          |

### Board Operating Budget

The Campaign Finance and Public Disclosure Board is funded by a direct appropriation from the Minnesota Legislature. The appropriation for fiscal 2014 was one million dollars. Funds not expended in the first year of a biennium roll forward into the next fiscal year. Over 80% of the Board's budget is used to pay the fixed costs of salary and benefits, rent, and postage for required mailings.

| <b>Salary and Benefits</b>                           | <b>FY 2014</b>   |
|--|------------------|
| Full time staff (salary and fringe)                  | \$600,907        |
| Part time staff (salary and fringe)                  | \$55,504         |
| Other Employee Costs                                 | \$1,622          |
| Per diem for Board Members                           | \$4,565          |
| <b>Salary and Benefits Sub Total of Expenditures</b> | <b>\$662,598</b> |
| <b>Operating Expenses</b>                            |                  |
| Office rent  | \$39,746         |
| Postage  | \$10,098         |
| Photocopy machine leases                             | \$3,507          |
| Travel   | \$4,174          |
| Printing   | \$540            |
| Staff development                                    | \$1,595          |
| Board Meeting Expenses                               | \$3,948          |
| Supplies and Software                                | \$4,211          |
| MNIT services  | \$7,548          |
| Court Reporter and Subpoena Costs                    | \$1,699          |

|  |                  |
|--|------------------|
| Equipment  | \$4,563          |
| Computer Systems Development                       | \$16,763         |
| Information technology professional services       | \$8,016          |
| Other purchased services                           | \$402            |
| <b>Operating Expense Sub Total of Expenditures</b> | <b>\$106,810</b> |
| <b>Board Operating Budget Total Expenditures</b>   | <b>\$769,408</b> |

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

The following is a listing of fees and fines paid during the fiscal year. Some fees and fines may have been assessed prior to fiscal year 2014, and some fees and fines assessed during the fiscal year were not paid by June 30, 2014.

| <b>Late Filing Fees</b>          | <b>FY 2014<br/>Dollars Paid</b> | <b>Number of<br/>Violations</b> |
|----------------------------------|---------------------------------|---------------------------------|
| Principal Campaign Committees    | \$8,080                         | 37                              |
| 24-Hour Notice                   | \$250                           | 1                               |
| Political Committees and Funds   | \$1,875                         | 16                              |
| Political Party Units            | \$625                           | 4                               |
| Economic Interest Statements     | \$565                           | 11                              |
| Lobbyist Disbursement Report     | \$1,100                         | 17                              |
| Lobbyist Principal Annual Report | \$10,320                        | 110                             |
| <b>Total Late Fees</b>           | <b>\$22,815</b>                 | <b>196</b>                      |

| <b>Civil Penalties</b>   | <b>FY 2014<br/>Dollars Paid</b> | <b>Number of<br/>Violations</b> |
|--|---------------------------------|---------------------------------|
| <b>Contribution from Unregistered association</b>                              | <b>\$825</b>                    | <b>3</b>                        |
| Unregistered Association   | \$425                           | 2                               |
| Political Committees and Funds   | \$0                             | 0                               |
| Political Party Units  | \$0                             | 0                               |
| Candidate  | \$400                           | 1                               |
| <b>Contribution limits violations</b>  | <b>\$6,218</b>                  | <b>16</b>                       |
| Candidates accepted in excess of limit   | \$1,150                         | 6                               |
| Special source (20%) aggregate limit   | \$4,868                         | 9                               |
| PCF Contribution exceeded limits   | \$0                             | 0                               |
| Excess lobbyist contributions  | \$200                           | 1                               |
| Excess party unit contribution   | \$0                             | 0                               |
| Candidate exceeded spending limit  | \$0                             | 0                               |
| <b>Prohibited contributions during session</b>                                 | <b>\$0</b>                      | <b>0</b>                        |
| Political Committee and Funds  | \$0                             | 0                               |
| Lobbyist   | \$0                             | 0                               |
| <b>Failure to file disclosure report</b>                                       | <b>\$3,227</b>                  | <b>5</b>                        |
| Candidate Committees   | \$2,927                         | 4                               |
| Political Committees and Funds   | \$0                             | 0                               |
| Political Party Units  | \$0                             | 0                               |
| Lobbyist   | \$0                             | 0                               |
| Lobbyist Principal   | \$0                             | 0                               |
| Failure to file amended report   | \$300                           | 1                               |
| Economic Interest Statement  | \$0                             | 0                               |
| <b>Independent expenditure violation</b>                                       | <b>\$100,000</b>                | <b>1</b>                        |
| Political Party Units  | \$100,000                       | 1                               |
| <b>Total Civil Penalties</b>   | <b>\$110,270</b>                | <b>25</b>                       |
|  |                                 |                                 |
| <b>Total Late Fees and Civil Penalties<br/>Deposited in State General Fund</b> | <b>\$133,085</b>                | <b>221</b>                      |