

STATE OF MINNESOTA
COUNTY OF RAMSEY

ETHICAL PRACTICES BOARD

In the matter of Proposed Rules governing Campaign Financing (Minnesota Rules parts 4500.0100-4500.4400); Economic Interest Disclosure (Minnesota Rules parts 4505.0100-4505.1000); Lobbyist Registration and Reporting (Minnesota Rules parts 4510.0100-4510.1400); and Conflicts of Interest (Minnesota Rules parts 4515.0100-4515.0800

STATEMENT OF NEED
AND REASONABLENESS

The Ethics in Government Act, Minn. Stat. §10A.02, subd.13, enacted in 1974, authorized the Ethical Practices Board to promulgate rules to carry out the purposes of the Act. Rules have been adopted governing Campaign Financing (Minnesota Rules parts 4500.0100-4500.4400) - adopted 1974; amended 1976, 1978, 1979, 1982, 1987, 1988, 1990); Economic Interest Disclosure (Minnesota Rules parts 4505.0100-4505.1000) - adopted 1974; amended 1976, 1978, 1979, 1982, 1985, 1987, 1988, 1990; Lobbyist Registration and Reporting (Minnesota Rules parts 4510.0100-4510.1400) - adopted 1974; amended 1979, 1982, 1985, 1987, 1988; and Conflicts of Interest (Minnesota Rules parts 4515.0100-4515.0800)- adopted 1974; amended 1982, 1985, 1987, 1988.

The 1990 Legislature significantly amended portions of Minn. Stat. Ch. 10A (Laws of 1990, Chapter 608). Consequently, the rules promulgated under Chapter 10A must be updated and amended to correspond with the new legislation. Furthermore, the proposed amendments will enable the Board to continue to provide direction to individuals and associations required to register and file statements and reports with the Board; guide the Board in providing forms and monitoring compliance; provide the public with information regarding the data collected by Minn. Stat. §§10A.01-10A.51; and remove obsolete provisions and language from existing rules.

The following material describes the need for and reasonableness of each rule proposed as required by Minn. Stat. § 14.23. To assist members of the public who are not trained in the law or in political activities and who are involved in endeavors regulated and administered by Minn. Stat. Ch. 10A, these rules interpret unclear statutory sections and incorporate various statutory sections in the rules for a fuller and easier understanding of the Ethics in Government Act.

These proposed rules do not address the Congressional Campaign Reform Act, Article 4 of Chapter 608. This article does not become effective until January 1, 1991, and does not affect congressional candidates until the next federal election after the effective date.

Minnesota Rules chapter 4500: CAMPAIGN FINANCING

4500.0100 DEFINITIONS.

Subpart 4. **File, filed, filing.** The rule is needed to clarify that a statement or report submitted to the board, as required by Minn. Stat. Ch. 10A, must be an original document bearing the original signature of the individual who submits the document, for purposes of Minn. Stat. § 10A.22, subd. 1, and as required by Minn. Stat. § 645.44, subd. 14. This issue has arisen with the wide-spread use of facsimile machines and there is a need to clarify and explain why facsimile transmissions are not an acceptable filing with the Board.

4500.1100 CERTIFICATION.

The rule is needed to clarify that the affidavit of contributions (matching funds) must be signed in the presence of a notary or individual authorized to administer an oath as required by Minn. Stat. § 10A.22, subd. 2. All other forms prescribed by the Board do not require a notarization, but rather contain a "certification" section in which the signer certifies that the information contained on the form is complete, true, and correct. The forms provide a statement that anyone signing and certifying that a form is true knowing it contains false information or knowingly omits required information is guilty of a gross misdemeanor. Minn. Stat. § 10A.22, subd. 1.

4500.1200 CHANGE OF OFFICE SOUGHT BY CANDIDATE.

Subpart 1a. **Exception.** This rule is needed to clarify the application of Minn. Stat. § 10A.25, subd. 2, clauses (a) to (c), as amended in Laws of 1990, Chapter 608, to aggregate campaign expenditures made by a candidate from more than one committee for a statewide office in the same election year.

Subpart 3. **Public subsidy agreement.** This rule is needed to comply with Minn. Stat. § 10A.322, enacted in Laws of 1990, Article 3, Section 24, that changed the term "public financing agreement" to "public subsidy agreement".

4500.1600 CONTRIBUTIONS FROM ASSOCIATIONS.

Subpart 1. **Optional disclosure.** This rule is needed to conform the existing rule to the provisions of Minn. Stat. § 10A.22, subd. 7, as amended in Laws of 1990, Chapter 608, Article 3, Section 8, and to include within the rule a reference to the statute providing the optional disclosure.

Subpart 2. **Exception.** This rule is needed to conform the existing rule to the provisions of Minn. Stat. § 10A.22, subd. 7, as amended in Laws of 1990, Chapter 608, Article 3, Section 8. The statute as amended pertains to all unregistered associations, regardless of their domiciles, therefore the referenced "Minnesota-domiciled" in the rule was deleted.

4500.1700 CONTRIBUTION LIMIT; POLITICAL PARTY DEFINITION.

This rule is needed to clarify that a political party's "list of categories of substate units", under Section 10A.14, subd. 2 (f), means a listing of names of the party units under each category specified in Section 10A.27, subd. 4. There is no definition of "substate unit" in the statutes, therefore, a cross reference to another statute which spells out the units of a political party is necessary and appropriate. The rule will assist candidates and their treasurers in complying with the contributions limits for political parties under Section 10A.27, subd. 2. The substance

of the existing rule has been moved to subpart 2.

4500.2200 FUNDRAISING EVENT.

Subparts 1 and 2. **Fundraising event held for one or two candidates and Joint fundraising event.**, respectively. These rules are needed to conform the existing rule to the provisions of Minn. Stat. § 10A.01, subd. 10c, as amended in Laws of 1990, Ch. 608, Article 3, Section 3, and to provide gender neutral reference within the rule.

Subpart 3. **Sessional fundraising.** This rule is needed to provide candidates and treasurers with information about an optional procedure available following the Board's investigation of a potential violation of the prohibition regarding fundraising events during a legislative session enacted in Laws of 1990, Chapter 608, Article 3, Section 4.

4500.2500 JOINT LIMITS FOR GOVERNOR AND LIEUTENANT GOVERNOR.

Subpart 1. **Public subsidy agreement.** This rule is needed to conform the existing rule to the provisions of Minn. Stat. § 10A.315 enacted in Laws of 1990, Chapter 608, which changed the name of the agreement candidates must sign and file with the Board if they wish to be eligible to receive payments from the State Elections Campaign Fund.

4500.2900 USE OF CREDIT CARDS.

This rule is needed to conform the existing rule to the provisions of Minn. Stat. § 10A.20, as amended in Laws of 1990, Chapter 608, which require disclosure of an expenditure or disbursement that is a reimbursement to a third party for goods or services that were not directly provided by the individual or association to whom payment is made.

4500.3200 MISCELLANEOUS NONCAMPAIGN DISBURSEMENTS.

This rule is needed to codify written advice furnished by the Board to a candidate in 1984 that the costs associated with travel to attend a campaign school are noncampaign disbursements. Because fees paid to attend a campaign school are already included in the list of examples of noncampaign disbursements in the rule, it is reasonable to include transportation and lodging for such schools or seminars in this list.

4500.3300 ORGANIZATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS.

Subpart 1a. **Principal campaign committee.** This rule is needed to codify in a rule the Board's practices in actions enforcing the requirements of Minn. Stat. Ch. 10A that the candidate has the ultimate responsibility for any reports or statements that are required to be filed by a treasurer. The basis for this view, which has been upheld in several court decisions, is Minn. Stat. § 10A.19, subd. 2, and agency/principal legal doctrine. In addition, the amendment corrects gender references in existing rule.

4500.3500 PUBLIC SUBSIDY. This rule is needed to conform existing rule to provisions for public subsidy agreements and the contribution receipt and refund program to comply with Minn. Stat. § 10A.322 and the matching requirements to comply with Minn. Stat. § 323 enacted in Laws of 1990, Chapter 608, Article 3, Sections 24 and 25, respectively. Because the statutes do not specify the date for filing affidavits of contributions (matching requirements) in special elections other than those whose filing

periods coincide with a general election, the rule is needed to specify the filing date. The proposed filing date is consistent with the time frame applicable to general elections, within the shorter time frame applicable to statutes governing special elections whose filing periods do not coincide with a general election.

4500.4300 SPECIAL ELECTIONS.

Subpart 4. **Public subsidy.** This rule is needed to conform existing rule to comply with Minn. Stat. § 10A.315 enacted in Laws of 1990, Chapter 608, Article 3, Section 22, whereby a candidate in a special election may be eligible to receive money from the State Elections Campaign Fund. Nothing is added to the rule beyond the statutory requirements.

Subpart 5. **Contribution refund receipts.** This rule is needed to clarify that a candidate in a special election who signs and files a Public Subsidy Agreement with the Board may issue official contribution receipts to contributors in accordance with provisions Minn. Stat. § 10A.322, enacted in Laws of 1990, Chapter 608, Article 3, Section 24. Nothing is added to the rule beyond the statutory requirements.

4500.4400 TERMINATION OF REGISTRATION.

Subpart 1a. **Exception.** This rule is needed to clarify the existing rule by referring to alternative statutory provisions for termination of registered committees or funds in Minn. Stat. §§ 10A.24, subd. 2, and 10A.242 enacted in Laws of 1990, Chapter 608, Article 3, Sections 9 and 10, respectively.

Subpart 3. **Dissolution of inactive committee or fund.** This subpart is added to incorporate reference to additional provisions for termination of registered committees or funds enacted in Minn. Stat. § 10A.242 in Laws of 1990, Chapter 608, Article 3, Section 10.

Minnesota Rules chapter 4505: ECONOMIC INTEREST DISCLOSURE

4505.0100 DEFINITIONS.

Subpart 1b. **Candidate.** This rule is needed to clarify that references to "candidate" include candidates for certain elective state and local offices, as defined in Minn. Stat. § 10A.01 and to avoid continued repetition of descriptive phrases in this chapter of Board rules.

Subpart 7. **Public official.** This rule is needed to specifically identify the source of the term "public official" which is used in this chapter. This will avoid confusion with the newer term, "local official", introduced in Minn. Stat. § 10A.09 as amended in Laws of 1990, Chapter 608, Article 2, Section 2.

Subpart 8. **Local official.** This rule is needed to clarify that references to "local official" in this chapter include only the local officials who serve in a Metropolitan Governmental Unit who are required to file statements of economic interest under Minn. Stat. § 10A.09, as amended in Laws of 1990, Chapter 608, Article 2, Section 2. This definition is in contrast to the lobbyist disclosure law and rules in which "local official" includes all local officials in political

subdivisions as defined in Minn. Stat. § 10A.01, subds. 25 and 27. This definition will avoid confusion with the term "public official" as employed in this chapter.

Subpart 9. Major decisions. This rule is needed to clarify that although recommendations about the expenditure of public funds in a political subdivision may originate with a variety of staff employees, only the individual who makes final recommendations on the expenditure or investment of public money is covered by the term "local official" in Minn. Stat. § 10A.01, subd. 25. To provide otherwise would multiply the number of filings and would exceed the intent and scope of the legislation.

Subpart 10. Population over 50,000. This rule is needed to clarify the basis for determining the initial application of the provisions of Minn. Stat. § 10A.01, subd. 26, enacted in Laws of 1990, Chapter 608, Article 1, Section 3 that become effective January 1, 1991. The proposed sources of population figures are widely accepted as reliable basis for determining population. Additionally, the rule is needed to provide guidance in the future as population figures change in order to ensure uniform application of the disclosure provisions in Chapter 10A.

4505.0200 ACTING OR PART-TIME LOCAL OR PUBLIC OFFICIAL. This rule is needed to conform existing rule to the provisions for economic interest disclosure by adding local officials in a Metropolitan Governmental Unit in accordance with Minn. Stat. §§ 10A.01, subd. 26, and 10A.09, as enacted or amended in Laws of 1990, Chapter 608, Article 1, Section 3, and Article 2, Section 2, respectively.

4505.0300 LATE FILING FEES.

Subpart 1. Notice to board. This rule is needed to provide sufficient time for the Board to proceed with official notices that are required to be sent to individuals by the Board in accordance with Minn. Stat. §§ 10A.02, subd. 8, and 10A.09, subd. 7, and part 4505.0300, subp. 2, and to enable the Board to carry out its enforcement responsibilities.

Subpart 2. Notice to official. This rule is needed to clarify the application of the existing rule has been extended to local officials and candidates for elective office in a Metropolitan Governmental Unit who are required by Minn. Stat. § 10A.09 to file statements of economic interest in accordance with Laws of 1990, Chapter 608, Article 2, Section 2.

4505.0600 OCCUPATION AND PRINCIPAL PLACE OF BUSINESS.

This rule is needed to clarify the application of the existing rule has been extended to local officials and candidates for elective office in a Metropolitan Governmental Unit who are required by Minn. Stat. § 10A.09 to file Statements of Economic Interest in accordance with Laws of 1990, Chapter 608, Article 2, Section 2.

4505.0700 REAL PROPERTY.

This rule is needed to clarify the application of the existing rule to extend to local officials and candidates for elective office in a Metropolitan Governmental Unit who are required by Minn. Stat. § 10A.09 to file Statements of Economic Interest in accordance with Laws of 1990, Chapter 608, Article 2, Section 2.

4505.0900 FILING

Subpart 1. **Delivery.** This rule is needed to clarify the application of the existing rule to local officials and candidates for elective office in a Metropolitan Governmental Unit. The rule clarifies that a statement submitted under Minn. Stat. § 10A.09 must be an original document bearing the original signature of the individual who submits the document, for purposes of Minn. Stat. § 10A.10 and as required by Minn. Stat. § 645.44, subd. 14. This issue has arisen with the wide-spread use of facsimile machines and there is a need to clarify and explain why facsimile transmissions are not an acceptable filing with the Board.

Subpart 3. **Statement after period when no statement required.** This rule is needed to clarify that the existing rule now applies to local officials and candidates for elective office in a Metropolitan Governmental Unit under the amendments to Minn. Stat. Ch. 10A enacted in Laws of 1990, Chapter 608.

Subpart 4. **Termination statement.** This rule is needed to clarify that the existing rule now applies to local officials in a Metropolitan Governmental Unit under the amendments to Minn. Stat. Ch. 10A enacted in Laws of 1990, Chapter 608.

Subpart 5. **Option.** This rule is needed to clarify that the existing rule now applies to local officials in a Metropolitan Governmental Unit under the amendments to Minn. Stat. Ch. 10A enacted in Laws of 1990, Chapter 608.

Subpart 7. **Change of local official position.** This rule is needed to apply the substance of existing part 4505.0900, subp. 6, to a local official in a metropolitan governmental unit who leaves one position for another position that is covered by the provisions of Minn. Stat. § 10A.09.

4505.1000 JOINT INTERESTS.

This rule is needed to clarify that the existing rule now applies to a local official or candidate in a Metropolitan Governmental Unit in accordance with amendments to Minn. Stat. § 10A.09 enacted in Laws of 1990, Chapter 608.

Minnesota Rules chapter 4510: LOBBYIST REGISTRATION AND REPORTING

4510.0100 DEFINITIONS.

Subpart 1b. **Association.** This rule is needed to clarify the application of Minn. Stat. § 10A.01, subd. 28, to a political subdivision. For example, when a nonelected local official or an employee of a political subdivision must register as a lobbyist, as required by Minn. Stat. § 10A.01, subd. 11 (b) (4), then the political subdivision may be considered a "principal", as defined in Minn. Stat. § 10A.01, subd. 28. If the political subdivision spends more than \$500 in the aggregate in any calendar year to compensate the nonelected official or employee who registers as a lobbyist or authorizes the expenditure of money by the nonelected official or employee who registers as a lobbyist, the political subdivision may be required to file a principal's report as required by

Minn. Stat. § 10A.04, subd. 6.

Subpart 3. **File; filed; filing.** This rule is needed to clarify that a statement or report submitted to the board, as required by Minn. Stat. Ch. 10A, must be an original document bearing the original signature of the individual who submits the document, for purposes of Minn. Stat. § 10A.10 and as required by Minn. Stat. § 645.44, subd. 14. This issue has arisen with the wide-spread use of facsimile machines and there is a need to clarify and explain why facsimile transmissions are not an acceptable filing with the Board.

Subpart 4. **Lobbyist.** This rule is needed to conform existing rule to amendments in Minn. Stat. § 10A.01, subd. 11, enacted in Laws of 1990, Chapter 608, Article 1, Section 1.

Subpart 4a. **Local official.** This rule is needed to specifically identify the source of the terms "local official" and "Metropolitan Governmental Unit" which are used in this chapter. The rule clarifies that a lobbyist is required to report on disbursements for lobbying associated with a specific group of "local officials" to comply with Minn. Stat. §§ 10A.01, subds. 11, 25, and 26 and 10A.04 as amended or enacted in Laws of 1990, Chapter 608, Article 1, Sections 1, 2, 3, and 7. Otherwise, disclosure of lobbying associated with all "local officials" would be required and that is not what the legislation intended.

Subpart 4b. **Public higher education system.** This rule is needed to clarify what a "public higher education system" means under Minn. Stat. § 10A.01, subd. 11 (a) (1) and (b) (2), as amended in Laws of 1990, Chapter 608, Article 1, Section 1. Consistent with widely-adopted practice and understanding, it is reasonable to define "higher education" system as "post-high-school" educational system.

Subpart 4c. **Public official.** This rule is needed to specifically identify the source of the term "public official" which is used in this chapter. This will avoid confusion with the newer term, "local official", introduced in the amendments to Minn. Stat. Ch. 10A enacted in Laws of 1990, Chapter 608.

Subpart 5. **Urging or urges others to communicate.** This rule is needed to clarify the application of the existing rule to add communications with local officials in a Metropolitan Governmental Unit under the amendments to Minn. Stat. § 10A.01, subd. 11, enacted in Laws of 1990, Chapter 608, Article 1, Section 1.

4510.0300 OBLIGATION TO REGISTER.

Subpart 1. **Compliance.** This rule is needed so that the Board may provide information required to be included in the Board's periodic reports under Minn. Stat. § 10A.05, as amended in Laws of 1990, Chapter 608, Article 1, Section 12.

Subpart 2. **Attendance at hearings.** This rule is needed to conform the existing rule to Minn. Stat. § 10A.01, subd. 11, as amended in Laws of 1990, Chapter 608, Article 1, Section 1, which now also applies to local officials and Metropolitan Governmental Units.

Subpart 3. **Paid expert witness registration.** This rule is needed to conform the existing rule to Minn. Stat. § 10A.01, subd. 11, as amended in Laws of 1990, Chapter 608, Article 1, Section 1, which now also applies to Metropolitan Governmental Units.

4510.0400 OBLIGATION TO REPORT.

Subpart 2. **Alternative report.** This rule is needed to reflect a 1984 law change amending the dollar amount for disclosure of gifts or benefits to public officials and a 1990 law change discontinuing the October 15 disbursement report.

Subpart 3. **Termination report.** This rule is needed to correct gender reference and clarify the application of the existing rule.

Subpart 4. **Principal's report.** This rule first repeats the requirements of Minn. Stat. § 10A.04, subd. 6, enacted in Laws of 1990, Article 1, Section 10 and specifies that 1992 is the year in which the first report by a lobbyist's principal must be filed, covering calendar year 1991. Since registration by lobbyists who attempt to influence the official actions of Metropolitan Governmental Units is not required until January 1, 1991, it is unreasonable to require principals to report their spending on a kind of lobbying for which no lobbyists were registered or reporting. Therefore, the Board determined that the intent of the legislation was to have the principal's first report due following the first full calendar year under the new law.

4510.0500 DISBURSEMENT REPORTS.

Subpart 1. **Lobbyists covered by the report.** This rule is needed to correct gender reference; substance of existing rule is unchanged.

Subpart 2. **Names and addresses of directors and officers.** This rule is needed to correct gender reference; substance of existing rule is unchanged.

Subpart 3. **Total disbursements.** and Subpart 4. **Categories.** These rules are is needed to clarify language in the existing rule to conform to Minn. Stat. § 10A.04 as amended in Laws of 1990, Chapter 608, Article 1, Section 8. The existing rule was unclear and subject to multiple interpretations. The proposed amendments clarify the existing rule. No additional requirements beyond the statutory language are proposed. These amendments arise from oral and written testimony received by the Board in May - June, 1990, raising concerns about the existing rule.

Subpart 5. **Exception.** This rule is needed to incorporate the substance of a portion of the existing rule in a separate subpart and clarify that costs of travel and lodging to enable a lobbyist or an expert witness to meet with local or public officials need not be reported, under Minn. Stat. 10A.01, subd. 11, (a) (1) and (2) and (b) (8). Otherwise, disclosure of travel and lodging costs to enable a lobbyist to meet with local or public officials or attend hearings of public bodies would be required and that is not what the statutes intend.

Subpart 6. **Principal's total disbursements.** This rule repeats the requirement of Minn. Stat. § 10A.04, subd. 6, enacted in Laws of 1990,

Chapter 608, Article 1, Section 10, to clarify the application of the rule. The rule provides that the principal's report must contain names of the principal's lobbyists who were registered and reporting during the calendar year on which the principal is reporting. The rule is necessary to allow the Board and the public to cross-reference principal reports with lobbyist reports. The rule is based, in part, upon comment received by the Board.

Subpart 7. Costs of regulation. This rule reflects comment received by the Board. This rule is needed to clarify that certain expenses incurred or required in the course of ratemaking as required to comply with state or federal law regulating public utilities are not considered "lobbying".

4510.0600 DISCLOSURE OF GIFTS, LOANS, HONORARIUMS, ITEMS, OR BENEFITS. This rule is needed to conform existing rule Subparts 1 through 4 to amendments in Minn. Stat. § 10A.04 enacted in Laws of 1990, Chapter 608, Article 1, Section 8, to add the reference to disclosure of gifts or benefits from "principals" and gifts or benefits to "local officials".

Subpart 5. From personal funds. This rule is needed to clarify that gifts or benefits to a local or public official paid by a lobbyist from the lobbyist's personal funds must be disclosed and attributed to the lobbyist and must be disclosed separately from those gifts or benefits attributable to any employer or principal of the lobbyist. Minn. Stat. § 10A.04, subd. 4 (c) requires the lobbyist to disclose all gifts or benefits over \$50.00, and this rule is necessary to clarify that personal gifts also must be disclosed under this statute.

4510.0700 ORIGINAL SOURCE OF FUNDS. This rule is needed to conform existing rule to amendments to Minn. Stat. § 10A.04, subd. 4, enacted in Laws of 1990, Chapter 608, which require disclosure of the original sources of funds in each of the three kinds of lobbying identified in the amended statute.

4510.0800 LOBBYIST RETAINED BY MORE THAN ONE EMPLOYER OR PRINCIPAL. This rule is needed to conform existing rule to amendments to Minn. Stat. § 10A.01, subd. 28, enacted in Laws of 1990, Chapter 608, Article 1, Section 5, which established and defined principals of lobbyists.

4510.1500 RECORD RETENTION. This rule is needed to clarify the kinds of records that a lobbyist or a lobbyist's principal must maintain and the length of time to be maintained, so that the Board will be able to administer Minn. Stat. § 10A.04, subd. 7, regarding authority to randomly audit the financial records of lobbyists and principals. In order for the Board to fulfil its statutory function, records must be maintained by the lobbyist and the lobbyist's principal. The audit function in Minn. Stat. § 10A.04, subd. 7, was enacted in Laws of 1990, Chapter 608, Article 1, Section 11. The language in the rule is based upon Minn. Stat. § 10A.22, subd. 6, regarding maintenance of records supporting filed reports of receipts and expenditures in the campaign finance program.

Minnesota Rules chapter 4525: CONFLICTS OF INTEREST

4515.0100 DEFINITIONS.

Subpart 6a. **Local official.** This rule is needed to clarify that references to "local official" in this chapter include only the local officials who serve in a Metropolitan Governmental Unit who are required to give notice of potential conflicts of interest under Minn. Stat. § 10A.07 as amended in Laws of 1990, Chapter 608, Article 2, Section 1. This definition is in contrast to the lobbyist disclosure law and rules in which "local official" includes all local officials in political subdivisions as defined in Minn. Stat. §§ 10A.01, subds. 25 and 27. This rule is necessary to avoid confusion with the term "public official" and to provide uniform reference throughout the chapter to individuals now covered by the existing rule in accordance the cited statutes.

Subpart 7. **Superior for purposes of notification of a potential conflict of interest.** This rule is needed to clarify the application of the existing rule now to extend to local officials in a Metropolitan Governmental Unit who are covered by the conflicts of interest provisions of Section 10A.07, as amended in Laws of 1990, Chapter 608.

4515.0300 APPLICABILITY OF THE CONFLICTS OF INTEREST PROVISIONS.

This rule is needed to conform the existing rule to amendments to Minn. Stat. § 10A.07 enacted in Laws of 1990, Chapter 608, Article 2, Section 1, to now extend to local officials in a Metropolitan Governmental Unit.

4515.0400 NOTICE OF POTENTIAL CONFLICT OF INTEREST.

This rule is needed to conform the existing rule to amendments in Minn. Stat. § 10A.07 enacted in Laws of 1990, Chapter 608, Article 2, Section 1, to now extend to local officials in a Metropolitan Governmental Unit.

4515.0500 REMOVAL FROM CONFLICT OF INTEREST.

Subpart 1. **Nonelected official.** and Subpart 2. **Elected official.** These rules are needed to amend the existing rule and reflect the sweeping changes in the notice procedures as amended in Minn. Stat. § 10A.07 enacted in Laws of 1990, Chapter 608, Article 2, Section 1. No additional requirements beyond the statutory mandate have been added to the rule. These rules clarify that certain local elected and appointed officials will be covered by this rule, beginning January 1, 1991, and correct gender reference in the existing rule.

Subpart 3. **Nonelected official; no immediate superior,** This rule is needed to clarify the procedure under Minn. Stat. § 10A.07, subd. 2, that an appointed local or public official should follow when the official has no "immediate superior", for notification purposes. The substance of this rule is found in the last two sentences of existing part 4515.0500, subpart 1; language is changed to correct gender references and to incorporate amendments to the statute adopted in Laws of 1990, Chapter 608, Article 2, Section 1, which added application of the law to local officials in a Metropolitan Governmental Unit.

Subpart 4. **Unable to abstain.** This rule is needed to reflect the statutory provisions of Minn. Stat. § 10A.07, subd. 2, which expanded the application of the law to local officials in a Metropolitan Governmental Unit and to clarify the steps required of an official who is unable to abstain from action on a matter that presents a potential conflict of interest within the meaning of Minn. Stat. § 10A.07, subd. 1. The rule is

needed to clarify that a statement submitted under Minn. Stat. § 10A.07 must be an original statement bearing the original signature of the individual who submits the document, for the purposes of Minn. Stat. 10A.10 and as required by Minn. Stat. § 645.44, subd. 14. This issue has arisen with the wide-spread use of facsimile machines and there is a need to clarify and explain why facsimile transmissions are not an acceptable filing with the Board.

4515.0600 OBTAINING AND FILING FORMS.

This rule is needed to clarify the application of the existing rule to the change in notice procedures and the inclusion of disclosure by certain local officials under Minn. Stat. § 10A.07 enacted in Laws of 1990, Chapter 608, Article 2, Section 1. Nothing beyond the statutory notice procedures has been added.

4515.0700 CHANGES AND CORRECTIONS.

This rule is needed to clarify the application of the existing rule to the change in notice procedures and the inclusion of disclosure by certain local officials under Minn. Stat. § 10A.07 enacted in Laws of 1990, Chapter 608, Article 2, Section 1. Nothing beyond the statutory notice procedures has been added.

4515.0800 FILING OF FALSE STATEMENTS.

This rule is needed to clarify the application of the existing rule to the inclusion of disclosure by certain local officials under Minn. Stat. § 10A.07 enacted in Laws of 1990, Chapter 608, Article 2, Section 1, and to correct gender reference.

EFFECTIVE DATE.

4505.0100, subparts 1b, 8, 9, 10; 4505.0200; 4505.0300; 4505.0600; 4505.0700; 4505.0900; 4505.1000; 4510.0100, subps. 1b, 4, 4a, 4b, 4c, 5; 4510.0300; 4510.0400, subp. 4; 4510.0500, subps. 3, 4, 4, 6, 7; 4510.0600; 4510.0700; 4510.0800; 4510.1000; 4510.1500; 4515.0100, subps. 6a, 7; 4515.0300; 4515.0400; 4515.0500; 4515.0600; 4515.0700; and 4515.0800 are effective January 1, 1991.

This rule is needed to identify those portions of the rules which pertain to Laws of 1990, Chapter 608, that become effective January 1, 1991. The rule becomes in accordance with Minn. Stat. § 14.27 (five working days after Notice of Adoption is published in the State Register).

REPEALER.

4510.1000 LOBBYIST DISBURSEMENTS FOR ADMINISTRATIVE COSTS.

This rule is repealed because the existing rule appears to conflict with the amendment to Minn. Stat. § 10A.04 in Laws of 1990, Chapter 608, which requires a lobbyist to report separately on disbursements for the three kinds of lobbying that are specified by law. The new reporting requirements are incorporated in 4510.0500 DISBURSEMENT REPORTS.

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

When an agency amends an existing rule which may affect small businesses, Minn. Stat. §14.115 requires that the agency consider certain methods for reducing the impact of the rule and to provide certain notices to small businesses.

For the most part, the proposed rule amendments do not affect small businesses directly, rather individuals must file the various reports. However, a small business may be subject to the rule if it establishes a political fund to support or oppose a state constitutional amendment or if the small business spends more than \$500 in a calendar year to engage a lobbyist or spends at least \$50,000 in any calendar year on efforts to influence legislative action or administrative action or the official action of a Metropolitan Governmental Unit.

Consequently, the Board considered all the methods for reducing the impact of the amendments on small businesses listed in Minn. Stat. § 14.115, subd. 2. Although the proposed amendments do discuss the reporting requirements, all of the reporting and disclosure requirements are mandated by statute. One additional substantive requirement added by rule may be the record retention schedule in Rule 4510.1500, however, this section is necessary for the Board to carry out its audit requirements in Minn. Stat. § 10A.04, subd. 7. None of the proposed amendments establishes more stringent schedules, requires more disclosure, establishes performance standards for businesses, therefore, most of the methods under Minn. Stat. § 14.115, subd. 2, are inapplicable to these rules.

Amending the rule to reduce the impact on small businesses would be contrary to the statutory objectives of Chapter 10A to promote public confidence in state government decision making through development and administration of disclosure to ensure public access to information filed with the Board. In summary, while the Board is cognizant of the important statutory objective of reducing the impact on small businesses, the Board is restrained by Minn. Stat. Ch. 10A and cannot reduce disclosure requirements of Minn. Stat. Ch. 10A.

Dated: August 20, 1990

Mary Ann McCoy
Mary Ann McCoy, Executive Director

Ethical Practices Board

In the Matter of the Proposed Adoption of the Rule Relating to Campaign Financing, Economic Interest Disclosure, Lobbyist Registration and Reporting, and Conflicts of Interest

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the State Ethical Practices Board intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 10A.02, subd. 13.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. The 30-day period ends 4:30 p.m., October 4, 1990. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state the person's name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing should be submitted to Mary Ann McCoy, Executive Director, Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520; (612) 296-1720.

The proposed rule may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Ms. McCoy upon request.

Please be advised that Minn. Stat. Ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after the lobbyist commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating with or urging others to communicate with public officials; or (b) who spends more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating with or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Board at the address above, telephone (612) 296-5148.

Minn. Stat. §14.115 requires the Board to provide an opportunity for small businesses to participate in the rulemaking process. For the most part, the proposed amendments do not affect small businesses directly, rather individuals must file the various reports. Small business may be subject to the rules if they establish a political fund to support or oppose a state constitutional amendment. In addition, if a small business spends more than \$500 in a calendar year to engage a lobbyist or spends at least \$50,000 in any calendar year on efforts to influence legislative action or administrative action or the official action of a Metropolitan Governmental Unit, the business may be subject to the rules. However, all of these impacts are mandated by state law, not additional requirements proposed by rulemaking. For more information on the possible small business impact and the discussion of the efforts considered to reduce the impact on small businesses, see the Statement of Need and Reasonableness. The proposed amendments will not require expenditures of public money by local public bodies, therefore, Sections 3.982 and 14.11 do not apply.

If no hearing is required, upon adoption of the rule, the rule and the supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Brenda Turnquist, at the Board Office address listed above.

Dated: August 30, 1990

Mary Ann McCoy
Mary Ann McCoy, Executive Director