**Issue:** A violation of the corporate political contributions law under Minn. Stat. § 211B.15, is a felony with a five-year statutory maximum. The offense is inadvertently omitted from Guidelines § 5.

The law prohibits a corporate officer, manager, stockholder, member, agent, employee, attorney, or other representative from knowingly making a contribution 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.

**Guidelines Considerations:** Felony offenses may either be ranked or designated as “unranked” in § 5. If an offense is omitted from the Offense Severity Reference Table in § 5, the offense is considered unranked. Guidelines § 2.A.4. Offenses that are “rarely prosecuted” are typical of unranked offenses. Comment 2.A.04.

The corporate political contribution law was enacted in 1988. 1988 c 578 art 3 s 15. According to MSGC monitoring data, no individual has been sentenced.

A similar offense, bribery, treating, and solicitation under Minn. Stat. § 211B.13, has a five-year statutory maximum as well and is ranked at Severity Level 4. This law has been in effect since 1988, as well. 1988 c 578 art 3 s 13, and no one has been sentenced for that offense either.

**Question for the Commission:** Does the Commission wish to rank the offense or designate it as “unranked” in § 5?

**Staff Recommendation:** Designate the offense as “unranked” in § 5, as indicated below.
5.A. Offense Severity Reference Table

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *  

<table>
<thead>
<tr>
<th>Severity Level</th>
<th>Offense Title</th>
<th>Statute Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNRANKED</td>
<td>Concealing Criminal Proceeds; Engaging in Business</td>
<td>609.496; 609.497</td>
</tr>
<tr>
<td></td>
<td>Corporate Political Contribution Violations</td>
<td>211B.15</td>
</tr>
<tr>
<td></td>
<td>Corrupting Legislator</td>
<td>609.425</td>
</tr>
</tbody>
</table>

* * *

5.B. Severity Level by Statutory Citation

Offenses subject to a mandatory life sentence, including first-degree murder and certain sex offenses under Minn. Stat. § 609.3455, subdivision 2, are excluded from the Guidelines by law.

* * *

<table>
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<tr>
<th>Statute Number</th>
<th>Offense Title</th>
<th>Severity Level</th>
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</thead>
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<tr>
<td>211B.13</td>
<td>Bribery, Advancing Money, and Treating Prohibited</td>
<td>4</td>
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<tr>
<td>211B.15</td>
<td>Corporate Political Contribution Violations</td>
<td>Unranked</td>
</tr>
<tr>
<td>227.50</td>
<td>Issuing a Receipt for Goods One Does Not Have</td>
<td>Unranked</td>
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</tbody>
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* * *
211B.15 CORPORATE POLITICAL CONTRIBUTIONS.

Subdivision 1. **Definitions.** For purposes of this section, "corporation" means:

1. a corporation organized for profit that does business in this state;
2. a nonprofit corporation that carries out activities in this state; or
3. a limited liability company formed under chapter 322B, or under similar laws of another state, that does business in this state.

Subd. 2. **Prohibited contributions.** (a) 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.

(b) A political party, organization, committee, or individual may not accept a contribution or an offer or agreement to make a contribution that a corporation is prohibited from making under paragraph (a).

(c) For the purpose of this subdivision, "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 or committee established to support or oppose a candidate but does not include an independent expenditure authorized by subdivision 3.

Subd. 3. **Independent expenditures.** A corporation may not make an expenditure or offer or agree to make an expenditure to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office, unless the expenditure is an independent expenditure. For the purpose of this subdivision, "independent expenditure" has the meaning given in section 10A.01, subdivision 18.

Subd. 4. **Ballot question.** A corporation may make contributions or expenditures to promote or defeat a ballot question, to qualify a question for placement on the ballot unless otherwise prohibited by law, or to express its views on issues of public concern. A corporation may not make a contribution to a candidate for nomination, election, or appointment to a political office or to a committee organized wholly or partly to promote or defeat a candidate.

Subd. 5. **News media.** This section does not prohibit publication or broadcasting of news items or editorial comments by the news media.

Subd. 6. **Penalty for individuals.** (a) An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting on behalf of the corporation who violates this section is subject to a civil penalty of up to ten times the amount of the violation, but in no case more than $10,000, imposed by the Campaign Finance and Public Disclosure Board under chapter 10A or imposed by the Office of Administrative Hearings under this chapter.

(b) Knowingly violating this section is a crime. An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting in behalf of the corporation who is convicted of knowingly violating this section may be fined not more than $20,000 or be imprisoned for not more than five years, or both.

Subd. 7. **Penalty for corporations.** (a) A corporation that violates this section is subject to a civil penalty of up to ten times the amount of the violation, but in no case more than $10,000, imposed by the
Campaign Finance and Public Disclosure Board under chapter 10A or imposed by the Office of Administrative Hearings under this chapter.

(b) Knowingly violating this section is a crime. A corporation convicted of knowingly violating this section is subject to a fine not greater than $40,000. A convicted domestic corporation may be dissolved as well as fined. If a foreign or nonresident corporation is convicted, in addition to being fined, its right to do business in this state may be declared forfeited.

Subd. 7a. Application of penalties. No penalty may be imposed for a violation of this section that is subject to a civil penalty under section 10A.121.

Subd. 7b. Knowing violations. An individual or a corporation knowingly violates this section if, at the time of a transaction, the individual or the corporation knew:

(1) that the transaction causing the violation constituted a contribution under chapter 10A, 211A, or 383B; and

(2) that the contributor was a corporation subject to the prohibitions of subdivision 2.

Subd. 8. Permitted activity; political party. It is not a violation of this section for a political party, as defined in section 200.02, subdivision 7, to form a nonprofit corporation for the sole purpose of holding real property to be used exclusively as the party's headquarters.

Subd. 9. Media projects. It is not a violation of this section for a corporation to contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register, or vote if the projects are not controlled by or operated for the advantage of a candidate, political party, or committee.

Subd. 10. Meeting facilities. It is not a violation of this section for a corporation to provide meeting facilities to a committee, political party, or candidate on a nondiscriminatory and nonpreferential basis.

Subd. 11. Messages on premises. It is not a violation of this section for a corporation selling products or services to the public to post on its public premises messages that promote participation in precinct caucuses, voter registration, or elections if the messages are not controlled by or operated for the advantage of a candidate, political party, or committee.

Subd. 12. [Repealed, 2010 c 397 s 20]

Subd. 13. Aiding violation; penalty. An individual who aids, abets, or advises a violation of this section is guilty of a gross misdemeanor.

Subd. 14. Prosecutions; venue. Violations of this section may be prosecuted in the county where the payment or contribution was made, where services were rendered, or where money was paid or distributed.

Subd. 15. Nonprofit corporation exemption. The prohibitions in this section do not apply to a nonprofit corporation that:

(1) is not organized or operating for the principal purpose of conducting a business;

(2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings; and

(3) was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities.
Subd. 16. **Employee political fund solicitation.** Any solicitation of political contributions by an employee must be in writing, informational and nonpartisan in nature, and not promotional for any particular candidate or group of candidates. The solicitation must consist only of a general request on behalf of an independent political committee (conduit fund) and must state that there is no minimum contribution, that a contribution or lack thereof will in no way impact the employee's employment, that the employee must direct the contribution to candidates of the employee's choice, and that any response by the employee shall remain confidential and shall not be directed to the employee's supervisors or managers. Questions from an employee regarding a solicitation may be answered orally or in writing consistent with the above requirements. Nothing in this subdivision authorizes a corporate donation of an employee's time prohibited under subdivision 2.

Subd. 17. **Nonprofit corporation political activity.** It is not a violation of this section for a nonprofit corporation to provide administrative assistance to one political committee or political fund that is associated with the nonprofit corporation and registered with the Campaign Finance and Public Disclosure Board under section 10A.14. Such assistance must be limited to accounting, clerical or legal services, bank charges, utilities, office space, and supplies. The records of the political committee or political fund may be kept on the premises of the nonprofit corporation.

The administrative assistance provided by the nonprofit corporation to the political committee or political fund is limited annually to the lesser of $5,000 or 7-1/2 percent of the expenditures of the political committee or political fund.

**History:** 1988 c 578 art 3 s 15; 1989 c 209 art 2 s 26; 1992 c 517 art 1 s 1-9; 1993 c 318 art 2 s 49; 1996 c 459 s 3,4; 1997 c 202 art 2 s 63; 2010 c 397 s 16-18; 2013 c 138 art 1 s 51-53; 2015 c 73 s 24
211B.13 Bribery, Treating, and Solicitation.

Subdivision 1. Bribery, advancing money, and treating prohibited. A person who willfully, directly or indirectly, advances, pays, gives, promises, or lends any money, food, liquor, clothing, entertainment, or other thing of monetary value, or who offers, promises, or endeavors to obtain any money, position, appointment, employment, or other valuable consideration, to or for a person, in order to induce a voter to refrain from voting, or to vote in a particular way, at an election, is guilty of a felony. This section does not prevent a candidate from stating publicly preference for or support of another candidate to be voted for at the same primary or election. Refreshments of food or nonalcoholic beverages having a value up to $5 consumed on the premises at a private gathering or public meeting are not prohibited under this section.

Subd. 2. Certain solicitations prohibited. A person may not knowingly solicit, receive, or accept any money, property, or other thing of monetary value, or a promise or pledge of these that is a disbursement prohibited by this section or section 211B.15.

History: 1988 c 578 art 3 s 13; 2005 c 156 art 6 s 63