

Approved 1-30-84  
Date

MINUTES OF THE Senate COMMITTEE ON Elections

The meeting was called to order by Senator Ronald R. Hein at  
Chairperson

1:30 ~~am~~/p.m. on January 23, 1984 in room 522-S of the Capitol.

All members were present except:

Senator Joseph Norvell

Committee staff present:

Arden Ensley, Revisor of Statutes' Office  
Myrta Anderson, Legislative Research Department  
Sharon Green, Committee Secretary

Conferees appearing before the committee:

Carol Williams, Kansas Public Disclosure Commission  
Janet Williams, Kansas Public Disclosure Commission  
Eric Rucker, Secretary of State's Office

The Chairman called the meeting to order.

Carol Williams reviewed the Annual Report and Recommendations fo the Kansas Public Disclosure Commission on General Recommendations and Campaign Finance. (Attachment 1)

She indicated that recommended changes in K.S.A. 25-1709 and K.S.A. 25-2407 were combined into one bill (SB 376) during the 1983 legislative session. SB 376 is in the House Elections Committee. The Commission recommends passage of SB 376.

Questions were asked and a general discussion was held.

Janet Williams reviewed the recommendations of the Commission on State Conflicts of Interest and Local Conflicts of Interest. (Attachment 1)

She indicated that SB 492 speaks to point #4 under State Conflicts of Interest. She also indicated that SB 493 speaks to changes in the Local Conflicts of Interest laws.

Questions were asked and a general discussion was held.

Eric Rucker reviewed the Secretary of State's recommendations. He indicated that two of the recommendations had already been drafted by the Revisor's office. (Attachment 2 and Attachment 3)

Mr. Rucker stated that legislation was needed to clarify a problem that arose in the Onaga Hospital District for hospital annexation purposes. This would mandate that only the County Election Officer could verify a petition for annexation of a Hospital District.

Mr. Rucker also indicated that statutes may need to be changed on the transmission of absentee ballots to allow between 40 to 45 days transmission time.

Questions were asked and a general discussion was held.

Motion was made by Senator Johnston to introduce the two bill drafts presented by the Secretary of State's office, and a bill on the Hospital Districts, and and a bill on the transmission of absentee ballots, if needed, for introduction. (Attachment 1 and Attachment 2) Senator Roitz seconded the motion. The motion was adopted.

The Chairman adjourned the meeting.

ANNUAL REPORT AND RECOMMENDATIONS  
of the  
KANSAS PUBLIC DISCLOSURE COMMISSION  
STATE OF KANSAS

To the Governor and the Legislature

December 1, 1983

KANSAS PUBLIC DISCLOSURE COMMISSION  
109 West 9th  
Topeka, Kansas 66612  
(913) 296-4219

## MEMBERS AND STAFF

### Commission Members

Richard Dietz, Chairman, Osborne \*\*  
Lowell Abeldt, Vice-Chairman, Abilene \*\*  
Newell A. George, Kansas City \*  
Don Paxson, Topeka \*  
John Reimer, Parsons \*\*

### Staff

Carol Williams, Administrative Assistant/Auditor  
Jana Atchison, Report Examiner  
Janet Williams, Report Examiner  
Janet Barnett, Secretary  
Donna Watson, Clerk

### General Counsel

Dennis Prater, Lawrence

- (\*) Terms expire January 31, 1984.  
(\*\*) Terms expire January 31, 1985.

## PREFACE

This ninth annual report and recommendations is submitted to the Governor and the Director of Legislative Administrative Services for transmittal to the Legislature pursuant to K.S.A. 25-4119a and K.S.A. 46-1212c. With some exceptions, the report covers the period from July 1, 1982 through June 30, 1983, the end of Fiscal Year 1983. Occasionally, data for the first quarter of Fiscal Year 1984 is used in order to provide a more complete picture of the Commission's operations.

TABLE OF CONTENTS

- I. Report . . . . . 1
  - A. Responsibilities . . . . . 1
  - B. Organization and Operation . . . . . 1
    - 1. Information Program . . . . . 1
    - 2. Advisory Opinions . . . . . 2
    - 3. Review and Audit Program . . . . . 2
      - a. Campaign Finance . . . . . 2
      - b. Conflict of Interest . . . . . 11
      - c. Lobbying . . . . . 12
    - 4. Investigations . . . . . 12
    - 5. Enforcement Program . . . . . 12
      - a. Complaints . . . . . 12
      - b. Hearings . . . . . 12
      - c. Civil Penalties . . . . . 13
  - C. General Recommendations . . . . . 13
  - D. Conclusion . . . . . 13
- II. Recommendations . . . . . 14
  - A. General . . . . . 14
  - B. Campaign Finance . . . . . 15
  - C. Conflict of Interest . . . . . 16

## PART I: REPORT

The Commission's efforts focus on full compliance with the Kansas campaign finance, conflict of interest, and lobbying statutes. Staff time is devoted to assuring the accurate and timely disclosure of required financial information. The processing and evaluation of filed reports and statements and an analysis of the supporting records, where appropriate, are crucial to the Commission's efforts. It is through the initial and comprehensive review of these reports and the later audit and investigation, where necessary, that the Commission can assure the people of the state that the laws are being complied with.

In addition, the Commission strives to inform the general public about the information being disclosed and its right of access to that information. This is consistent with the underlying philosophy of the statutes and the Commission's understanding of its ultimate responsibility to the people of Kansas.

### RESPONSIBILITIES

The Kansas Public Disclosure Commission administers and enforces the Campaign Finance Act (K.S.A. 25-4142 et seq.) and laws relating to conflict of interests, financial disclosure and the regulation of lobbying (K.S.A. 46-215 et seq.). In addition, the Commission renders advisory opinions under a less comprehensive conflict of interests law covering local government officials and employees (K.S.A. 75-4301 et seq.).

### ORGANIZATION AND OPERATION

The Commission is organized to assure complete, accurate and timely disclosure of required financial information. It has developed a work program encompassing six areas: (1) public information; (2) advisory opinions; (3) reviews and audits; (4) investigations; (5) enforcement (including the filing of complaints, holding public hearings and assessing civil penalties); and (6) general administrative activities.

#### Information Program

The Commission utilizes information brochures, the news media, public service announcements, speaking engagements, and correspondence to inform the public at large about the laws and their meaning. However, most time in this program area is devoted to informing those directly covered by the laws of their duties and responsibilities. To accomplish this task, the Commission conducts informational seminars, prepares and distributes handouts, campaign finance handbooks, lobbying handbooks, and conflict of interest laws brochures. In addition, the telephone is used extensively to provide information and advice.

### Advisory Opinions

Advisory opinions are issued by the Commission to clarify the application of the statutes in a particular situation. The Commission can issue these opinions on its own initiative or in response to individual inquiries. If an individual requests an opinion and conducts himself or herself according to the guidelines in the opinion, he or she is presumed to be in compliance with the law.

To date, 44 advisory opinions have been issued in calendar year 1983. Of the 417 advisory opinions issued since 1974, 99 or 24% concern campaign finance, 60 or 14% relate to the regulation of lobbyists, 157 or 38% have to do with conflict of interests provisions governing state officers or employees, and 101 or 24% concern conflict of interests provisions which apply to local officers or employees. Of the total opinions, 393 or 94% have been issued as a result of requests by various individuals or organizations rather than as a result of the Commission's own initiative.

### Review and Audit Program

Complete, accurate and timely disclosure of certain kinds of financial information by candidates, elected officials, state employees and lobbyists is the key requirement of the legislation. It has been and is the Commission's position that active review and auditing of reports is essential for the proper administration of the law.

Campaign Finance. In the campaign finance area, the Commission's procedures include a preliminary review (involving notification of failure to file) and a post-election comprehensive desk review (involving notification of material errors or omissions) of all Receipts and Expenditures Reports filed under the Campaign Finance Act. In addition, a certain number of reports are selected for audit.

During the 1982 election cycle, 644 candidates and committees filed 2,105 Receipts and Expenditures Reports. An additional 225 candidates and committees filed affidavits exempting themselves from the report filing requirement.

For the 1982 primary and general election periods, a total of 99 notifications of failure to file were sent. In other words, approximately one in every 21 reports (or 4.7% of all reports) were not filed on time. A total of 366 notifications of material errors or omissions were also sent. Approximately one in every 6 reports contained a material error or omission.

This compares with a total of 546 notifications of failure to file and 321 notifications of material errors or omissions that were sent for the corresponding reporting periods in 1980. Although the accuracy of the reports has not improved, the timeliness of the filings has improved dramatically.

Audits of the records of candidates and committees are conducted based on generally accepted auditing standards and procedures adapted to the area of campaign finance. Audits are conducted on a priority basis. Accorded first priority are situations involving formal complaints. The next priority is assigned to situations in which it is necessary to clarify problems identified during the desk reviews. A general investigation may also be authorized at this point. Finally, a random sample of candidates and committees is audited. If a candidate is selected for a random audit, his or her opponent is also examined.

The Commission has compiled statistical summaries of 1982 election contributions and expenditures for state candidates. An analysis of 1982 campaign contributions indicate that statewide candidates received their largest percentage of contributions from individuals (55.6%) with personal funds from the candidate (14.5%) making up the second largest source of campaign funds. Candidates for the House of Representatives received their largest percentage of contributions from political action committees (48.4%) with individuals (21.2%) contributing the second largest source of campaign funds.

During the 1982 election cycle, 410 contributions totaling \$186,707 were contributed to candidates by out-of-state organizations; i.e., corporations, unions, and political action committees. The number of out-of-state organizations making contributions to Kansas candidates has increased significantly since 1978. From the number of inquiries being made by out-of-state groups since the 1982 general election, it appears that the number of out-of-state contributors will again increase substantially during the 1984 election cycle.

An analysis of 1982 candidate campaign expenditures indicates that statewide candidates expended the largest amount of their funds for television advertising (24.4%). General administration (16.8%) and printing and distribution of campaign literature (16.6%) were the next two largest expenditure categories. The largest expenditure item for House of Representatives candidates was printing and distribution of campaign literature (39.4%). Newspaper advertising was the second largest expenditure item (17.3%) for house candidates.

On the following pages are the summary tables of the 1982 election contributions and expenditures for state candidates.



SUMMARY OF STATE CANDIDATE'S 1982 ELECTION YEAR CONTRIBUTIONS BY TYPE OF CONTRIBUTOR

TYPE OF CONTRIBUTOR	STATEWIDE CANDIDATES		HOUSE OF REP. CANDIDATES		DIST., ASSOC. DIST., & MAG. DIST. JUDGES		STATE BOARD OF ED. CANDIDATES	
	Amount	%	Amount	%	Amount	%	Amount	%
Individual	\$2,430,076	55.6	\$ 263,620	21.2	\$ 38,794	43.7	\$ 535	19.8
Corporate	536,532	12.3	72,563	5.8	12,276	13.8	50	1.8
Political Action Comm.	166,784	3.8	603,974	48.4	1,650	2.0	-0-	-0-
Party Committees	127,982	2.9	49,614	4.0	500	.6	-0-	-0-
Candidate's Personal Funds	636,975	14.5	76,375	6.1	28,796	32.5	1,802	66.7
Other	436,727	10.0	22,045	1.8	5,030	5.6	270	10.0
Unitemized	39,043	.9	158,168	12.7	1,661	1.8	45	1.7
<b>TOTAL CONTRIBUTIONS</b>	<b>\$4,374,119</b>	<b>100%</b>	<b>\$1,246,359</b>	<b>100%</b>	<b>\$ 88,707</b>	<b>100%</b>	<b>\$ 2,702</b>	<b>100%</b>

Footnotes

- Party Committees are comprised of the state party committees as well as the county central committees.
- 163 PACs, and 146 Party Committees filed Receipts and Expenditures Reports.
- 100 PACs, and 43 Party Committees filed Affidavits of Exemption.
- 410 contributions totaling \$186,707 were contributed to candidates by out-of-state organizations (PACs, Unions, Corporations).

SUMMARY OF STATE CANDIDATE'S IN-KIND CONTRIBUTIONS  
BY REPORTING PERIOD

CANDIDATE	IN-KIND CONTRIBUTIONS GIVEN DURING REPORTING PERIOD *			TOTAL BY TYPE OF CANDIDATE
	No. 1	No. 2	No. 3	
STATEWIDE	\$45,769	\$136,809	\$32,696	\$215,274
HOUSE OF REPRESENTATIVE	\$28,280	\$18,847	\$ 7,073	\$ 54,200
DISTRICT, ASSOC. DIST., & MAG. DIST. JUDGES	\$ 3,518	\$ 3,573	\$ 100	\$ 7,191
STATE BOARD OF ED.	\$ 335	\$ 253	\$ 48	\$ 636
TOTAL IN-KIND PER PERIOD	\$77,902	\$159,482	\$39,917	-----
TOTAL IN-KIND CONTRIBUTIONS MADE TO CANDIDATES DURING 1982 ELECTION CYCLE				\$277,301

\*Reporting Period No. 1 covered the period December 1, 1980 through July 23, 1982  
 Reporting Period No. 2 covered the period July 24, 1982 through October 22, 1982  
 Reporting Period No. 3 covered the period October 23, 1982 through November 30, 1982

BREAKDOWN OF PAC DOLLARS CONTRIBUTED  
BY REPORTING PERIOD

TOTAL CONTRIBUTIONS REPORTED GIVEN TO CANDIDATES	NUMBER OF PACs GIVING DURING REPORTING PERIOD*		
	No. 1	No. 2	No. 3
\$1 - \$5,000	43	58	51
\$5,001 - \$10,000	2	25	0
\$10,001 - \$15,000	1	3	0
\$15,001 - \$20,000	1	4	0
\$20,001 - \$25,000	1	1	0
\$25,001 - \$30,000	0	2	0
\$30,001 - \$35,000	1	1	0
\$35,001 - \$40,000	0	1	0

\* Reporting Period No. 1 covered the period July 1, 1981 through July 23, 1982  
 Reporting Period No. 2 covered the period July 24, 1982 through October 22, 1982  
 Reporting Period No. 3 covered the period October 23, 1982 through November 30, 1982

SUMMARY OF CAMPAIGN EXPENDITURES  
1982 PRIMARY AND GENERAL ELECTIONS  
STATEWIDE CANDIDATES

<u>TYPE OF EXPENDITURE</u>	<u>ACTUAL EXPENDED AMOUNT</u>	<u>OUTSTANDING DEBT</u>	<u>PERCENTAGE OF PAID &amp; CONTRACTED FOR EXPENDITURES</u>
Printing and Mailing/Distribution of Campaign Literature . . . . .	\$719,243	\$53,709	16.6
Newspapers . . . . .	151,146	2,864	3.3
Radio . . . . .	158,645	-0-	3.4
Television . . . . .	1,044,755	90,000	24.4
Advertising Production and Consulting . . . . .	619,686	84,503	15.1
Polling . . . . .	99,427	2,860	2.2
Yard Signs, Bumper Stickers, Buttons, Billboards . . . . .	79,684	30,546	2.4
Food/Beverage, Fund Raising and Social Events . . . . .	87,969	9,062	2.1
General Administration . . . . .	748,385	33,501	16.8
Campaign Travel/Subsistence . . . . .	175,911	30,913	4.4
Miscellaneous . . . . .	371,938	48,890	9.0
Unitemized . . . . .	12,902	--	.3
<b>TOTAL EXPENDITURES</b>	<b>\$4,269,691</b>	<b>\$386,848</b>	<b>100%</b>

Footnotes

- 17 Candidates for Statewide Office filed Receipts and Expenditures Reports
- 3 Candidates for Statewide Office filed Affidavits of Exemption

SUMMARY OF CAMPAIGN EXPENDITURES  
1982 PRIMARY AND GENERAL ELECTIONS  
STATE HOUSE OF REPRESENTATIVE CANDIDATES

<u>TYPE OF EXPENDITURE</u>	<u>AMOUNT</u>	<u>PERCENT</u>
Printing and Mailing/Distribution of Campaign Literature . . . . .	\$453,454	39.4
Newspapers . . . . .	198,334	17.3
Radio . . . . .	94,041	8.2
Television . . . . .	25,326	2.2
Advertising Production and Consulting . . . . .	15,778	1.4
Yard Signs, Bumper Stickers, Buttons, Billboards . . . . .	107,199	9.3
Food/Beverage, Fund Raising and Social Events . . . . .	33,124	2.9
General Administration . . . . .	44,142	3.8
Campaign Travel/Subsistence . . . . .	20,017	1.7
Miscellaneous . . . . .	125,100	10.9
Unitemized . . . . .	33,307	2.9
	<hr/>	<hr/>
TOTAL EXPENDITURES	\$1,149,822	100%

Footnotes

- 241 House Candidates Filed Reports
- 25 House Candidates Filed Affidavits of Exemption
- \$1647 in outstanding debts remained on Nov. 30, 1982
- \$37,970 in outstanding loans (owed to candidates themselves)  
remained on Nov. 30, 1982

SUMMARY OF CAMPAIGN EXPENDITURES  
1982 PRIMARY AND GENERAL ELECTIONS  
STATE DISTRICT, MAGISTRATE DISTRICT, AND  
ASSOCIATE DISTRICT JUDGE CANDIDATES

<u>TYPE OF EXPENDITURE</u>	<u>AMOUNT</u>	<u>PERCENT</u>
Printing and Mailing/Distribution of Campaign Literature . . . . .	\$19,832	24.8
Newspapers . . . . .	8,777	11.0
Radio . . . . .	9,156	11.5
Television . . . . .	19,932	24.9
Advertising Production and Consulting . . . . .	4,961	6.2
Yard Signs, Bumper Stickers, Buttons, Billboards . . . . .	8,982	11.2
Food/Beverage, Fund Raising and Social Events . . . . .	262	.3
General Administration . . . . .	171	.2
Campaign Travel/Subsistence . . . . .	-0-	-0-
Miscellaneous . . . . .	6,686	8.4
Unitemized . . . . .	1,200	1.5
	<hr/>	<hr/>
TOTAL EXPENDITURES	\$79,959	100%

Footnotes

- 22 Candidates for District, Associate District and Magistrate District Judge filed Receipts and Expenditures Reports
- 48 Candidates filed Affidavits of Exemption

SUMMARY OF CAMPAIGN EXPENDITURES  
 1982 PRIMARY AND GENERAL ELECTIONS  
 STATE BOARD OF EDUCATION CANDIDATES

<u>TYPE OF EXPENDITURE</u>	<u>AMOUNT</u>	<u>PERCENT</u>
Printing and Mailing/Distribution of Campaign Literature. . . . .	\$ 729	26.9
Newspapers. . . . .	1,347	49.9
Radio . . . . .	-0-	-0-
Television . . . . .	-0-	-0-
Advertising Production and Consulting . . . . .	37	1.3
Yard Signs, Bumper Stickers, Buttons, Billboards . . . . .	-0-	-0-
Food/Beverage, Fund Raising and Social Events . . . . .	-0-	-0-
General Administration . . . . .	21	.8
Campaign Travel/Subsistence . . . . .	-0-	-0-
Miscellaneous . . . . .	318	11.8
Unitemized . . . . .	250	9.3
<b>TOTAL EXPENDITURES</b>	<b>\$2,702</b>	<b>100%</b>

Footnotes

- 7 Candidates for State Board of Education filed Receipts and Expenditures Reports.
- 6 Candidates for State Board of Education filed Affidavits of Exemption.

Conflict of Interest. Comprehensive changes were made in the Conflict of Interest Laws during the 1983 legislative session.

Prior to July 1, 1983, the Conflict of Interests Law required the following individuals to file SSI's:

1. State employees earning at the rate of \$25,000 or more per year. (3,450 individuals filed as of July 1, 1983.)
2. Individuals whose appointment to office is subject to senate confirmation. (109 individuals filed as of July 1, 1983.)
3. Elected State Officials. (187 individuals filed as of July 1, 1983.)
4. General counsels for state agencies, regardless of the amount of compensation. (42 individuals filed as of July 1, 1983.)
5. Members of state boards, councils and commissions who receive compensation from the state. (478 individuals filed as of July 1, 1983.)

With regard to the 4,266 individuals required to file a SSI in 1983, 34 have been sent notifications of failure to file, and 1904 have been sent notifications of material errors or omissions in their statements. This compares to 72 notifications of failure to file and 121 notifications of material errors or omissions sent in 1982. There was a dramatic increase in the number of errors or omissions notices sent in 1983 due to a law change in 1982, coupled with individuals not reading the form's instructions which explained this new requirement.

As of July 1, 1983, elected state officials and candidates for such office, individuals whose appointments are subject to confirmation by the Senate and general counsels for state agencies must file statements of their substantial financial interests. In addition, state officers, employees, and members of boards, councils or commissions designated by the head of an agency who hold a major policy making position or who have responsibility for purchasing or procurement, writing or drafting specifications for contracts; awarding grants, benefits or subsidies (except persons performing purely ministerial functions); or inspecting, licensing or regulating any person or entity (except drivers license examiners); and employees who in the last 12 months while a state employee have been a consultant for any person or entity other than the state for compensation, must file statements of their substantial financial interests.

In 1984, with the new method for determining who must file an annual statement, it is estimated there will be a substantial increase in the number of individuals required to file a SSI.

As the Commission's staff enforces the filing requirements, it has become increasingly clear that the conflict of interests statutes are not widely understood either by state employees or the public at large. Yet these laws are of fundamental importance to the workings of state government; they draw the line between private interest and public trust which must be guarded carefully. Efforts to clarify and enforce that line are increasingly important as public concern mounts over abuses of the public trust. Consequently, the Commission publishes a conflict of interest brochure yearly



for distribution to individuals required to file a SSI and for the general public upon request. In 1984, the Commission will provide this brochure to all state employees. The Commission has also suggested several legislative proposals to clarify and strengthen the conflict of interests statutes.

Conflict of Interest (Representation Case Disclosure). There were 24 Representation Case Disclosure statements filed in fiscal year 1983. It is possible that other individuals required to file such statements have not done so. However, given the structure of the statutory requirement, there is no way of knowing who should file such statements.

Lobbying Provisions. There are 538 lobbyists registered for 1983 as of September 30, 1983. This compares with a total of 563 registered lobbyists in calendar year 1982. Of the 538 registered, some represent more than one person or organization. The Commission's statistical analysis of the lobbyist employment and expenditures reports shows expenditures of \$336,341.24 reported to date during 1983. Lobbyists who make expenditures in excess of \$100 during a reporting period must file a monthly report. Expenses such as lobbyists' salaries and office overhead need not be reported.

### Investigations

During fiscal year 1983, the Commission initiated six investigations. All related to possible violations of the State Conflict of Interest statutes. Five of the investigations resulted in the issuance of complaints. In addition to investigations conducted prior to complaints being filed, investigations are conducted following the filing of complaints.

### Enforcement Program

Complaints. There were 20 complaints filed in FY 1983. Nine complaints were filed in the conflict of interest area. Of these nine, four were filed due to individuals failing to file their statement of substantial interests. These complaints were dismissed once the necessary reports were filed. In the area of campaign finance, 11 complaints were filed during FY 1983. All 11 were due to treasurers failing to file campaign reports.

Anyone who believes that any of the provisions administered by the Commission have been intentionally violated may file a complaint in writing with the Commission. As the public becomes more aware of the requirements of the statutes, the Commission expects to conduct more investigations and have more complaints filed.

Hearings. In scheduling a hearing, the Commission first has to conclude that probable cause exists for believing the allegations in the complaint. Probable cause exists if there is present a reasonable ground for belief in the existence of the alleged facts set out in the complaint. Complaints remain confidential until probable cause is found. Ultimate determination as to whether intentional violations have occurred is a decision which is not reached until the conclusion of the public hearing.

During fiscal year 1983, the Commission scheduled two complaints for hearing.

Civil Penalties. The statutes enforced by the Commission provide for the assessment of civil penalties for failure to file certain reports or statements. Under the Campaign Finance Act, the failure to file an appointment of treasurer or candidate committee form, a statement of organization for a party committee or political committee, or receipts and expenditures reports within five days after having received a failure to file notice by certified mail subjects the person to a \$10 per day penalty for each day the report or statement remains unfiled, up to a maximum of \$300. Under the state conflict of interest and lobbying statute, the failure to file a statement of substantial interests, lobbyist registration form, or lobbyist employment and expenditure report within the same five day grace period subjects the person to a \$10 per day penalty for each day the report or statement remains unfiled, up to a maximum of \$300. The Commission is also authorized to waive any imposed civil penalty, upon a finding of good cause.

Due to the dramatic increase in the timely filing of reports, the Commission collected only \$180 in civil penalties in fiscal year 1983.

### RECOMMENDATIONS

The Commission realizes any major piece of legislation periodically needs revision and modification, and in some cases, major changes. Every year the Commission has recommended statutory changes. These recommendations are set out in detail in Part II of this report.

### CONCLUSION

As the Commission has repeated on a number of occasions, its success or failure will depend on its ability to guarantee the Governor, the Legislature and above all, the people of the State, that the campaign finance, conflict of interest and lobbying provisions are being complied with. To a great extent, this means the ability to insure that the financial information reported periodically is timely, accurate and complete. The Commission believes that while the past several years have shown significant improvement in the timeliness of the filing and the quality of the reports submitted, too many still contain errors and/or omissions. Much remains to be done through education and assistance to upgrade the quality of the reports, and at the same time, to identify and proceed against those who intentionally violate the law. In the same vein, much remains to be done to alert the people of their rights and responsibilities under the law. The Commission recognizes that the strongest safeguard against unethical conduct by public officials and employees is an informed and active public.

## PART II: RECOMMENDATIONS

The Commission is directed by statute to make recommendations to the Governor and Legislature. It recognizes that any major piece of legislation periodically needs "fine tuning". To that end, the Commission makes the following recommendations:

### General

1. Adoption of code of civil procedure. Currently most of the discovery permitted under the relevant statutes is available only after a complaint has been filed and probable cause has been established. Since the Commission's procedures are civil in nature, we believe it would be appropriate for the rules of civil procedure to be applicable to Commission inquiries after a complaint has been filed and it has been determined to be sufficient on its face. On occasion, probable cause cannot be demonstrated without the power of discovery to reach essential documentary evidence. This situation effectively limits the Commission's ability to enforce the law.
2. K.S.A. 25-4152 and K.S.A. 46-280. Change in Commission's ability to serve notice of civil penalties. These sections set forth the ability for the Commission to obtain civil penalties from those persons or entities which have failed to file certain reports in a timely manner. Under these sections, the Commission is required to serve the parties by certified or registered mail. The penalty provisions are then not triggered until five days after the notice is received. It does occur that people will not pick up certified or registered mail. We would therefore suggest that the civil penalty commence to run fifteen days after the registered notice is deposited in the mail. This registered notice will be accompanied by a first class letter to the recipient explaining what the registered mail contains.

## Campaign Finance

1. Require Campaign Finance Reports to be filed with Secretary of State and locally. Presently, all campaign finance reports are filed with the Secretary of State. It has been suggested that this effectively defeats the public disclosure goals of the Act in legislative and other races of less-than-statewide interest. It is argued that the statehouse press corps is simply too small to digest the large amount of material filed and that local citizens and media representatives cannot get the information without coming to Topeka. As a result, the disclosure goals of the Act are seriously impaired. We recommend that candidates in less than statewide races be required to file in Topeka and with the election officer in their home counties. Local election officials should be authorized to dispose of the reports after a reasonable period of time.
2. Violation of other laws. In conducting reviews and/or investigations, the Commission has come across possible violations of laws outside its jurisdiction. Presently, because of the confidentiality provisions of the law, we cannot communicate information concerning these possible violations to appropriate agencies unless it is disclosed at a public hearing. We recommend that the Commission be given authority to notify the Attorney General or other appropriate law enforcement agencies of possible violations of laws outside the Commission's jurisdiction.
3. Include K.S.A. 25-4147 in Penalty Provision Section of the Campaign Finance Act. Currently, there is no penalty for violating any sub-section of K.S.A. 25-4147. For example, K.S.A. 25-4147 prohibits the commingling of candidate or committee funds with the personal funds of any treasurer, candidate, or committee member. Although commingling is prohibited, there is no penalty for the violation. The Commission, therefore, recommends that K.S.A. 25-4147 be included in the penalty sections of the Act.
4. Candidate signing of campaign finance reports. Currently, only the treasurer is required to sign each campaign finance report verifying its accuracy. It has come to the Commission's attention that on several occasions treasurers, upon a candidate's request, have turned certain matters over to the candidate for follow-up or disposition, and later learned that the candidate never followed through. Thus, while the treasurer's signature verifies that the report is true and correct, what is reported has not in effect happened since the candidate has not followed through. The Commission believes that the candidate should be required to sign each campaign finance report as a testimony that to the best of his/her knowledge the report being filed is true and correct. More importantly, it has come to the Commission's attention that on numerous occasions candidates will take actions concerning the signing of checks or the receipt of contributions and not inform the treasurer of these actions. Thus, the treasurer's verification is still correct insofar as the treasurer's knowledge is concerned, but the report is inaccurate. Dual signing by the treasurer and the candidate of each campaign finance report would help assure a more accurate report.

5. In its 1982 Annual Report, the Commission recommended that K.S.A. 25-1709 and K.S.A. 25-2407 be brought within the purview of the Campaign Finance Act.

K.S.A. 25-1709 concerns contributions by corporations and certain stockholders. Presently, this statute falls under the jurisdiction of the Attorney General's office. This statute relates to the prohibition of certain corporations and stockholders from contributing to either aid or oppose candidates and/or political parties. The Commission is deluged with inquiries regarding the interpretation and ramifications of this statute. Although campaign finance related, the Commission cannot address the inquiries made of this statute since it falls outside its jurisdiction.

K.S.A. 25-2407 concerns corrupt political advertising. Presently, this statute falls under the jurisdiction of the Attorney General's office. This statute defines what types of advertising must disclose a "paid for" disclaimer, as well as what must be said in the disclaimer. Again, since the statute is campaign finance related, the Commission receives many inquiries regarding interpretation of the statute.

These two statutes were combined into one bill (SB 376) during the 1983 legislative session. At the present time, SB 376 is in conference committee. The Commission recommends the passage of SB 376 with the effective date being the date of publication in the Kansas Register. With 1984 being an election year, the Commission needs time to incorporate these additional statutes in its handbooks for candidates, party and political committees, as well as issue advisory opinions on each subject.

#### State Conflict of Interests Statutes

1. New section. The Commission recommends a new section be added to the State Conflict of Interests Law which basically would state: "No state officer or employee or candidate for state office shall direct or authorize any other state officer or employee to use state facilities, goods or services or to devote state duty time to the support or opposition of any candidate for election to any public office. No state officer or employee, except the candidate himself or herself, shall use state facilities, goods or services or devote state duty time to supporting or opposing any candidate for election to public office.

It has come to the Commission's attention that state employees are often used in campaigns during state duty time. The Commission believes that this action should be prohibited.

2. Repeal K.S.A. 46-277. K.S.A. 46-277, in confusing language, indicates that all complaints before the Commission under the conflict of interest and lobbying laws may only be established if intentionality is proven. The language raises issues of interpretation which are unnecessary. The Commission suggests that K.S.A. 46-277 be repealed and that the general criminal requirements of intent be employed.

3. New section. The Commission recommends that a new section be added to the State Conflict of Interests Statutes which would prohibit a state officer or employee from appointing or participating in the appointment of his or her spouse, children, or parents to any compensated position in state government. A prohibition of this type would help assure the public's trust in state government.
4. Amend K.S.A. 46-286. Currently K.S.A. 46-286 provides that no state officer or employee may accept a position with an outside organization which is licensed by, inspected by, or contracts with the agency in which the state officer or employee is employed. This section has caused problems for some state employees. For example, an employee of SRS, in a low paid position, who seeks outside employment to supplement his income, cannot accept employment with any outside organization which is inspected, regulated, or licensed by SRS. Even though this employee or, for that matter, his division within SRS does not have licensing, inspecting or regulating functions, this employee is prohibited from accepting employment with such outside organization.

The Commission feels K.S.A. 46-286 should be amended to provide that no state officer or employee shall in his or her capacity as such, participate in licensing, regulating or inspecting any person or business by which such officer or employee is employed or in whose person or business he or she holds any position or a substantial interest. This section shall not prohibit a state officer or employee from participating in licensing, regulating or inspecting state agencies.

The Commission feels that the portion of K.S.A. 46-286 which states, "This section shall not apply to appointed or elected members of a state board, council or commission, except that no member of such board, council or commission shall participate in any license, inspection, or contract on behalf of their state board, council or commission with any outside organization with which such member is associated", should not be changed.

#### Local Conflict of Interests Statutes (K.S.A. 75-4301 et seq.)

Under current law the Commission's only authority in the local conflict of interest area is to issue advisory opinions. The Commission receives many inquiries from local candidates, election offices, etc., annually. The most frequent questions asked are who must file a substantial interest statement, where the statement must be filed, what is to be disclosed, and where to obtain the form. A majority of these calls are referred to us by the Secretary of State's office.

During September, October and November of this year, the Legislature convened a Special Committee on Conflict of Interest and Ethics to go over the State's Conflict of Interest Laws. At one of its meetings, the Attorney General testified that those portions of the local conflict laws pertaining to financial disclosure should be brought in line with the state conflict requirements. The special committee agreed with the attorney general's recommendations.

The Commission recommends that in addition to issuing advisory opinions, it be given the authority to issue the rules and regulations in the local conflict of interest area. The following changes in the local conflict of interest laws are recommended.

1. K.S.A. 75-4301. The Commission feels that "substantial interest" should be re-defined to be consistent with K.S.A. 46-229. The local conflicts law and the state conflicts law have different requirements concerning what constitutes a "substantial interest". The Commission believes that the definitions should be parallel.
2. K.S.A. 75-4302. Repeal of subsections (b), (c), (d), and (e).
  - (A) Subsection (b) of K.S.A. 75-4302 should be repealed since K.S.A. 46-215 et seq. controls this situation. A section which applies to state officials should not be included in the local conflicts law.
  - (B) Subsection (c) of K.S.A. 75-4302 should be repealed since this section is no longer necessary and was grandfather language at the time enacted.
  - (C) Subsection (d) of K.S.A. 75-4302 should be repealed since the requirements for amending substantial interest statements at the local level does not carry-over into the state conflict requirements. It seems inappropriate for local level officials to have a more excessive filing burden than state officials.
  - (D) Subsection (e) of K.S.A. 75-4302. By repealing this section, the Kansas Public Disclosure Commission would have authority under K.S.A. 75-4303(a) to issue the rules and regulations concerning substantial interest statement filings. If the definition of substantial interest is made parallel in both the state and local laws, it would seem appropriate for only one agency to issue rules and regulations concerning that definition.
3. Amend K.S.A. 75-4302. The Commission feels that K.S.A. 75-4302 should be amended by adding a section which would require the annual filing of substantial interest statements to be between April 15 and April 30 inclusive, each year, for all local elected officials, city managers, and superintendents of school districts. This recommendation should also provide that any person who has filed a substantial interest statement for the current calendar year need not file an additional statement in that same calendar year.

SENATE BILL NO. \_\_\_\_\_

By

AN ACT relating to elections; concerning absentee voting; concerning marking and transmission of absentee ballots; amending K.S.A. 25-1124 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 25-1124 is hereby amended to read as follows: 25-1124. (a) Any person qualified to vote pursuant to K.S.A. 25-1119 and amendments thereto, upon receiving any ballot transmitted to such person as provided in this act, shall cast ~~his-or-her~~ their vote as follows: The voter shall make a cross or check mark in the square or parenthesis opposite the name of each person candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. The voter shall then personally place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall then fill out in full the form on the ballot envelope and shall sign the same. The ballot envelope shall be mailed or otherwise transmitted ~~by-the-voter~~ to the county election officer.

(b) Any sick or physically disabled voter who is unable to mark or transmit an absentee ballot and who has received an absentee ballot pursuant to K.S.A. 25-1119(b) and amendments thereto, may request assistance in marking or transmitting an absentee ballot.

(c) The county election officer shall allow a qualified elector of the county to assist a sick or physically disabled voter in marking and transmitting an absentee ballot, provided an affidavit is signed by the qualified elector who renders assistance to the sick or physically disabled voter and submitted



to the county election officer with the absentee ballot. The  
affadavit shall be on a form prescribed by the secretary of state  
and shall contain a statement from the elector providing  
assistance that the elector has not exercised undue influence on  
the voting decision of the sick or physically disabled voter and  
that the elector providing assistance has marked the ballot as  
instructed by the sick or physically disabled voter.

(d) Any person assisting a sick or physically disabled  
voter in marking and transmitting an absentee ballot who  
knowingly and willfully fails to sign and submit the affadavit  
required by this section shall be guilty of a class E felony.

Sec. 2. K.S.A. 25-1124 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and  
after its publication in the Kansas register.

SENATE BILL NO. \_\_\_\_\_

By

AN ACT relating to elections; concerning candidates for governor and lieutenant governor; concerning dates for filing nomination papers or declarations of intention to become a candidate; amending K.S.A. 25-4004 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 25-4004 is hereby amended to read as follows: 25-4004. The provisions of K.S.A. 25-205, and amendments thereto, shall not apply to the offices of governor and lieutenant governor. The names of candidates for governor and lieutenant governor shall be printed upon the official primary ballot when each pair thereof shall have qualified to become candidates in one or the other of the following methods and none other: First, they shall have had filed in their behalf, not later than twelve o'clock noon, June twentieth 10, prior to such primary election, or if such date falls on Saturday, Sunday or a legal holiday, then before twelve o'clock noon the following day, nomination papers, commonly called nomination petitions, as provided for in K.S.A. 25-4005, and amendments thereto; or, second, they shall have filed not later than the time for filing nomination papers, as above provided, with the secretary of state, as hereinafter prescribed, a declaration of intention to become candidates, accompanied by a fee as provided in K.S.A. 25-4006, and amendments thereto.

Sec. 2. K.S.A. 25-4004 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.