

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

.....

**November 3, 2021**

**Meeting conducted remotely though Webex due to COVID-19 pandemic**

.....

**MINUTES**

The meeting was called to order by Chair Swanson.

Members present: Flynn, Leppik, Rashid, Rosen, Soule, Swanson

Others present: Sigurdson, Engelhardt, Olson, Pope, staff; Hartshorn, counsel

**MINUTES** (October 6, 2021)

After discussion, the following motion was made:

Member Leppik's motion:

To approve the October 6, 2021, minutes as drafted.

Vote on motion:

A roll call vote was taken. All members voted in the affirmative.

**CHAIR'S REPORT**

**A. 2021 and 2022 meeting schedules**

The next Board meeting is scheduled for 10:00 a.m. on Wednesday, December 1, 2021.

**EXECUTIVE DIRECTOR REPORT**

Mr. Sigurdson presented members with a memorandum regarding this matter that is attached to and made a part of these minutes. Mr. Sigurdson told members that staff had conducted one evening compliance training in October for 30 attendees. Mr. Sigurdson said that the online evening training sessions were popular and that staff would offer more of these trainings in the upcoming months. Mr. Sigurdson then announced that the new online version of the Campaign Finance Reporter software had been released to a limited number of candidate committees and party units for beta testing. Mr. Sigurdson said that committees would be able to choose whether to use the new or the old software to file their 2021 year-end reports and that it was expected that the online application would be available for use by all committees during 2022.

Mr. Sigurdson next told members that Ms. Engelhardt had completed the Annual Report of Board Operations for Fiscal Year 2021. Mr. Sigurdson said that the Annual Report was one of the four reports required by the legislature. Ms. Engelhardt then summarized the information in the report. Ms. Engelhardt explained that the report was a high-level look at Board operations and that other reports,

such as the Campaign Finance Summary, had more detailed information about each program administered by the Board. Ms. Engelhardt directed members' attention to the section of the report describing use of the Board's website and noted that visits to the website had increased significantly in the fiscal year. Ms. Engelhardt said that the report also outlined the legislative changes made in each program during the 2021 legislative session.

After discussion, the following motion was made:

Member Rashid's motion: To authorize the issuance of the Annual Report of Board Operations for Fiscal Year 2021 with 1) additional language in the last paragraph of page 1 that explains that the Board did not meet during the specified months because it did not have a quorum of members; and 2) any additional information or changes submitted by members to update their biographies.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

## **ENFORCEMENT REPORT**

### **A. Waiver requests**

#### **1. Campaign Fund for Husniyah Dent Bradley (18227) - 2020 Pre-primary 24-hour notice - \$100 LFF**

24-hour large contribution notice due 8/1/2020 was filed 8/4/2020. The committee's treasurer had difficulty using the CFR software and her computer malfunctioned during the time when the notice was due, causing it to be filed late. The committee terminated its registration with the Board as of the end of 2020. RECOMMENDED ACTION: Waive.

Husniyah Dent Bradley then addressed the Board. Ms. Dent Bradley told members that her committee received a large contribution on a Friday and had software issues over the weekend that prevented the 24-hour notice from being timely filed. Ms. Dent Bradley said that the notice was filed as soon as possible after the computer problems were resolved. Ms. Dent Bradley then asked the Board to waive the late filing fees.

After discussion, the following motion was made:

Member Flynn's motion: To waive the \$100 in late filing fees.

Vote on motion: A roll call vote was taken. All members voted in the affirmative.

Name of Candidate or Committee	Late Fee/ Civil Penalty Amount	Reason for Fine	Factors for Waiver and Recommended Action	Board Member's Motion	Motion	Vote on Motion
2. Raines (Brian) for 34A (18503)	\$3,000 LFFs	2020 Year-end, Two 2020 Pre-general 24-hour notices	Year-end report due 2/1/2021 was filed 3/30/2021. New treasurer tried to file report via CFR on due date but was unable to do so because she had not updated software to list herself as treasurer. She contacted Board staff and Board staff responded, but treasurer stated she did not see emails from Board staff. Treasurer stated she tried to file year-end report on 2/4/2021 and software said report was uploaded, but Board's logs do not reflect any uploads between 2/1/2021 and 3/29/2021. Two 24-hour large contribution notices due 10/31/2020 were filed 2/1/2021. Notices were filed late due to miscommunication as to whether outgoing or incoming treasurer was responsible for entering contributions received immediately before general election. Board typically reduces 24-hour notice late fees for first-time violations to \$250. Committee reported cash balance of \$690 as of 12/31/2020. RECOMMENDED ACTION: Waive LFF for year-end report and reduce LFFs for 24-hour notices to a total of \$250	Member Soule	To approve the staff recommendation.	A roll call vote was taken. All members voted in the affirmative.

**B. Informational Items**

**1. Payment of civil penalty for exceeding aggregate special source contribution limit**

Benson (Michelle) for Senate, \$5,400 (stayed portion of civil penalty from conciliation agreement signed in 2019)

Benson (Michelle) for Senate, \$1,185

**2. Partial payment of civil penalties for conversion to personal use and false certification**

Tamara Jones, \$186

**3. Payment of civil penalty for disclaimer violation**

Veterans Party of Minnesota, \$100

**4. Payment of civil penalty for exceeding individual contribution limit**

Education Minnesota PAC, \$50

**5. Payment of late filing fee for 2020 year-end report of receipts and expenditures**

Committee to Elect Heidi Gunderson for House, \$125

**6. Payment of late filing fee for 2020 pre-general 24-hour notice**

Planned Parenthood of Minnesota Political Action Fund, \$3,400 (3 x \$1,000 + 1 x \$400)

**7. Payment of late filing fee for 2020 pre-primary 24-hour notice**

Duluth Building Trades Vol Party Fund, \$250

**8. Payment of late filing fee for 2019 year-end report of receipts and expenditures**

Committee to Elect Heidi Gunderson for House, \$125

**9. Payment of late filing fee for lobbyist disbursement report due 6/15/2021**

Robert Vanasek, \$100 (4 x \$25)

**10. Partial payment of late filing fee for lobbyist disbursement report due 1/15/2020**

Marcus Harcus, \$150

**LEGAL COUNSEL'S REPORT**

Mr. Hartshorn presented members with a legal report that is attached to and made a part of these minutes. Mr. Hartshorn told members that a default judgement had been obtained in the Swing Right matter and that summary or default judgment hearings had been scheduled in the Blaeser, Brown, and Hullermann matters. Mr. Hartshorn said that he now was drafting default judgment motions for the Laitinen and Tim Johnson matters.

**EXECUTIVE SESSION**

The chair recessed the regular session of the meeting and called to order the executive session. Upon recess of the executive session, the chair had the following to report into regular session:

Probable cause determination in the matter of the Complaint of the Center for Media and Democracy and Common Cause Minnesota regarding the American Legislative Exchange Council, Senator Mary Kiffmeyer, and Representative Pat Garofalo

**OTHER BUSINESS**

Member Rosen told members that although a Board member whose term has expired may continue serving until a replacement has been appointed, he does not plan to serve past the December 31, 2021, expiration date of his term. Member Rosen said that he wanted the record to reflect his intent to ensure that any vacancy on the Board caused by his departure would be as short as possible. There was no other business to report.

There being no other business, the meeting was adjourned by the chair.

Respectfully submitted,



Jeff Sigurdson  
Executive Director

Attachments:

Executive director report

Annual Report of Board Operations – Fiscal Year 2021

Legal report

Probable cause determination in the matter of the Complaint of the Center for Media and Democracy and Common Cause Minnesota regarding the American Legislative Exchange Council, Senator Mary Kiffmeyer, and Representative Pat Garofalo



# MINNESOTA CAMPAIGN FINANCE BOARD

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**Date:** October 26, 2021

**To:** Board Members

**From:** Jeff Sigurdson, Executive Director

**Telephone:** 651-539-1189

**Re:** Executive Director's Report

**Campaign Finance Training:** Staff conducted a Webex campaign finance compliance training class in the evening of October 7, 2021. About 29 candidates and treasurers attended the training. Evening classes are popular with the regulated community, and will be held throughout the 2022 election year.

## **Beta Testing of Online Version of Campaign Finance Reporter Application**

Board staff is working with five committees that have offered to be beta testers for the Campaign Finance Reporter online (CFRO) application. The CFRO application will ultimately replace the PC based Campaign Finance Reporter (CFR) software that was originally provided to treasurers in 1998. The initial rollout of CFRO for beta testing is a significant milestone in the development of the application.

If testing goes well, the application will be offered more broadly to treasurers in late November for use in filing the 2021 year-end report, which is due on February 1, 2022. CFRO is designed to import all data entry from CFR, so treasurers will not need to reenter contributions or expenditures when migrating to CFRO. Because CFRO is browser based it may be used on Chrome, Apple, and Windows based computers; which has long been a limitation with CFR.

## **Annual Report of Board Operations for Fiscal Year 2021**

Staff has completed for Board approval a draft report of the Board's operations during fiscal year 2021 (July 1, 2020 – June 30, 2021). This report is required by Minnesota Statutes section 10A.02, subdivision 8. The report is provided to the governor, legislative leadership, the legislative library, and is made available to the public through the Board's website. The report is required to contain the fiscal operations of the Board, including the names, and duties of Board members and staff. The report also reviews the major programs administered by the Board. A copy of the report is attached. Because the report is issued to the legislature, a Board motion to approve and draft and release the report is required.

## **Attachments**

Annual Report of Board Operations – Fiscal Year 2021

# Report of the Minnesota Campaign Finance and Public Disclosure Board



**Covering Fiscal Year 2021**

July 1, 2020- June 30, 2021

Issued: November 2021

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# MINNESOTA CAMPAIGN FINANCE BOARD

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**DATE:** November 4, 2021

**TO:** The Honorable Tim Walz, Governor  
The Honorable, Jeremy Miller, Senate Majority Leader  
The Honorable Melissa Hortman, Speaker of the House  
The Honorable Melisa López Franzen, Senate Minority Leader  
The Honorable Kurt Daudt, House Minority Leader  
The Honorable Mary Kiffmeyer, Chair State Government Finance and Policy and Elections  
The Honorable Michael Nelson, Chair State Government Finance and Elections

**FROM:** Stephen Swanson, Chair  
Campaign Finance and Public Disclosure Board

**SUBJECT:** Report of Board activities during fiscal year 2021.

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 2021.

The Board, consistent with its objectives and administrative procedures, provided guidance to the thousands of individuals and associations whose disclosure of certain political, lobbying, and economic interest activities is regulated by the Campaign Finance and Public Disclosure Act, Minnesota Statutes Chapter 10A.

Included in this report is information about 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. There are three major programs governed by Chapter 10A: 1) the regulation of campaign finance contributions and expenditures for state-level candidates, party units, and political committees; 2) the registration and reporting of lobbyists and the principals the lobbyists represent; and 3) the collection and disclosure of economic interest statements required of public officials. A brief overview of each program is provided here, with reference to the page in the annual report where detailed information is located. Additionally, the annual report provides information on Board members who served during the fiscal year beginning on page 4, and on the Board's staff, budget, and other financial activity during the fiscal year starting on page 26.

During fiscal year 2021, the Board proposed several legislative recommendations to the 2021 legislature. Most of the recommendations were based on the Board's legislative proposals in 2019 and 2020. Although the legislature did not adopt the Board's policy proposals, the majority of the Board's technical recommendations, along with some proposals not initiated by the Board, were enacted into law at 2021 Laws, chapter 31, article 4.

Fiscal year 2021 included the 2020 state elections, which was made difficult to administer by the COVID-19 pandemic. Typically, during an election year, Board staff holds a significant number of compliance trainings both here in St. Paul and in various cities in greater Minnesota. Starting in July 2020, Board staff began conducting virtual trainings, and recorded some trainings so that interested parties could watch the videos at their convenience. During fiscal year 2021, staff conducted six virtual training sessions. Both the compliance training and the software training was recorded and made available on the website for clients to watch at their convenience. Additional information regarding the training the Board conducted is found on page 9.

Due to the COVID-19 pandemic, the Board was limited to a small number of staff physically present in the office, with a majority of staff working from home. Board staff worked diligently to support clients in the regulated community under challenging conditions.

On the filing date for the 2020 year-end report of campaign receipts and expenditures there were 719 state-level candidates, 311 political party units, and 407 political committees and funds registered with the Board. Collectively, the year-end reports disclosed \$101,819,347 in receipts and \$108,281,885 in expenditures during the 2020 calendar year. Additional information regarding the campaign finance program begins on page 12.

About 1,460 lobbyists were registered with the Board at any one time throughout the fiscal year. The lobbyists represented 1,527 principals. The principals reported total lobbying expenditures of \$68,023,406 in calendar year 2020. Additional information on the lobbyist program is found on page 19.

The economic interest disclosure program requires public officials in approximately 3,100 positions to file economic interest statements with the Board. Depending on the position, these officials file their statements when they initially file their affidavits of candidacy for state-level office or when they take office. Additionally, public officials must review and update their statements in January of each year. Details on the economic interest disclosure program start on page 22.

During the fiscal year, the Board held nine scheduled meetings. The Board did not have a full Board at two points during the fiscal year—in July of 2020 and from April to June 2021 because of either a lack of confirmations by the Legislature or a delay in appointments from the Governor. All of the Board meetings, except for the August 2021 Board meeting, were conducted remotely because of the pandemic. At these meetings, the Board reviewed and approved fifteen conciliation agreements resolving violations of Chapter 10A, and issued eight findings to conclude Board investigations involving alleged violations of Chapter 10A.

## Introduction to the Board

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.

In 2013 the Board was give authority 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 legally may be used, and (3) 211B.15, which governs corporate contributions. The new authority is limited to those individuals and associations already subject to 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.

## 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 following:

- 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; and
- 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

Goals and objectives of the Board include the following:

- Create better compliance with the Campaign Finance and Public Disclosure Act by providing easy access to information and training.
- 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. The Board was able to maintain eight full-time positions during the fiscal year. Additional information about Board staff is found beginning on page 26.

## 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.

## Board Members

July 1, 2020, through June 30, 2021



### **Margaret Leppik**

Margaret (Peggy) Leppik was appointed to the Board in May of 2015 by Governor Dayton for a term ending in January of 2016. Governor Dayton re-appointed Ms. Leppik in January 2016 for a term ending in January of 2020, but because no appointment was made to replace her, Ms. Leppik continued to serve until July 1, of 2020. In August of 2020, Walz reappointed Ms. Leppik to a term ending in January of 2024. Ms. Leppik fills a Board position requiring a former Republican legislator. Ms. Leppik served as a state representative from 1991-2003 where she chaired the Higher Education Finance Committee. She served on the Metropolitan Council from 2003-2011 where she was vice chair for three years and chaired the Environmental Committee. A graduate of Smith College, Ms. Leppik is an active volunteer for numerous nonprofit organizations.



### **Carol Flynn**

Carol Flynn was appointed to the Board in February of 2015 by Governor Dayton for a term ending in January of 2019. In August of 2020, Governor Walz reappointed Ms. Flynn to a term ending in January of 2023. She fills a Board position requiring a former DFL legislator. Ms. Flynn served as a state senator from 1990-2000 where she was Majority Whip and chaired the Judiciary and Transportation Committees. Ms. Flynn worked and studied at the University of Minnesota. She served on the Metropolitan Waste Control Commission and Metropolitan Council where she chaired the Systems Committee. She currently volunteers on several union retiree organizations.



**Daniel N. Rosen**

Daniel N. Rosen was initially appointed in July of 2014, by Governor Dayton for a term ending in January of 2018. Governor Dayton re-appointed Mr. Rosen in January 2018 for a term ending in January of 2022. 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 to the Board. A lawyer in Minneapolis, Mr. Rosen is a graduate of the University of Minnesota Law School and the lead Minnesota partner of the Kluger Kaplan law firm, where he practices in the field of business and real estate litigation. Prior to law school Mr. Rosen was as an officer in the United States Navy and served in Operations Desert Shield and Desert Storm.



**Faris Rashid**

Faris Rashid was appointed to the Board in August of 2020 by Governor Walz. Mr. Rashid was appointed again in July of 2021 for a term ending in January of 2023. 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 to the Board. Mr. Rashid is a trial lawyer and partner at Greene Espel PLLP with a focus on technology, intellectual property, and trade-secrets disputes. He graduated from the University of Wisconsin Law School.



**Stephen Swanson Board Chair, March 2021 to June 2021**

Stephen D. Swanson was appointed to the Board in July of 2017 by Governor Dayton for a term ending in January of 2020, but because no appointment was made to replace him, Mr. Swanson continued to serve until July 1, of 2020. In August of 2020, Governor Walz reappointed Mr. Swanson to a term ending in January of 2023. He occupies an unrestricted Board position and supports the DFL party. Mr. Swanson is a graduate of the University of Cincinnati College of Law, and holds a Master of Laws degree from New York University. Following a career as an attorney with Mid-Minnesota Legal Assistance, Inc. Mr. Swanson served as a Hennepin County District Court Judge from July of 1989 to February of 2007 and as a Senior Judge from January of 2009 to April of 2014. Most recently, he served as a temporary administrative law judge with the Minnesota Office of Administrative Hearings from May 2014 to May 2017. Mr. Swanson has served as an international judge on the Court of Bosnia and Herzegovina, and worked in USAID-sponsored rule of law projects in Afghanistan, Kosovo, and Lebanon. Mr. Swanson is employed as a part-time housing attorney with the Volunteer Lawyers Network.



**Gary Haugen Board Chair, August 2020—February 2021**

Gary J. Haugen was appointed to the Board in September of 2017 by Governor Dayton for a term ending in January of 2021. He filled a Board position that has no restrictions on previous political activities. Mr. Haugen is an attorney with Maslon LLP where he has handled complex litigation matters for more than 35 years. A central focus of his practice has been the litigation of product liability, mass tort, insurance-related disputes, and professional liability claims. Mr. Haugen has also been a member of the adjunct faculty at Vanderbilt University Law School and the University of Minnesota Law School, where he currently serves on the Board of Advisors. He is the former chair of the Federal Practice Committee for the U.S. District Court for the District of Minnesota. He is a graduate of St. Olaf College and the University of Minnesota Law School.





### **George Soule**

George Soule was appointed to the Board in March of 2021 by Governor Walz for a term ending in January of 2025. He occupies an unrestricted Board position and does not have a political party affiliation. Mr. Soule is a trial lawyer and founding partner of Soule & Stull LLC in Minneapolis. He also serves as a tribal court of appeals judge for four Minnesota tribes, including the White Earth Nation, where he is a member. Mr. Soule is a former Chair of the Minnesota Commission on Judicial Selection and serves on the Minnesota State Colleges and Universities Board of Trustees. He graduated from Minnesota State University Moorhead and Harvard Law School.

## **Summary of Board Activities**

### **Meetings**

The Board holds regular monthly meetings, which are open to the public, and executive session meetings, which are closed to the public.

The Campaign Finance and Public Disclosure Board held nine scheduled meetings during the fiscal year. All nine meetings in the fiscal year were conducted remotely because of the pandemic. Minutes of Board meetings are published on the Board's website.

## Advisory Opinion Procedure

The Board is authorized to issue advisory opinions on the requirements of the Campaign Finance and Public Disclosure Act, Minnesota Statutes 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.

There were no advisory opinions issued in fiscal year 2021.

## Education and Training

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:

- 5 remote compliance training sessions attended by 232 candidates and treasurers of principal campaign committees, political party units, and political committees and funds;
- 1 remote computer lab training classes attended by 33 treasurers who use the Campaign Finance Reporter software.

The Board suspended all in-person training on March 16, 2020, due to the pandemic. The five remote compliance trainings were scheduled for both day and evening start times to accommodate different work schedules for treasurers and candidates, and included one Saturday morning compliance training class. Also, staff recorded the remote compliance training class and remote computer lab training class so that clients could watch the training classes at their convenience. The recorded training classes and the PowerPoint materials and handouts are on the website for clients to access.

As an effort to provide training available at any time and at any location with web access the Board contracted to develop five online training videos for treasurers. The modules allow viewers to move at their own pace through the topics covered and incorporate quizzes during the training to make the modules more interactive. The Board also maintains videos on specific topics related to using Campaign Finance Reporter. The videos are available on the Board's website. Additionally Board staff participated in panels and spoke to interested groups of the public on the requirements of Chapter 10A.

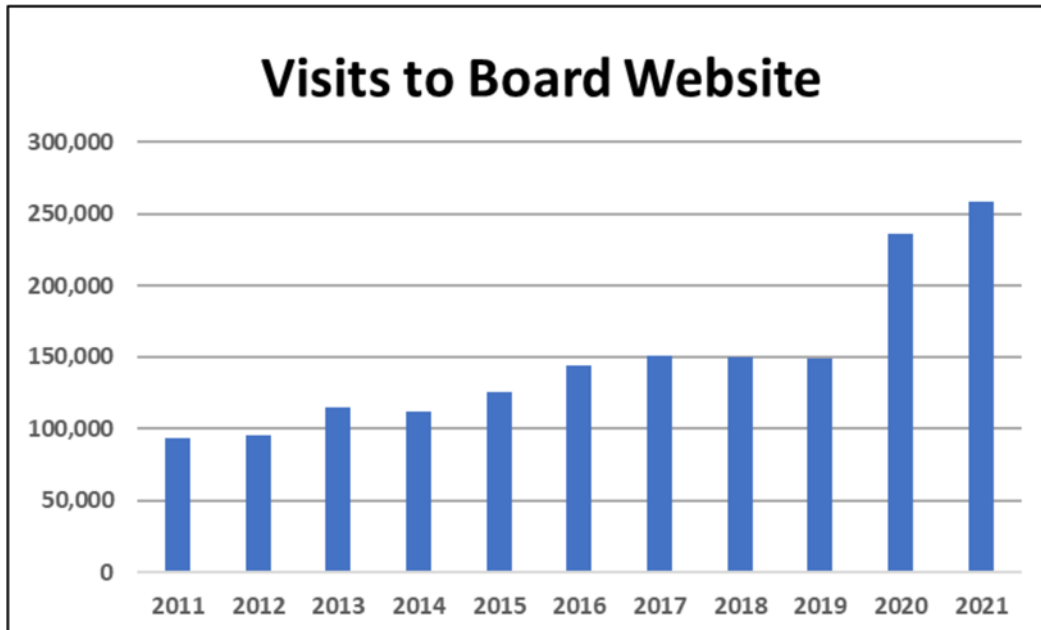
## Use of Technology

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 economic interest statements. Use of these web based applications is optional, clients may still file a paper report, but all three applications have participation rates of over 85%, which indicates that clients also prefer electronic filing.

The Board website offers the following:

- Board meeting notices and minutes;
- Board enforcement actions, including findings and conciliation agreements;
- Advisory opinions;
- Lists of lobbyists and principals, 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 statements 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 Reports of Lobbyist Principal Expenditures; and
- Training videos on campaign finance compliance and 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 Overview

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

During calendar year 2020, an election year, these committees and funds filed periodic reports disclosing receipts and expenditures. Information on the number of reports filed is found on page 15.

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 18.

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 public subsidy payments made during fiscal year 2021 is found on page 16.

## Legislative Action and Rulemaking

The Board proposed several legislative recommendations to the 2021 legislature. Most of the recommendations were based on the Board's legislative proposals in 2019 and 2020. Although the legislature did not adopt the Board's policy proposals, the majority of the Board's technical recommendations, along with some proposals not initiated by the Board, were enacted into law at 2021 Laws, chapter 31, article 4. Unless otherwise noted, the effective date of these provisions is August 1, 2021, and the changes are outlined on the next two pages. The Board did not pursue any rulemakings in fiscal year 2021.

### **Noncampaign disbursements**

A new noncampaign disbursement category is created for security expenses for a candidate. This category includes payments for home security hardware, maintenance of home security hardware, identity theft monitoring services, and credit monitoring services. The expenses are capped at \$3,000 per two-year election segment. This section was effective May 26, 2021, and applies to payments made on or after January 1, 2021.

### **Alternate contact information**

The Board may now collect contact information from candidates, chairs, and treasurers that is different from the contact information provided on registration forms. The alternate contact information is classified as private data on individuals. The Board may use the alternate contact information only to contact the filer for purposes of administering Chapter 10A.

### **Underlying disclosure with contributions**

An association that is not registered with the Board must provide a statement with additional information about its receipts and expenses with any contribution to a candidate, a political committee or fund, or a party unit that is more than \$200. When an underlying disclosure statement is available on a government website, the unregistered association required to submit that statement with a contribution now may provide the government website address of the statement in lieu of the written disclosure.

Also, the underlying disclosure requirement is eliminated for in-kind contributions from the federal committee of a political party to the state central committee, or a party organization within a house of the state legislature, of the same political party.

### **Multicandidate political party expenditures**

The list of multicandidate political party expenditures that do not constitute contributions to candidates is expanded to include direct text message services, direct voice mail services, and emails. The new activities must meet the existing standard of naming three or more individuals who will appear on the ballot.

### **Transfer of registration and reporting by Hennepin County political committees and funds and political party units to the Board**

Responsibility for campaign finance registration and reporting for political committees and funds and political party units that currently must register with and report to Hennepin County under Chapter 383B will be transferred to the Board. Candidates for local office in Hennepin County previously subject to Chapter 383B will be subject to Chapter 211A, and relevant home rule charter provisions, and will file their reports with their local governments. The new provisions are effective January 1, 2022, and apply to reports required to be filed on or after that date. Additional reporting will be required in odd-numbered years from political committees and funds, and party units, that spend more than \$200 to influence the local elections in Hennepin County that previously were governed by Chapter 383B.

### **Correction of cross-referencing errors**

Cross-referencing errors are corrected in 1) the statute specifying how to report reimbursements to third parties; 2) the statute that bars multicandidate political party expenditures from being allocated to candidates as approved or independent expenditures; and 3) the statute specifying when affidavits of contributions must be filed to qualify for public subsidy payments.

In fiscal year 2021 the Board did not issue any advisory opinions related to the campaign finance program.



## Campaign Finance Disclosure Reports Filed

Below are the number of reports of receipts and expenditures filed by candidates, political party units, political committees, and political funds during election year 2020, and the 2020 year-end report filed in February of 2021.

	<b>Paper</b>	<b>Electronic</b>	<b>Total</b>
<b>Candidate Committees</b>	<b>190</b>	<b>1,374</b>	<b>1,564</b>
<b>Political Party Units</b>	<b>247</b>	<b>717</b>	<b>964</b>
<b>Political Committees or Funds</b>	<b>335</b>	<b>1,977</b>	<b>2,312</b>

## Electronic Filing of 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. 31 committees filed electronically using the XML standard.

Reporting Year	Candidate Campaign Committees	Political Committees, Political Funds, and Political Party Units
2020	575	556
2019	516	557
2018	576	582
2017	499	525
2016	557	548
2015	442	524
2014	516	543
2013	479	526
2012	581	594
2011	327	237
2010	376	174
2009	292	154
2008	278	135
2007	201	114
2006	228	126

## 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 2020 state general election were made in fiscal year 2021.

The Board distributed \$2,131,750 in public subsidy payments to 349 candidates who ran for senate and house of representatives in the 2020 state general election.

A report of the public subsidy payments made to each qualified candidate during the 2020 state election is available on the Board’s website. Total public subsidy payments for the 2020 election by party and office is shown in the table below.

	DFL	RPM
House of Representatives	\$663,539	\$404,397
Senate	\$670,054	\$393,709
<b>TOTAL</b>	<b>\$1,333,643</b>	<b>\$798,106</b>

## Political Contribution Refund Program

State candidates who sign the public subsidy agreement and political parties are allowed to give political contribution refund receipts to individual contributors. In calendar year 2020 the Department of Revenue issued \$1,325,912.36 in refunds based on contributions to candidates, and another \$2,190,120.28 in refunds based on contributions to political parties.

## Political Party Payments

The state central 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 2020 the Board made \$62,454 in payments to political parties. By party the payments were as follows:

<b>Party</b>	<b>Payment</b>
<b>Democratic Farmer Labor</b>	<b>\$42,717</b>
<b>Republican</b>	<b>\$15,051</b>
<b>Legal Marijuana Now</b>	<b>\$1,007</b>
<b>Grassroots-Legalize Cannabis</b>	<b>\$638</b>
<b>Libertarian</b>	<b>\$915</b>
<b>Independence Alliance</b>	<b>\$1,688</b>
<b>Green</b>	<b>\$438</b>

## Campaign Finance Enforcement Actions

The Board conducts investigations of possible violations of the provisions of Chapter 10A or those sections of 211B under the Board's jurisdiction. 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 many types of violations are typically resolved by conciliation agreement. The conciliation agreement will set the terms under which the violation is to be remedied, provide for remedial measures to correct the offending behavior, and provide for a civil penalty to the committee. Violations not resolved by conciliation agreement are resolved through the issuance of a Board order. If warranted, the Board may also issue an order stating that no violation occurred.

During fiscal year 2021 the Board entered into fifteen conciliation agreements to resolve violations of Chapter 10A or Chapter 211B. In fiscal year 2021 the Board also issued eight findings to conclude investigations, dismissed four complaints at the probable cause determination stage, dismissed two complaints at the prima facie determination stage, and issued one audit report.

To ensure compliance with disclosure deadlines Chapter 10A provides for late fees applied at the rate of \$50 a day for reports of receipts and expenditures due prior to primary and general elections, and \$25 a day for other reports. Reports that are filed more than 7 days after the Board has sent notice by certified mail of the failure to file a report also incur a \$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 30.

## Lobbying 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, state 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 15th 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 metropolitan governmental units, are principals and are required to file an annual report disclosing total expenditures on these efforts. The report is due March 15th, and covers the prior calendar year.

## Legislative Action and Rulemaking

In fiscal year 2021, the Board submitted legislative proposals that would have changed the focus of lobbyist disclosure from reporting the costs associated with lobbying to reporting the subjects of interest that were lobbied on for the principal. The proposal also would have required lobbyists to identify the administrative agencies and metropolitan governmental units that were lobbied. In addition, the proposal would have required the disclosure of any advertising over \$2,000 that urged the public to contact public or local officials to take official actions. The legislative proposal was introduced as House File 2173. A hearing was held on the proposal during the 2021 session, but the bill was laid on the table and did not leave the committee. The Board did not pursue any rulemaking in the lobbying program in fiscal year 2021.

## Advisory Opinions Issued Related to Lobbyist Program

In fiscal year 2021 the Board did not issue any advisory opinions related to the lobbying program.

## 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 website.

Reporting year	Reports filed	Electronically filed
2020	4,292	94%
2019	4,338	93%
2018	4,201	97%
2017	4,231	95%
2016	4,174	98%
2015	4,076	97%
2014	4,041	96%
2013	3,998	97%
2012	3,823	93%
2011	3,959	94%
2010	3,950	98%
2009	4,028	93%
2008	4,022	92%
2007	3,798	90%

## Principal Reporting

Chapter 10A requires principals to file an annual report disclosing expenditures made in Minnesota to influence legislative actions, administrative actions, 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.

	<b>All Other Lobbying in Minnesota</b>	<b>MN Public Utilities Commission</b>	<b>Total</b>
<b>2020</b>	<b>\$62,974,403</b>	<b>\$5,049,004</b>	<b>\$68,023,406</b>
<b>2019</b>	<b>\$68,408,333</b>	<b>\$7,809,960</b>	<b>\$76,218,293</b>
<b>2018</b>	<b>\$63,727,954</b>	<b>\$15,029,661</b>	<b>\$78,757,615</b>
<b>2017</b>	<b>\$66,029,622</b>	<b>\$9,641,044</b>	<b>\$75,670,666</b>
<b>2016</b>	<b>\$62,140,012</b>	<b>\$6,222,560</b>	<b>\$68,362,572</b>
<b>2015</b>	<b>\$63,947,699</b>	<b>\$5,177,020</b>	<b>\$69,124,719</b>
<b>2014</b>	<b>\$64,517,472</b>	<b>\$5,889,000</b>	<b>\$70,406,472</b>
<b>2013</b>	<b>\$69,185,283</b>	<b>\$5,568,210</b>	<b>\$74,753,493</b>
<b>2012</b>	<b>\$59,060,155</b>	<b>\$2,749,590</b>	<b>\$61,809,745</b>
<b>2011</b>	<b>\$65,241,174</b>		<b>\$65,241,174</b>
<b>2010</b>	<b>\$59,172,799</b>		<b>\$59,172,799</b>

## Lobbyist Program Enforcement Actions

In fiscal year 2021, the Board did not conduct any investigations or receive any complaints regarding possible violations concerning the lobbyist program. However, during fiscal year 2021 the Board entered into one conciliation agreement with a lobbyist to resolve a campaign finance violation.

## Economic Interest Statement 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 over 3,100 public officials who filed with the Board in fiscal year 2021. Local officials use forms developed by the Board, but file with the local governmental unit.

## Filing of Statements

Original statements of economic interest must be filed at the time of appointment or, for candidates, when the candidate files for office. All incumbent office holders and appointed officials must annually review and recertify their statements. The annual recertification is due by the last Monday in January and covers all time served during the previous calendar year. The Board has developed a web based system for submitting economic interest statements.

During fiscal year 2021, there were 370 state offices, boards, agencies, or commissions with elected or appointed public officials. The Board processed 3,670 statements of economic interest during the fiscal year, 91% of which were submitted using the Board's electronic filing system, and 9% of which were submitted on paper forms.

During the annual recertification period in January of 2021, staff processed 3,040 statements. Of those statements, 92% were filed electronically.



## Legislative Action and Rulemaking

The Board proposed several legislative recommendations to the 2021 legislature. Most of the recommendations were based on the Board's legislative proposals in 2019 and 2020. Although the legislature did not adopt the Board's policy proposals, the majority of the Board's technical recommendations were enacted into law at 2021 Laws, chapter 31, article 4. The effective date of these provisions is August 1, 2021, and are outlined below. The Board did not pursue any rulemakings in fiscal year 2021.

### **Minnesota State Colleges and Universities chancellor and trustees**

The chancellor and the trustees of Minnesota State Colleges and Universities are added to the list of public officials who must file statements of economic interest. These officials had been filing statements under a general provision that arguably no longer applied to them.

### **Statement of economic interest reporting period**

The reporting period for all asset schedules on original and annual statements of economic interest is now standardized. The reporting period for the original statement is the month before the month in which the person became a public or local official or filed an affidavit of candidacy. The reporting period for the annual statement is any time served as a public or local official in the previous calendar year.

### **Honoraria disclosure**

The threshold for disclosure of honoraria on an annual statement is raised from \$50 to \$250.

### **Local official clarifications**

Language suggesting that local officials and local candidates must file their statements of economic interest with the Board is removed. Other language in the statute specifically requires these officials and candidates to file their statements with their local units of government. The requirement that local governments provide the Board with notices of appointment for local officials is eliminated.

## Advisory Opinions Issued Related to the Economic Interest Program

No advisory opinions were issued in the economic interest program in fiscal year 2021.

## 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.

## 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 Minnesota Statutes section 356A.06, subdivision 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 570 pension plans are required to file with the Board under this law. This number has gone down in recent years as covered local pension plans dissolve to join the Statewide Volunteer Firefighter Retirement Plan. The Board does not have jurisdiction over enforcement of this certification requirement.

## Public Employees Retirement Association 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 Minnesota Statutes, section 353.03, subdivision 1. Under this statute, the Board prescribes and furnishes to trustee candidates the reporting form and instructions for completing the form.

## Enterprise Minnesota, Inc.

Minnesota Statutes, sections 116O.03 and 116O.04, requires the members and president of Enterprise Minnesota, Inc. to file statements with the Board showing contributions made to public officials, political committees and funds, and political party units. These contributions also are disclosed on the recipients' campaign finance reports. To eliminate this repetitive disclosure, the reporting requirement for the members and president of Enterprise Minnesota, Inc. is repealed effective August 1, 2021.

## State Board of Investment

Minnesota Statutes section 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 rulemaking authority in a hearing conducted under Minnesota Statutes Chapter 14, and in the cases of rate setting, power plant and power line siting, and granting of certificates of need under Minnesota Statutes section 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.

## Staff Duties

### Executive Director

The executive director facilitates achievement of the Board's goals and objectives, sets the agenda and prepares materials for Board and committee meetings, and directs all agency and staff operations. The executive director also drafts advisory opinions for Board consideration, serves as the Board's representative to the Legislature and the Executive Branch. The executive director is responsible to insure that the information technology resources of the agency are best used to support the Board's missions and goals. The executive director is responsible for the calculation of public subsidy payments made to candidates and political party units. Lastly, the executive director administers the preparation of the biennial budget.

### Assistant Executive Director

The assistant executive director serves as advisor to the executive director and assists in management of the operations for the agency. The assistant executive director conducts complex investigations and prepares drafts for Board consideration, reconciles and reports on the Board's financial systems, and supervises the agency's compliance programs. The assistant executive director prepares and conducts training classes for clients on campaign finance reporting requirements.

### Legal Analyst—Management Analyst

Two staff members hold this position. The legal analysts – management analysts perform legal analysis, make recommendations, and assist in agency administrative rule-making, the conduct of Board investigations, and drafting findings and orders for Board consideration. These positions also serve as internal management consultants providing support and analysis to the executive director and assistant executive director.

### Compliance Officer

The compliance officer provides for distribution, collection, data entry, and filing of campaign finance reports required by Chapter 10A. The compliance officer reviews the reconciliation of reported contributions, performs compliance checks on campaign finance reports filed with the Board, assists in the conduct of Board audits, monitors cases for Revenue Recapture and

### **Programs Administrator**

Minnesota Department of Revenue Collections Division, and prepares and submits reports to the Department of Finance regarding civil penalties. The compliance officer also provides compliance advice and guidance to Board staff and clients.

The programs administrator provides for distribution, collection, data entry, and filing of lobbyist disclosure required by Chapter 10A. The programs administrator collects, stores, and retrieves data for the preparation and analysis of summaries of documents filed with the Board. The programs administrator also provides database advice and guidance to Board staff and clients.

### **Programs and Education Analyst**

The programs and education analyst provides for distribution, collection, data entry, and filing of economic interest disclosure required by Chapter 10A. The programs and education analyst provides database advice and guidance to Board staff and clients and designs and maintains electronic training materials. The programs and education analyst also administers website content.

### **Information Technology Specialist III Database Management**

This information technology specialist develops, maintains, and manages complex database applications to support administration of all Board programs and activities. The position provides technical service, LAN administration, and training to Board staff. The position also develops, administers, and provides technical support for the Board's website and provides client training and support in the use of the Campaign Finance Reporter software.

### **Information Technology Specialist III Application Development**

This information technology specialist ensures that the technology resources of the Board support applicable business rules and statutory obligations. The position develops online applications for use by clients in reporting to the Board. The position also develops and administers applications for use by staff and in response to management requests. The position also supports multiple complex relational databases.

## Staff Salaries FY 2021

Position	Staff Member	FY 2021
Executive Director	Jeffrey Sigurdson	\$126,283
Assistant Director	Megan Engelhardt	\$104,901
Legal - Management Analyst	Jodi Pope	\$86,176
Legal - Management Analyst	Andrew Olson	\$68,948
Investigator	Melissa Stevens	\$59,842
Information Technology Specialist 3	Jon Peterson	\$100,278
Information Technology Specialist 3	Gary Bauer	\$88,164
Office and Administrative Specialist	Marcia Waller (retired in October)	\$15,058
Office and Administrative Specialist	Erika Ross (started in December)	\$26,781
Program and Education Analyst	(unfilled due to hir- ing freeze)	
<b>Total Salaries</b>		<b>\$676,431</b>

## Board Financial Information FY 2021

The Campaign Finance and Public Disclosure Board is funded by a direct appropriation from the Minnesota Legislature. The Board's operational appropriation for fiscal 2021 was \$1,123,000. Funds not expended in the first year of a biennium roll forward into the next fiscal year and funds not expended in the second year of a biennium are returned to the state general fund. Almost the entire amount available for carryforward to fiscal year 2021 is a result of salary savings for positions that were not filled immediately after a vacancy occurred. in fiscal year 2020.

Income Summary	FY 2021
Appropriation	\$1,123,000
Carry forward from fiscal year 2020	\$72,013
<b>Total</b>	<b>\$1,195,013</b>
Expenditure Summary	
Operating budget expenditures	(\$1,036,347)
Returned to state general fund	\$158,414

## Board Operating Budget—FY 2021

Salary and Benefits	FY 2021
Full time staff (salary and fringe)	\$928,162
Retirement Benefit Payout	\$9,589
Per diem for Board Members	\$2,860
Workers compensation insurance	\$459
<b>Salary and Benefits Sub Total of Expenditures</b>	<b>\$941,070</b>

Operating Expenses	FY 2021
Office rent	\$43,694
Copier lease	\$6,595
Postage	\$12,207
Printing	\$2,297
Staff development	\$445
Supplies	\$4,054
MNIT services	\$12,869
Court reporter, subpoena, and court filing costs	\$1,918
Equipment	\$9,013
Computer systems development - software	\$2,007
Travel	\$77
<b>Operating Expense Sub Total of Expenditures</b>	<b>\$95,176</b>

<b>Board Operating Total Expenditures</b>	<b>\$1,036,246</b>
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## Penalties Paid for Late Filing Fees 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 2021.

<b>Late Filing Fees</b>	<b>FY 2021 Dollars Paid</b>	<b>Number of Violations</b>
Candidate Campaign Committees	\$8,250.30	39
24-Hour Notice	\$4,350.00	14
Political Committees and Funds	\$8,500.00	41
Political Party Units	\$2,997.96	16
Economic Interest Statements	\$1,410.00	31
Lobbyist Disbursement Reports	\$5,475.00	41
Lobbyist Principal Annual Reports	\$5,275.00	16
<b>Total Late Fees</b>	<b>\$36,258.26</b>	<b>198</b>
<b>Civil Penalties</b>	<b>FY 2021 Dollars Paid</b>	<b>Number of Violations</b>
Contribution from Unregistered Association		
Unregistered Association	\$375.00	1
Political Party Unit	\$1,000.00	3
Political Committees and Funds	\$100.00	1
Candidate	\$400.00	3
Contribution Limits Violations		
Candidates Accepted in Excess of Limit	\$850.00	5
Special Source Aggregate Limit	\$100.00	1
Candidate Exceeded Spending Limit	\$36,217.53	2
Political Committee Contribution in Excess of Limit	\$125.00	1
Prohibited Contributions During Session		
Lobbyist	\$100.00	1
Political Committee and Funds	\$200.00	2
Failure to File Disclosure Report		
Candidate Committees	\$3,300.43	5
Political Committees and Funds	\$1,000.00	1
Lobbyists	\$2,000.00	2
Lobbyist Principals	\$2,000.00	2
Conversion of Committee Funds	\$1,186.00	2
Disclaimer	\$1,250.00	3
Certified False Information	\$1,686.00	2
<b>Total Civil Penalties</b>	<b>\$51,889.96</b>	<b>37</b>
<b>Total Late Fees and Civil Penalties Deposited in State General Fund</b>	<b>\$88,148.22</b>	<b>235</b>



**CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD  
November 2021**

**ACTIVE FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Sandra (Sandi) Blaeser		2018 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP	9/11/20	6/3/21	2/3/22 (summary judgment)		
		2019 Public Official Statement of Economic Interest	\$100 LFF and \$1,000 CP					
Chilah Brown Michele Berger	Brown (Chilah) for Senate	Unfiled 2016 Year- End Report of Receipts and Expenditures	\$1,000 LFF \$1,000 CP	3/6/18	8/10/18 1/8/21 2/18/21	11/15/21 (summary judgment)		
		Unpaid late filing fee on 10/31/16 Pre- General Election Report	\$50 LFF					

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Personally Served	Default Hearing Date	Date Judgment Entered	Case Status
Marcus Harcus	MN Campaign for Full Legalization	Original Statement of Economic Interest, due 6/16/20  Lobbyist Disbursement Report due 6/15/20  Lobbyist Disbursement Report due 1/15/20  Late Filing of Lobbyist Disbursement Report due 1/15/19; filed on 6/16/19  Late Filing of Lobbyist Disbursement Report due 6/15/18, filed on 6/27/18  Annual Lobbyist Principal Report, due 3/16/20	\$100 LFF \$1,000 CP  \$1,000 LFF \$1,000 CP  \$1,000 LFF \$1,000 CP  \$1,000 LFF  \$200 LFF  \$1,000 LFF \$1,000 CP	10/5/20	4/27/21			Payment plan established. Board requested hold until fees and penalties are paid.
Beau Hullerman		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/23/20	6/18/21	12/28/21		
Tim Johnson		Candidate Statement of Economic Interest due 6/16/20	\$100 LFF \$1,000CP	9/11/20	8/9/21			



**CLOSED FILES**

Candidate/Treasurer/ Lobbyist	Committee/Agency	Report Missing/ Violation	Late Fee/ Civil Penalty	Referred to AGO	Date S&C Served by Mail	Default Hearing Date	Date Judgment Entered	Case Status
Alyssa Eichman	Swing Right PAC	Unfiled 2018 Year-End Report of Receipts and Expenditures  Late Filing of 2018 Pre-General Report due 10/29/18; filed on 10/30/18	\$1,000 LFF \$1,000 CP  \$50 LFF	10/5/20	2/23/21 3/6/21	9/24/21	9/28	Court granted default judgment at 9/24 hearing

**STATE OF MINNESOTA  
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

**PROBABLE CAUSE  
DETERMINATION**

IN THE MATTER OF THE COMPLAINT OF THE CENTER FOR MEDIA AND DEMOCRACY AND COMMON CAUSE MINNESOTA REGARDING THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL, SENATOR MARY KIFFMEYER, AND REPRESENTATIVE PAT GAROFALO

On July 27, 2021, the Campaign Finance and Public Disclosure Board received a complaint submitted by the Center for Media and Democracy and Common Cause Minnesota regarding the American Legislative Exchange Council (ALEC), Senator Mary Kiffmeyer, and Representative Pat Garofalo. ALEC is a national 501(c)(3) corporation that is not registered with the Board. It has dues-paying corporate and legislative members. Sen. Kiffmeyer and Rep. Garofalo are members of the Minnesota Legislature and ALEC's Minnesota state chairs. Both Sen. Kiffmeyer and Rep. Garofalo have a principal campaign committee registered with the Board.

The complaint concerns ALEC CARE (Constituent Analytics Research Exchange) software, which is customer relationship management software developed by the company Voter Gravity. The complaint and its attachments contain information purported to show that ALEC CARE refers to individuals as voters and includes data and features that could benefit candidates, such as a person's party affiliation, voting history, and election precinct, and the ability to create door-knocking and phone-calling lists as well as get-out-the-vote functions. Other information included with the complaint shows that Voter Gravity markets similar software to candidates as a voter contact tool for political campaigns.

The complaint includes information showing that legislative members of ALEC have free access to ALEC CARE. Other information provided with the complaint establishes that ALEC's legislative members pay dues of \$100 per year and that Sen. Kiffmeyer and Rep. Garofalo, as state chairs, are members of ALEC. The information also shows that ALEC has assigned a \$3,000 value to this member benefit and that purchasing comparable software from Voter Gravity would cost a state legislative campaign committee \$99 per month.

The complaint alleges that by providing free access to this type of voter management software as a member benefit, ALEC made in-kind campaign contributions to Sen. Kiffmeyer and Rep. Garofalo in violation of the corporate contribution prohibition in Minnesota Statutes section 211B.15, subdivision 2. The complaint maintains that if Sen. Kiffmeyer and Rep. Garofalo used the ALEC CARE software for their campaigns, then their campaign committees accepted a prohibited corporate contribution. Finally, the complaint alleges that if Sen. Kiffmeyer and Rep. Garofalo used the ALEC CARE software for their campaigns, they failed to disclose that in-kind contribution on their committees' campaign finance reports in violation of the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3.

The complaint states that although ALEC provided free access to ALEC CARE to Sen. Kiffmeyer and Rep. Garofalo, the complainants did not have sufficient knowledge to determine whether the legislators used the software for their campaigns. The complaint provides that neither Sen. Kiffmeyer nor Rep. Garofalo have reported the receipt of the ALEC CARE software on their campaign finance reports.

On August 6, 2021, the Board chair determined that the complaint stated prima facie violations of the corporate contribution prohibition in Minnesota Statutes section 211B.15, subdivision 2, and the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3. The complaint and the prima facie determination were provided to the respondents on August 6, 2021. On August 10, 2021, a letter seeking answers to four specific questions was sent to Sen. Kiffmeyer and Rep. Garofalo.

Sen. Kiffmeyer submitted a response on August 16, 2021. Sen. Kiffmeyer stated that neither she nor her committee had ever used the ALEC CARE software. On August 23, 2021, Reid LeBeau, counsel for Rep. Garofalo, submitted a response stating that neither Rep. Garofalo nor his committee had ever used the ALEC CARE software.

On September 7, 2021, Jason Torchinsky, counsel for ALEC, submitted ALEC's response to the complaint. In the response, ALEC states that ALEC CARE is constituent management software made available to ALEC members. The response contains a link to the ALEC website,<sup>1</sup> which describes the ALEC CARE software as follows:

CARE is a web-based system that helps you better communicate with your constituents, gain insight into your communities and enables you to know your district more intimately than anyone else.

ALEC members can utilize a suite of tools to improve legislative interactions, track district events, and solicit direct feedback from constituents with customized surveys through text messaging and automated phone calls.

The response also contains links to three short videos available on YouTube that briefly demonstrate how features of the ALEC CARE software can be used for constituent services.<sup>2</sup>

The response further provides that "as a condition of using the software, ALEC prohibits usage for election campaign purposes." ALEC states that there is a warning on the ALEC CARE login page that reads, "By signing in, you agree this system will not be used for any campaign related purpose." ALEC maintains that members cannot access the software without agreeing to this condition and that the organization emphasizes this condition in all of its ALEC CARE trainings

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<sup>1</sup> <https://www.alec.org/membership-type/legislative-membership/>

<sup>2</sup> See What is a Digital Constituent Service? [https://www.youtube.com/watch?v=uoBF9a4\\_ue8](https://www.youtube.com/watch?v=uoBF9a4_ue8); What is ALEC CARE? <https://www.youtube.com/watch?v=sbOpHimIm0s>; ALEC CARE SMS <https://www.alec.org/app/uploads/2018/07/CARE-Video-SMS.mp4>; ALEC CARE TAGS <https://www.alec.org/app/uploads/2018/07/CARE-Video-Tags.mp4>

and onboarding processes. ALEC argues that because it prohibits its members from using ALEC CARE for campaign purposes, it has not made a contribution, or offered or agreed to make a contribution, to anyone to promote or defeat the election or nomination of a candidate as provided in Minnesota Statutes section 211B.15, subdivision 2.

The ALEC response also includes a sworn statement from an ALEC CARE administrator. The administrator states that ALEC CARE logs show that Sen. Kiffmeyer has never established an ALEC CARE account or used the system and that Rep. Garofalo has activated his ALEC CARE account but has never used that account or accessed the software. Based on this lack of use, ALEC argues that it has not made any contributions to the legislators.

Complainants supplemented the complaint with a joint memorandum submitted on September 13, 2021. In their memorandum, complainants argue that the main thrust of the complaint is against ALEC given the evidence of the electoral nature of the ALEC CARE software. The memorandum admits that the complainants lack direct evidence of who in Minnesota has used the software for their campaigns. Complainants also argue that ALEC uses ALEC CARE as a recruitment tool for new members. Attached to the memorandum is a copy of an email from ALEC to a new state legislative chair that describes ALEC CARE as “a CRM that allows legislators to communicate effectively with their constituents.” Another attachment is a sample recruitment letter that describes ALEC CARE as follows:

- Web-based system to encourage interaction between elected officials and constituents
- Customize constituent profiles, set up push text messages, and visualize data trends to better engage with your community
- Utilize CARE to improve legislative interactions, track district events, and solicit feedback from constituents

The Board considered this matter at its meeting on October 6, 2021. David Armiak, research director for the Center for Media and Democracy, and Arn Pearson, executive director of the Center for Media and Democracy, addressed the Board on behalf of the complainants. Annastacia Belladonna-Carrera, executive director of Common Cause Minnesota, appeared in support of the complaint. Mr. Armiak and Mr. Pearson argued that the sole purpose of the Voter Gravity software is to help candidates win elections, that the ALEC CARE software is virtually identical to the Voter Gravity software, and that, therefore, the sole purpose of the ALEC CARE software is to help legislators win re-election. The complainants maintained that ALEC’s claim that it limits the use of the software to non-campaign purposes was a pretext that should be disregarded by the Board. Finally, the complainants agreed that based on their review of the information submitted, there was not probable cause to believe that Sen. Kiffmeyer or Rep. Garofalo had violated the corporate contribution prohibition.

Jason Torchinsky and John Cycon, counsel for ALEC, appeared before the Board on ALEC’s behalf. Mr. Torchinsky argued that ALEC CARE was designed as a constituent management tool and that ALEC offers the ALEC CARE software to its members solely for that purpose. Mr. Torchinsky reiterated that ALEC emphasizes the limitation on the use of ALEC CARE in all

trainings and onboarding processes and requires users to certify at every login that the software will not be used for campaign purposes. Mr. Torchinsky stated that ALEC would need to stop any improper use of ALEC CARE for campaign purposes to be consistent with the organization's 501(c)(3) Internal Revenue Service tax status. Mr. Torchinsky further stated that any indication of the use of ALEC CARE for campaign purposes therefore would result, at a minimum, in the suspension of the member's ALEC CARE account and consultation with counsel to determine whether reimbursement was required. Mr. Torchinsky told Board members that ALEC had not needed to determine what other remedial measures should be taken for misuse of the software because ALEC had not had any reports of anyone in Minnesota, or in any other state, using ALEC CARE for campaign purposes.

After hearing the presentations, Board members wanted additional time to adequately review the written and oral submissions in the matter. The Board therefore determined under Minnesota Rules 4525.0150, subpart 4, that a continuance was necessary to equitably resolve the matter and laid the probable cause determination in this matter over to the next meeting.

Because the matter had been continued, all parties were given the opportunity to submit additional written and oral presentations to the Board. On October 14, 2021, complainants submitted information clarifying that Exhibit 12 provided with the complaint contained pictures of screens accessed within the ALEC CARE software. At the November 3, 2021, meeting, Mr. Armiak and Mr. Pearson made a presentation on behalf of complainants.

## **Analysis**

When the Board chair makes a finding that a complaint raises a prima facie violation, the full Board then must determine whether probable cause exists to believe an alleged violation that warrants an investigation has occurred. Minn. Stat. § 10A.022, subd. 3 (d). A probable cause determination is not a complete examination of the evidence on both sides of the issue. Rather, it is a determination of whether, given the evidence available, there is sufficient justification to initiate a formal Board investigation of the allegations in the complaint.

### **Corporate contribution prohibition**

Minnesota Statutes section 211B.15, subdivision 2, paragraph (a), provides as follows:

A corporation may not make a contribution or offer or agree to make a contribution directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office.

The statute also prohibits a committee or individual from accepting a contribution that a corporation is prohibited from making. Minn. Stat. § 211B.15, subd. 2 (b).



For purposes of the corporate contribution prohibition, the term “corporation” includes “a non-profit corporation that carries out activities in this state.” Minn. Stat. § 211B.15, subd. 1. The term “contribution” includes “an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate . . .” Minn. Stat. § 211B.15, subd. 2 (c).<sup>3</sup> Finally, the Board has jurisdiction only over alleged corporate contributions made to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office in Minnesota, and only to the extent that the individual is a candidate within the meaning of Minnesota Statutes Chapter 10A. Minn. Stat. § 10A.022, subd. 3.

Initially, the complaint and its attachments include information showing that ALEC is a non-profit corporation and that it has Minnesota members. These facts establish probable cause to believe that ALEC is an entity subject to the provisions in Minnesota Statutes section 211B.15.

The record also establishes probable cause to believe that the ALEC CARE software has monetary value, that Sen. Kiffmeyer and Rep. Garofalo are members of ALEC who have access to the software as a member benefit, and that the dues paid by the legislators do not cover the full value of the software.

The totality of the evidence in the record, however, does not establish probable cause to believe that ALEC made, or offered or agreed to make, a contribution to promote or defeat the candidacy of an individual for election to a political office in Minnesota. Complainants have submitted evidence showing that Voter Gravity is customer relationship management software designed for candidates, that ALEC CARE appears to be based on the Voter Gravity software, and that ALEC CARE therefore has information and contact features that could be useful to an election campaign. But the same information and contact features also could be useful to legislators for constituent services purposes. It is the nature of customer relationship management software that its customer information and communication features can be used for many purposes.

In addition, Minnesota Statutes section 211B.15, subdivision 2, does not focus solely on how the recipient could use the contribution in question to determine whether a violation has occurred. Instead, the statute looks at the contributor and provides that a violation occurs when the corporation makes, or offers or agrees to make, the contribution to promote or defeat the candidacy of an individual for election. Here, the communications attributed to ALEC, including

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<sup>3</sup> Minnesota Statutes section 10A.01, subdivision 11 (a), defines the term “contribution” in pertinent part to mean “money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, or a party unit.” The term “donation in kind” is defined in relevant part as “anything of value that is given, other than money or negotiable instruments.” Minn. Stat. § 10A.01, subd. 13. Although Chapter 211B does not incorporate by reference these definitions, the definition of contribution in Minnesota Statutes section 211B.15, subdivision 2, clearly covers in-kind contributions.

its website, the videos on the internet, the emails to its state chairs, the sample recruitment letter, and the ALEC CARE log in page, all state that the ALEC CARE software is a customer relationship management tool being offered to legislators to help them communicate with and serve their constituents. The record also contains information showing that ALEC consistently warns its members not to use the ALEC CARE software for campaign purposes and that members must agree to this condition every time that they log in to the software. ALEC also has a remedy in place, the loss of user privileges and reimbursement, for any member who violates the conditions of ALEC's software offer. The lack of any evidence in the record of any use of ALEC CARE for campaign purposes in Minnesota, or in any other state, suggests that these warnings and potential remedies have been effective in limiting the use of ALEC CARE to the terms of ALEC's offer.

Complainants argue that because ALEC CARE is a version of Voter Gravity, which is campaign software, ALEC's condition that the ALEC CARE software be used only for non-campaign purposes must be a pretext that the Board should disregard. There may be some cases where the fact that an item can be used for only one campaign-related purpose may be dispositive. But here, it is the nature of the contribution in question, customer relationship management software, that it can be used for many purposes. Further, as stated above, ALEC's consistent description of the terms under which the software is offered to members, its repeated warnings not to use the software for campaign purposes, and the lack of any evidence showing that those warnings have been disregarded in Minnesota, or elsewhere, support ALEC's claim that it offers the ALEC CARE software to legislators only for non-campaign purposes. The Board therefore concludes that in this case, there is not probable cause to believe that that ALEC made, or offered or agreed to make, a contribution to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office in Minnesota.

Absent probable cause to believe that ALEC made, or offered or agreed to make, a prohibited corporate contribution, there is not probable cause to believe that either Sen. Kiffmeyer or Rep. Garofalo accepted a contribution that ALEC was prohibited from making. In addition, the record shows that Sen. Kiffmeyer never accessed the ALEC CARE software and that Rep. Garofalo never accessed the software after initially creating his account. The fact that a candidate did not use an item is not always dispositive of whether the candidate accepted that item as an in-kind contribution.<sup>4</sup> Some factors that the Board may consider in determining whether a candidate accepted an in-kind contribution may be taking possession of the in-kind contribution, exercising dominion over the in-kind contribution, storage of the in-kind contribution, and publication of the in-kind contribution. In this case the legislators' nonexistent or very limited interactions with the ALEC CARE software show that neither of them accepted that member

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<sup>4</sup> *In the Matter of People PAC (MN), The People PAC, and 15 Principal Campaign Committees*, (Nov. 6, 2019), the Board determined that a video posted independently by its producer was a contribution to a candidate even though she had rejected the finished product and never used it in her campaign. This decision was based on the fact that the candidate agreed to the production of the video and participated in the video shoot. Consequently, under Chapter 10A, the costs related to the video became approved expenditures, and therefore in-kind contributions, at the time when she agreed to those expenditures, not when the video was completed or posted.

benefit for any purpose. Consequently, there is not probable cause to believe that either Sen. Kiffmeyer or Rep. Garofalo accepted a prohibited contribution from ALEC.

### Reporting

Minnesota Statutes section 10A.20, subdivision 3, requires candidate committees to report all contributions received on their campaign finance reports, including in-kind contributions that exceed \$20. As determined above, neither Sen. Kiffmeyer nor Rep. Garofalo received any contributions from ALEC. Because the legislators had no contributions from ALEC to disclose on their committee's campaign finance reports, there is not probable cause to believe that any reporting violations occurred in this matter.

### **Order:**

1. The allegation that the American Legislative Exchange Council violated the corporate contribution prohibition in Minnesota Statutes section 211B.15, subdivision 2, is dismissed without prejudice because there is not probable cause to believe that this violation occurred.
2. The allegation that Senator Mary Kiffmeyer and Representative Pat Garofalo accepted a corporate contribution in violation of Minnesota Statutes section 211B.15, subdivision 2, is dismissed without prejudice because there is not probable cause to believe that this violation occurred.
3. The allegation that Senator Mary Kiffmeyer and Representative Pat Garofalo violated the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3, is dismissed without prejudice because there is not probable cause to believe that this violation occurred.

/s/ Stephen Swanson  
Stephen Swanson, Chair  
Campaign Finance and Public Disclosure Board

Date: November 3, 2021