

Approved: 1/23/96  
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE  
APPORTIONMENT AND GOVERNMENTAL STANDARDS.

The meeting was called to order by Chairperson Janice Hardenburger at 1:40 p.m. on January 16, 1996 in Room 529-S of the Capitol.

All members were present except: Senator Sallee, excused  
Senator Wisdom, excused

Committee staff present: Dennis Hodgins, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Bonnie Fritts, Committee Secretary

Conferees appearing before the committee: Carol Williams, Kansas Commission on Governmental  
Standards & Conduct  
Dennis Hodgins, Legislative Research Department

Others attending: See attached list

Senator Hardenburger introduced and welcomed new staff, then asked for introduction of bills.

Carol Williams presented the Commission's 1995 Annual Report (Attachment 1) to the committee and asked that two bills concerning campaign finance and lobbying provisions be re-considered and presented testimony as to why the Commission endorses each bill.

Senator Parkinson made a motion to introduce both bills, Senator Brady seconded the motion, the motion carried.

Dennis Hodgins presented updates on work done by the Special Interim Committee on Elections, touching base on several important issues, such as financial reform, brought before that committee. He also briefed the committee on other recommendations discussed.

The meeting adjourned at 2:27 p.m.

The next meeting is scheduled for January 18, 1996.



1995

# ANNUAL REPORT

KANSAS COMMISSION ON  
GOVERNMENTAL  
STANDARDS & CONDUCT



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TOPEKA, KANSAS 66612  
913-296-4219

SENATE ELECTIONS  
1-16-96  
ATTACHMENT 1

## PREFACE

This 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, 1994 through June 30, 1995, the end of Fiscal Year 1995. Occasionally, data for the first quarter of Fiscal Year 1996 is used in order to provide a more complete picture of the Commission's operations.

TABLE OF CONTENTS

Responsibilities . . . . . 1

Commission Composition . . . . . 2

Staff . . . . . 2

Budget . . . . . 2

Organization and Operation . . . . . 4

A. Education and Public Awareness . . . . . 4

B. Advisory Opinions . . . . . 5

C. Review and Audit Program . . . . . 21

    1. Campaign Finance . . . . . 21

    2. Conflict of Interests . . . . . 23

    3. Lobbying . . . . . 24

D. Investigations . . . . . 25

E. Enforcement Programs . . . . . 25

    1. Complaints . . . . . 25

    2. Hearings . . . . . 26

    3. Civil Penalties and Fines . . . . . 26

Conclusion . . . . . 26

Legislative Recommendations . . . . . 28

## COMMISSION'S RESPONSIBILITIES

The Kansas Commission on Governmental Standards and Conduct is charged with administering, interpreting and enforcing 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.). These laws establish the public's right to information about the financial affairs of Kansas' public officials, lobbyists, and candidates for office. In addition, the Commission renders advisory opinions and can adopt rules and regulations under a less comprehensive conflict of interests law covering local government officials and employees (K.S.A. 75-4301 et seq.).

### **CURRENT COMMISSION MEMBERS**

Diane Gaede, Chairwoman  
Republican, Manhattan  
Term expires, January 31, 1997

Father Vincent Krische, Vice-Chairman  
Democrat, Lawrence  
Term expires, January 31, 1996

Chris Anne Hartley  
Republican, Baxter Springs  
Term expires, January 31, 1997

Janice Huston  
Democrat, Americus  
Term expires, January 31, 1997

Richard (Pete) Loux  
Independent, Wichita  
Term expired, January 31, 1994

Rabbi Herbert Mandl  
Democrat, Overland Park  
Term expired, January 31, 1995

Former Chief Justice Robert Miller  
Republican, Topeka  
Term expires, January 31, 1996

Michael Norris  
Republican, Olathe  
Term expires, January 31, 1997

Elon Torrence  
Republican, Topeka  
Term expires January 31, 1996

COMMISSION COMPOSITION

The Kansas Commission on Governmental Standards and Conduct is a nine member, bipartisan, citizen commission authorized by K.S.A. 25-4119a. Members serve a two year term and the Commission's Chairman is appointed by the Governor. The Vice-Chairman is appointed by the membership.

The Commission usually meets once a month. The Commission's meetings are open to the public and information prepared by the staff for each meeting is available to the public. During FY 1995, the Commission held 10 meetings. Meetings are scheduled to address a variety of matters including: the review of complaints filed and investigations undertaken, the issuance of advisory opinions to answer questions involving interpretation of a particular section of the law, making policy decisions, amending or adopting new administrative regulations, and handling of administrative matters including personnel, budget preparation, office procedures, etc.

STAFF

Administrative, legal, investigative, and clerical functions of the Commission were performed by the staff which consisted of six full-time positions. In FY 1995, the Commission was allocated three special projects positions.

**FY 1995 COMMISSION STAFF**

Carol Williams, Executive Director  
Jana Atchison, Local Campaign Finance Supervisor  
Cindy Hermes, Auditor  
Janet Williams, Investigator  
Donna Williams, Secretary  
Ruth Pile, Lobbyist Coordinator/Secretary

BUDGET

In FY 1995, the Commission was appropriated \$322,011 from the State General Fund with a fee fund limitation of \$74,341. The following chart reflects revenue and expenditures for the fiscal year.

COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT  
 BUDGET AND ACTUAL - GENERAL AND FEE FUND  
 For the Fiscal Year Ended June 30, 1995

	Budget	Actual
Revenue:		
State General Fund Appropriations	\$322,011	\$321,815
Fee Fund Limitation	74,341	55,401
<b>Total Revenue</b>	394,407	377,216
Expenditures:		
Salaries and Benefits	305,453	299,070
Contractual Services	81,385	65,106
Commodities	5,110	4,591
Capital Outlay	4,404	8,450
<b>Total Expenditures</b>	394,407	377,216

Full-time staff has increased by only four positions in the twenty-one years of the agency's existence. Other operating expenditures have remained relatively constant through this time period.

The Commission's workload has increased dramatically since its inception in 1974. Legislation enacted in 1989 brought candidates for county and first class city office under the purview of the Campaign Finance Act. This means that an additional 1900 candidates are now required to file appointment of treasurer forms and file the necessary receipts and expenditures reports.

Due to the increased workload, it now takes staff longer to complete the comprehensive desk reviews of all candidate, party and political action committee reports. This means that only a few candidate and committee reports are audited. To be reasonably satisfied that the reports filed under the Campaign Finance Act are accurate, it is the Commission's judgement that 10% of the candidates and 10% of the party and political committees registered in any election cycle should be audited. Less than one percent of all candidate and committee reports have been audited in the past five years due to time constraints.

MAJOR ACCOMPLISHMENTS IN FY 1995

Since the Commission's operations are fully automated, there is a noticeable increase in the efficiency of data entry, word processing, and file retrieval, as well as increased accuracy. In addition, all Commission



opinions have now been computer indexed and the index has been published.

The Commission prepared and disseminated statistical summaries of pre-primary and pre-general election campaign finance information on all legislative and statewide races prior to the 1994 primary and general elections. Staff put in 140 hours of overtime to produce the campaign finance summaries prior to the primary election in August of 1994. Staff put in 162 hours of overtime to produce the pre-general election statistical summary. Each campaign finance summary was printed and disseminated four days prior to the primary and general elections.

Since contribution data for all state candidate races in 1994 is in the computer database, the Commission now has the ability to retrieve data on individual donors. Legislators, lobbyists, the press, and the general public are making requests on a regular basis for this donor information.

### ORGANIZATION AND OPERATION

The Commission's efforts focus on full compliance with the Kansas campaign finance, conflict of interests, and lobbying statutes. Each year the Commission receives thousands of financial disclosure reports filed by candidates, political and party committees, public officials and lobbyists. Staff time is devoted to assuring the accurate and timely disclosure of required financial information about those in state and local government. 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 when necessary, that the Commission can determine compliance with the laws.

The Commission's work program encompasses six areas: (1) education and public awareness; (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.

#### Education and Public Awareness

The Commission's goal remains to improve communications regarding the reporting requirements of those subject to one or more of the disclosure laws, and to increase public awareness with respect to the impact and importance of information contained in the reports filed.

The Commission utilizes informational brochures, the news media, and speaking engagements to inform the public about the laws and their meaning. Statistical information is summarized and printed in the areas of campaign finance and lobbying. 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 interests law 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.

Thirty advisory opinions were issued in FY 1995. A breakdown of general topics addressed in advisory opinions issued in fiscal year 1995 follows:

FY 1995 ADVISORY OPINIONS	
Campaign Finance --	7
Lobbying --	1
State Conflict of Interests --	12
Local Conflict of Interests --	10

From its inception in 1974 through June 30, 1995, the Commission has issued a total of 765 advisory opinions.

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**ADVISORY OPINIONS**

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**Opinion No. 94-24 -- Issued August 17, 1994**

**State employee teaching college courses during off-duty hours**

**FACTUAL STATEMENT**

A Staff Development Specialist for the Board of Emergency Medical Services has been contacted by a local community college to serve in a faculty position during off-duty time. The college received permission from the Board of Emergency Medical Services to hold the workshops the employee would be teaching. The employee had no input or involvement in this decision.

**QUESTION**

Is it permissible for an employee of the Board of Emergency Medical Services to accept employment with a local community college during off-duty hours?

**OPINION**

Under K.S.A. 46-233 and K.S.A. 46-286, as long as the employee does not participate in the capacity as a state employee in the making of a contract between the State and the community college, and does not license, regulate, inspect or enforce regulations pertaining to the college, the situation is permissible.

**Opinion No. 94-25 -- Issued August 17, 1994**

**KCGSC lacks jurisdiction to hear complaints of local level conflict of interest laws**

**FACTUAL STATEMENT**

The Kansas Commission on Governmental Standards and Conduct has the statutory authority to issue advisory opinions and hear complaints of violations concerning the state level conflict of interest laws (K.S.A. 46-215 et seq.) and the campaign finance laws (K.S.A. 25-4142 et seq.). The Commission also has the statutory authority to issue advisory opinions concerning the local level conflict of interest laws (K.S.A. 75-4301 et seq.).

**QUESTION**

Does the Kansas Commission on Governmental Standards and Conduct have the statutory authority to hear complaints of violations of the local level conflict of interest laws (K.S.A. 75-4301 et seq.)?

**OPINION**

K.S.A. 75-4303a(b) grants the Commission the authority to "administer" the local level conflict of interest laws. In general, an administrative agency has only those powers expressly granted to it, and those additional powers which are clearly implied. The word "administer" does not expressly grant the power to hear complaints. Therefore, the issue becomes whether the power to hear complaints can be clearly implied from the word "administer". Both the state level conflict of interest laws and the campaign finance laws specifically grant this Commission the authority to hear complaints of those laws. Given this legislative pattern of clear grants of authority in two out of the three bodies of law administered by the Commission, it cannot be assumed the same powers are clearly implied in the local level conflict laws. If the Legislature had intended to grant the Commission the authority to hear complaints under K.S.A. 75-4301 et seq., it would have done so in the same fashion as the other two bodies of law. Therefore, this Commission lacks jurisdiction to hear complaints under K.S.A. 75-4301 et seq., and such complaints should be handled by the appropriate county or district attorney or the state attorney general.

**Opinion No. 94-26 -- Issued September 22, 1994**

**State employee receiving airline ticket to appear in advertisement for manufacturer**

**FACTUAL STATEMENT**

An employee of the Kansas Lottery has been contacted by an out-of-state manufacturer to give a testimonial regarding the manufacturer's software in advertisements which were to appear in various publications. The employee had used the software for state duty purposes.

QUESTION

Are there any restrictions on a state employee appearing in an advertisement to endorse a product on behalf of a state agency or in the capacity as a state employee? Would the receipt of the airline ticket by the employee from the manufacturer be permissible under K.S.A. 46-228 and K.S.A. 46-237?

OPINION

Because the software manufacturer has an interest in having its product sold within Kansas, the manufacturer has a "special interest" as defined by K.S.A. 46-228. The motive of the manufacturer then decides whether the \$40 gift limitation in K.S.A. 46-237 applies. If the ticket is given to the state employee with "a major purpose of influencing" later decisions by the employee concerning the manufacturer's product, the \$40 limitation applies. If the ticket is given without "a major purpose to influence", the \$40 limit would not apply. As far as appearing in the advertisement, except as outlined above, there are no restrictions in the conflict of interest laws on state employees appearing in advertisements. Thus, it is up to each state agency to determine if it is appropriate for a state employee to endorse a vendor's product.

**Opinion No. 94-27 -- Issued September 22, 1994**

**State employee employed by another entity during off-duty hours**

FACTUAL STATEMENT

A supervisor in the KanWork program, under the auspices of the Department of Social and Rehabilitation Services, accepted paid placement with Methodist Youthville on a part-time basis. The Department of Social and Rehabilitation Services contracts with Youthville, although the state employee has no contact with Youthville other than the part-time employment.

QUESTION

Is it permissible for the state employee to work part-time at Methodist Youthville while being employed as a supervisor for the state in the KanWork program?

OPINION

As long as the state employee does not license, regulate or inspect Methodist Youthville or participate in the making of contracts between the State and Youthville, the situation is permissible. Note: the prohibition on contracting includes referring State clients to the Youthville program (see K.S.A. 46-233 and K.S.A. 46-286).

**Opinion No. 94-28 -- Issued September 22, 1994**

**State employee serving on Drainage District Board of Supervisors**

FACTUAL STATEMENT

Drainage District #4 is a quasi-municipal corporation whose purpose is to

maintain a drainage ditch to serve the land within the District. The District also has the authority to levy taxes on lands included in the District. The District is governed by a Board of Supervisors elected at the annual landowners meeting. At the last meeting, it was necessary to replace a deceased supervisor. It was suggested that since the Kansas Department of Wildlife and Parks (KDWP) is the largest landowner in the District, the Department should have a representative on the Board. An employee of KDWP was nominated and elected to serve on the Board.

**QUESTION**

Is it permissible for an employee of the Kansas Department of Wildlife and Parks to also serve on the Board of Supervisors for Drainage District #4?

**OPINION**

As long as the state employee does not license, regulate or inspect the Drainage District and does not on behalf of the State participate in the making of contracts between the State and the District, the situation is permissible (see K.S.A. 46-233 and K.S.A. 46-286).

**Opinion No. 94-29 -- Issued September 22, 1994**

**Are watershed districts contracting officers subject to local or state conflict of interest laws**

**FACTUAL STATEMENT**

There are currently 87 watershed districts organized under state law that provide for water management. The Kansas Legislature has appropriated funds for assistance in the construction of flood detention dams. The funds are appropriated to the State Conservation Commission and then are allocated to the watershed districts for use. The Commission has developed several regulations for the allocation of these resources, one of which is that each district have a "contracting officer".

**QUESTION**

Are there any restrictions on who may serve as a contracting officer?

**OPINION**

The initial issue is whether the state level conflict of interest laws or the local level conflict of interest laws apply to the position of contracting officer for a watershed district. Under K.S.A. 46-224(a), a watershed district is an "other political subdivision" and therefore cannot be defined as a "state agency". It does meet the definition of a "governmental subdivision" such that the local conflict of interest laws, K.S.A. 75-4301 et seq., apply. Thus, the less extensive prohibitions found in the local conflict of interest laws would apply to contracting officers of watershed districts. The prohibitions on who may be a contracting officer are not as stringent as they would be if the state conflict of interest laws applied.

Opinion No. 94-30 -- Issued September 22, 1994

**Use of city equipment and government access channel to televise political candidate debates**

**FACTUAL STATEMENT**

The City of Olathe has been approached by the League of Women Voters to run a series of debates between candidates. The debates are of particular interest to the citizens of Olathe. These debates would be televised on the city's governmental access channel. The debates would be conducted and moderated by a neutral third party.

**QUESTION**

With the procedural safeguards outlined above in place, would the use of municipally owned video equipment and the city's government access channel to televise candidate debates violate K.S.A. 25-4169a?

**OPINION**

It appears that the purpose of the debates is to provide voters with information rather than "for the purpose of influencing the nomination or election of any candidate". Therefore, so long as all candidates for a particular office are invited to attend, and a neutral third party would be in charge of the debates, this situation would not violate K.S.A. 25-4169a.

Opinion No. 94-31 -- Issued October 27, 1994

**Spouse of city official employed by an entity contracting with the city**

**FACTUAL STATEMENT**

The spouse of the assistant city manager for the City of Lawrence is an employee of Columbia/HCA. Columbia/HCA and the City of Lawrence entered into a contractual relationship in which Columbia/HCA would provide occupational health services to the City's employees.

**QUESTION**

Was it a violation of the local level conflict of interest laws, K.S.A. 75-4301 et seq., for the city to contract with an entity when the spouse of a city employee works for that entity?

**OPINION**

Under the local level conflict of interest laws, the holdings of spouses are attributable to one another insofar as holding a "substantial interest". However, these laws do not prohibit local governmental agencies from contracting with private entities in which a local public official holds a "substantial interest". Rather, it is the local public official who may not participate, in his or her capacity, in the making of such contracts. Therefore, this situation is not a violation of K.S.A. 75-4301 et seq., so long as the Assistant City Manager, in the capacity as a city official, did not participate in the making of the contract between the city and Columbia/HCA.

Opinion No. 94-32 -- Issued October 27, 1994

**National Party Committees are not subject to the limitations on campaign contributions to candidates**

**FACTUAL STATEMENT**

The Kansas Campaign Finance Act (K.S.A. 25-4142 et seq.) sets out the limitations on the amount of campaign contributions that can be given. These amounts vary depending on the type of entity giving the contributions, and the office sought by the candidate who is receiving the contribution.

**QUESTION**

Does the Kansas Campaign Finance Act limit the amount a national party committee may contribute to an individual candidate?

**OPINION**

The original Campaign Finance Act expressly created an exception for national party committees by allowing them to make contributions without limitations to individual candidates. A statutory construction problem arose when the Act was later amended. These amendments seemed to repeal by implication the expressed exception created for the national party committees. However, implied repeals are not favored in the law. If the Legislature had intended to repeal the expressed exception, it could have done so by expressly repealing the prior sections. Since the Legislature did not expressly repeal the exception, national party committees may contribute to individual candidates without limitation.

Opinion No. 94-33 -- Issued November 29, 1994

**Definition of "lobbying group or firm"**

**FACTUAL STATEMENT**

A major stockholder in an incorporated law firm is actively engaged as a lobbyist. The firm has clients that contract for lobbying services, and other clients who contract for legal services. The stockholder employs two associates solely for lobbying, while other employees of the firm do not participate in any lobbying activities.

**QUESTION**

Does the law firm constitute a "lobbying group or firm", and what are the current registration fees for the stockholder and two associates?

**OPINION**

A "lobbying group or firm" is any group or firm which contracts with others to provide lobbying services as distinguished from an in-house lobbyist or an individual representing the individual's own interests. Therefore, since the firm contracts with others to provide lobbying services, it is a "lobbying group or firm". The stockholder, as an owner or partner of the firm but who is still an employee, would pay a fee based on the amount spent for each client. The two associates, as employees of the firm who are not

owners or partners, would each pay a flat \$300 fee (see K.S.A. 46-265).

**Opinion No. 94-34 -- Issued November 29, 1994**

**Employee of Kansas Dental Board appointed to serve as dental examiner**

**FACTUAL STATEMENT**

The Kansas Dental Board has designated the Central Regional Testing Service as the approved source for the clinical dental and dental hygiene examination. The Board has been asked to appoint individuals to serve as dental examiners. The Dental Board appointed an individual who is employed by the Board as a part-time inspector/investigator.

**QUESTION**

Is it permissible for a part-time employee of the Kansas Dental Board who inspects and investigates dentists and dental hygienists to be appointed by the Board to an independent organization which conducts licensure examinations?

**OPINION**

Nothing in the state conflict of interest laws prohibits a part-time employee of the Kansas Dental Board from being appointed to an independent organization which conducts licensure examinations of dentists and dental hygienists.

**Opinion No. 94-35 -- Issued November 29, 1994**

**State employee teaching college courses during off-duty hours**

**FACTUAL STATEMENT**

A Special Investigator for the Board of Emergency Medical Services desires to teach emergency medical technician courses through a local community college during off-duty hours.

**QUESTION**

Is it permissible for a Special Investigator for the Board of Emergency Medical Services to teach emergency medical technician courses at a local community college during off-duty hours?

**OPINION**

Nothing in the state conflict of interest laws prohibits a Special Investigator for the Board of Emergency Medical Services from teaching emergency medical technician courses at a local community college.

**Opinion No. 94-36 -- Issued November 29, 1994**

**A candidate not actively seeking election prohibited from using campaign funds for contribution to county central committee**



FACTUAL STATEMENT

A state senator received a solicitation letter from a county central committee. The senator was not running for election during the year in which the letter was received.

QUESTION

Is it permissible for a candidate to use campaign funds to make a contribution to a county central committee at a time when the candidate is not actively seeking election?

OPINION

In KCGSC Opinion No. 92-24, the Commission opined the following: "...candidates may use campaign funds for expenditures to party committees as a 'legitimate campaign purpose' when: (1) the candidate purchases an identifiable service for his or her own campaign, and; (2) the amount is reasonable in relation to the service received." In applying this language to the current situation, since the candidate is not currently involved in a campaign, the donation would not meet the definition of a "legitimate campaign purpose". Thus, the senator would not be permitted to use campaign funds for the contribution to the central committee, but could use personal funds if so desired. (Note: This opinion is no longer applicable due to amendments made to the Campaign Finance Act during the 1995 legislative session.)

**Opinion No. 94-37 -- Issued December 5, 1994**

**When purchase of tickets to gubernatorial inauguration constitutes a contribution**

FACTUAL SITUATION

K.S.A. 25-4186(e) states, in part, "... the aggregate amount contributed, in kind or otherwise, by any person for a gubernatorial inauguration shall not exceed \$2,000." Certain individuals and entities want to purchase tickets to the inaugural and contribute money for the inauguration.

QUESTION

Does the purchase of tickets to the gubernatorial inauguration constitute an "amount contributed" such that the ticket purchases are included in the \$2,000 limit?

OPINION

The purchase of gubernatorial inauguration tickets is analogous to the purchase of tickets for non-candidate political events (See K.A.R. 19-25-2). Under that rule and regulation, the value of the contribution for the purchase of tickets to non-candidate events is the amount by which the ticket price exceeds the value of the goods and services provided. Therefore, a determination of the value of the dinner and entertainment provided at the inaugural must be made, and any amount in excess of that value is a contribution and applies toward the \$2,000 limit.

Opinion No. 94-38 -- Issued December 14, 1994

**Chairperson of planning commission participating in decisions affecting chairperson's clients**

**FACTUAL STATEMENT**

The chairperson of the Dodge City/Ford County Joint Planning Commission is also the president of a local real estate agency. The planning commission occasionally considers matters involving the chairperson's real estate clients.

**QUESTION**

Is it a violation of the local level conflict of interest laws (K.S.A. 75-4301 et seq.) for the chairperson of the planning commission to vote on matters affecting the chairperson's real estate clients?

**OPINION**

Under the local level conflict of interest laws, an individual may not participate, in his or her official capacity as a local governmental official, in decisions affecting a business in which the official holds a "substantial interest". However, this abstention is applied only in contractual situations. Legislative decisions or administrative decisions such as zoning are not considered contracts. Therefore, the chairperson could participate in these types of decisions. The chairperson would be required to file a disclosure of interests statement before participating in decisions having to do with the real estate agency (see K.S.A. 75-4305).

Opinion No. 94-39 -- Issued December 14, 1994

**A Kansas State Board of Pharmacy member also employed by the Board as an inspector**

**FACTUAL STATEMENT**

A current member of the Kansas State Board of Pharmacy has applied for a position with the Board as a pharmacy inspector. The member's term of employment would begin before the expiration of the member's tenure on the Board.

**QUESTION**

Are there any restrictions on a member of the Kansas State Board of Pharmacy also being employed by the Board as a pharmacy inspector?

**OPINION**

Nothing in the state conflict of interest laws would require the Board member to resign that position if hired as the pharmacy inspector. However, the Board member could not participate in the capacity of a Board member in the hiring process for the position being sought. The Board member could, under the conflicts law, participate in decisions regarding sanctions of pharmacies for violations detected in the capacity as a pharmacy inspector.

**Opinion No. 94-40 -- Issued December 14, 1994**

**State employee soliciting entities with a "special interest" on behalf of a charitable organization**

**FACTUAL STATEMENT**

An employee of the Kansas State Department of Education has established a not-for-profit corporation to fund education projects chosen by the corporation's board of directors. No contribution given to the corporation will be used for the benefit of any member of the board, nor will the board members be compensated for their service. The corporation has received a charitable solicitation contribution license. The employee intends to solicit contributions to the corporation from individuals and entities which the employee has contact with as a result of state duties.

**QUESTION**

Is it permissible for the state employee to solicit contributions for the non-profit corporation from individuals and entities which have a special interest in that employee's state duties?

**OPINION**

K.S.A. 46-236 sets out a general prohibition concerning a state employee soliciting from persons known to have a "special interest" when a particular course of action is then to be followed by the employee. The statute does set out an exception for "charitable organizations". After a review of the statutes concerning "charitable organizations", and the subsequent conclusion that educational projects should be included in the definition of "charitable organization", the employee may solicit individuals with a "special interest". The Commission will, however, recommend a legislative change due to the appearance of impropriety this situation creates.

**Opinion No. 95-1 -- Issued February 16, 1995**

**City councilperson participating in decisions affecting school district when employed by the district**

**FACTUAL STATEMENT**

A councilperson for the City of Goddard, is also employed as a teacher by the local high school. The city is contemplating annexing certain land adjacent to existing city limits in order to construct a new high school at that location. The city and school district would then enter into an agreement for the school's construction costs.

**QUESTION**

Is it a violation of the local level conflict of interest laws (K.S.A. 75-4301 et seq.) for the councilperson to vote on the contemplated decisions concerning the high school?

**OPINION**

Local governmental officials are generally prohibited from participating as government officials in decisions affecting businesses in which they hold a

"substantial interest". Since local subdivisions, of government, such as city councils and school districts, are not included in the definition of "business" for purposes of holding a "substantial interest", the councilperson could vote on the agreement between the city and the school district concerning the annexation and costs of the new school's construction.

**Opinion No. 95-2 -- Issued February 16, 1995**

**Governor prohibited from personally retaining shotgun upon leaving office**

**FACTUAL STATEMENT**

The ElDorado Chamber of Commerce began the Governor's One Shot Turkey Hunt to promote tourism. In 1992, O.P. Mossberg and Sons, a gun manufacturer, presented Governor Finney with a personalized shotgun to use at the shoot. The gun's value was in excess of \$40.00.

**QUESTION**

Is it permissible under the state level conflict of interest laws (K.S.A. 46-215 et seq.) for the Governor to personally retain the shotgun upon leaving office?

**OPINION**

The state level conflict of interest laws generally prohibit a state official from accepting a gift in excess of \$40.00 from anyone with a "special interest" (see K.S.A. 46-237 and K.S.A. 46-238). Given the amount of legislation affecting gun manufacturers in 1992, and the Governor's role in the legislative process, Mossberg and Sons did have a "special interest" in the Governor's duties. Therefore, since the Governor accepted a gift in excess of \$40.00 from an entity with a "special interest", the shotgun could only have been accepted on behalf of the State. Thus, the shotgun became state property when accepted in 1992, and must remain the property of the State upon the Governor's leaving office.

**Opinion No. 95-3 -- Issued February 16, 1995**

**Political advertisers must be offered the same reduced rates as those offered to commercial advertisers**

**FACTUAL STATEMENT**

Certain newspapers offer their commercial advertisers "echo ads", which are the same advertisement run again within seven days at a reduced rate. Occasionally, these newspapers do not offer political advertisers the "echo ads" reduced rate.

**QUESTION**

Is it permissible for a newspaper to offer reduced rate "echo ads" to commercial advertisers but deny this offer to political advertisers?

OPINION

The Kansas Campaign Finance Act provides that when a newspaper sells space to a political advertiser, "the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes" (see K.S.A. 25-4156). Therefore, if newspapers allow commercial advertisers reduced rates for advertising space, but do not offer political advertisers this reduced rate, then the charge made for the use of the space to political advertisers has exceeded the charges made for other uses of space. Thus, if reduced rate "echo ads" are offered to commercial advertisers, then these rates must also be offered to political advertisers.

**Opinion No. 95-4 -- Issued February 16, 1995**

**City council member's spouse a member of city planning commission**

FACTUAL STATEMENT

The City of Spring Hill has a city council member whose spouse is a member of the Spring Hill City Planning Commission. The council and planning commission would be required to interact with each other on occasion.

QUESTION

Is it a violation of the local level conflict of interest laws (K.S.A. 75-4301 et seq.) for the spouse of a city council member to be a member of the city planning commission?

OPINION

The local level conflict of interest laws generally prohibit a local governmental official, in his or her official capacity, from participating in the making of contracts with a business in which a "substantial interest" is held. These laws also provide that the holdings of spouses are attributable to one another insofar as the definition of "substantial interest" is concerned. However, because local subdivisions of government such as city councils and planning commissions are not included in the definition of "business", a "substantial interest" cannot be held in local subdivisions of government. Therefore, it is not a violation of the local level conflict of interest laws for the spouse of a city council member to be a member of the city planning commission.

**Opinion No. 95-5 -- Issued February 16, 1995**

**Use of campaign funds to contest certification of election of opponent**

FACTUAL STATEMENT

A candidate, who was defeated in the general election, contests the certification of election of his opponent through the courts. The candidate then wants to use campaign funds to pay the legal fees associated with the court challenge.

QUESTION

Is an individual who has been defeated in a general election and contests the election still considered a "candidate" for purposes of soliciting and accepting campaign contributions?

OPINION

An individual continues to be a "candidate" for purposes of the Campaign Finance Act (K.S.A. 25-4142 et seq.) until all residual funds are expended and a termination report is filed (see K.S.A. 25-4167). The use of campaign funds to contest an election would be "for legitimate campaign purposes" and therefore a permissible use of campaign funds (see K.S.A. 25-4157a). All contributions would be subject to the campaign contribution limitations found in K.S.A. 25-4153. If the candidate chose to set up a special fund, rather than to use campaign moneys, the state level conflict of interest laws (K.S.A. 46-215 et seq.) would apply. Anyone contributing to this special fund would have a "special interest" and could only give up to \$40.00 in a calendar year (see K.S.A. 46-237 and K.S.A. 46-228). The candidate would also be prohibited from soliciting donations to this fund under K.S.A. 46-236. Thus, it is suggested the candidate use campaign funds, which are not subject to the \$40.00 limitation and no-solicitation rule, in order to pay the legal fees associated with a contested election.

**Opinion No. 95-6 -- Issued February 16, 1995**

**Legislator accepting position as Executive Director of local chamber of commerce**

FACTUAL STATEMENT

A Kansas State Senator is considering accepting a position as the Executive Director of a local chamber of commerce. The chamber receives funding from both city and county sources, a portion of which goes to supplant the director's salary.

QUESTION

Is it permissible for a State Senator to accept a position as Executive Director of a local chamber of commerce?

OPINION

Nothing in the state level conflict of interest laws (K.S.A. 46-215 et seq.) prohibits a state senator from accepting the position of Executive Director for a local chamber of commerce.

**Opinion No. 95-7 -- Issued March 14, 1995**

**Private individuals traveling to conference with Secretary of Agriculture and reimbursing state for expenses**

FACTUAL STATEMENT

The Secretary of the Kansas Department of Agriculture needs to travel to a

seminar and panel discussion concerning agricultural issues. Due to time constraints, the Department of Agriculture will either use the Governor's airplane or charter a private aircraft. Included in the passenger list would be one or more individuals from an organization which is not licensed, inspected or regulated by the Department. The organization has offered to pay its fair share of the cost for the airplane.

**QUESTION**

Is it permissible for a private entity to reimburse the Department of Agriculture for the entity's fair share of the costs for the airplane?

**OPINION**

Since the Department of Agriculture is authorizing and willing to pay for the trip, there is not a personal benefit to the state officer, but rather to the agency. Therefore, since the Department does not license, inspect or regulate the organization, it may be reimbursed for the organization's fair share of the costs (see K.S.A. 46-237).

**Opinion No. 95-8 -- Issued April 18, 1995**

**Non-Profit organization using names on campaign finance reports to solicit donations**

**FACTUAL STATEMENT**

Kids Voting Kansas, Inc. is a non-profit organization dedicated to educating Kansas youth about voting and elections. The organization would like to ask contributors to political campaigns for monetary donations which would be used for kids voting programs. These names of these contributors would be derived from campaign finance reports filed by elected officials.

**QUESTION**

Would it be a violation of the Kansas Campaign Finance Act for Kids Voting Kansas, Inc. to request donations from individuals, who are listed on campaign finance reports, to support that organization's programs?

**OPINION**

The Campaign Finance Act prohibits anyone from using the names of contributors on campaign finance reports "for any commercial purpose" (see K.S.A. 25-4154). When any individual or entity uses names found on a campaign finance report to solicit, no matter how honorable the purpose, the names have been used for a "commercial purpose". Therefore, Kids Voting Kansas, Inc. may not use names found on campaign finance reports to solicit donations for that organization's programs.

**Opinion No. 95-9 -- Issued April 18, 1995**

**Member of board of education employed by the board; board member's spouse employed by board**

**FACTUAL STATEMENT**

A member of USD #437 Board of Education is employed by the same board as a classified employee. Therefore, the board member would be in a position to make decisions concerning his employment with the board. A different board member's spouse is employed by the board as a teacher. Thus, the board member would be in a position to make decisions concerning his spouse's employment.

**QUESTION**

Is it a violation of the local level conflict of interest laws (K.S.A. 75-4301 et seq.) for an individual to be on a school board and make decisions affecting his employment or his spouse's employment by the board?

**OPINION**

The local level conflict of interest laws generally prohibit an individual, in his or her capacity, from participating in the making of a contract with a business in which the individual, or individual's spouse, holds a "substantial interest". However, because local subdivisions of government such as school boards are not included in the definition of "business", a "substantial interest" cannot be held in a local subdivision of government. Therefore, an individual may be a school board member and also be employed by the board. Similarly, an individual may be a school board member and have his or her spouse employed by the board.

**Opinion No. 95-10 -- Issued June 22, 1995**

**City planning commissioner voting on rezoning of development when employed by local real estate company selling the development's lots**

**FACTUAL STATEMENT**

The planning commission for the city of Spring Hill, is considering the rezoning and plat approval of a residential development. One of the planning commissioners is a real estate agent for a local realty company, and in that capacity, will derive commissions from the lots in the development being sold.

**QUESTION**

Is it a violation of the local level conflict of interest laws (K.S.A. 75-4301 et seq.) for a planning commissioner to vote on the rezoning and plat approval of a residential development, when the commissioner is employed by the real estate company selling the lots in the development?

**OPINION**

The local level conflict of interest laws generally prohibit an individual from participating in the making of contracts with a business in which a "substantial interest" is held. In this situation, the planning commissioner would have to hold a "substantial interest" in the real estate developer, rather than the real estate agency, for the prohibition to be triggered. The realty company would be merely a third-party to any contacts between the Commission and the real estate developer. If the planning



commissioner did have a "substantial interest" in the real estate developer, the general prohibition only applies to contracts and not legislative decisions such as rezoning and plat approval. Thus, the commissioner could vote on the rezoning and plat approval of the development.

**Opinion No. 95-11 -- Issued June 22, 1995**

**Spouse of city council member is a member of city planning commission**

**FACTUAL STATEMENT**

The spouse of a Spring Hill city council member is a member of the Spring Hill Planning Commission. The two bodies would occasionally interact with each other.

**QUESTION**

Is it a violation of the local level conflict of interest laws (K.S.A. 75-4301 et seq.) for the spouse of a city council member to be a member of the city planning commission?

**OPINION**

The local level conflict of interest laws generally prohibit an individual, in his or her official capacity, from participating in the making of contracts with a business in which the individual, or the individual's spouse, holds a "substantial interest". However, because "business" is not defined in these laws to include local subdivisions of government, a "substantial interest" cannot be held in local subdivisions of government such as city councils and planning commissions. Therefore, there is not a violation of the local level conflict of interest laws for the spouse of a city council member to be a member of the city planning commission.

**Opinion No. 95-12 -- Issued June 22, 1995**

**City Commissioner's spouse serving as director of 501c(3) corporation which contracts with the city**

**FACTUAL STATEMENT**

The City of Hays has entered into an Interlocal Governmental Cooperation Agreement with various other municipal and governmental entities. The agreement sets up a trust fund, with the elected city officials of Hays being among the trustees. One of the Hays city commissioners has a spouse who serves as a director of a 501c(3) corporation that would contract with the trust fund.

**QUESTION**

Is it permissible for the city commissioner to participate in the making of contracts between the trust fund and the 501c(3) corporation of which the commissioner's spouse serves as director?

**OPINION**

The local level conflict of interest laws generally prohibit an individual,

in his or her official capacity, from participating in the making of contracts in which the individual, or individual's spouse, holds a "substantial interest". However, the law specifically exempts directors and other officers of 501c(3) corporations from the definition of holding a "substantial interest" (see K.S.A. 75-4301a(a)(4)). Therefore, the city commissioner could vote on contracts between the city and the 501c(3) corporation, by which the commissioner's spouse is employed.

**Opinion No. 95-13 -- Issued June 22, 1995**

**State employee employed by private entity during off-duty hours with state**

**FACTUAL STATEMENT**

A wildlife biologist with the Kansas Department of Wildlife and Parks has been approached by the Kansas City Power and Light Company to do work for the company during the employee's off-duty hours with the state.

**QUESTION**

Is it permissible for a wildlife biologist for the Kansas Department of Wildlife and Parks to work for a private entity during off-duty hours with the state?

**OPINION**

AS long as the state employee has not participated in the making of contracts between the state and the private entity within the last two years, and does not license, inspect or regulate the private entity, there is not a conflict of interests. Therefore, the state employee could work for the private entity during off-duty hours with the state.

**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 area of campaign finance, the Commission's procedures include a preliminary review and a post-election comprehensive desk review of all receipts and expenditures reports filed under the Campaign Finance Act. In addition, a certain number of reports are selected for comprehensive audit.

### 1994 & 1995 Campaign Finance Statistics

Candidates for Statewide Office -- 39  
Candidates for House of Representatives -- 298  
Judge Candidates -- 45  
Candidates for State Board of Education -- 17  
County Candidates -- 336  
1994 First Class City Candidates -- 29  
1995 First Class City Candidates -- 294  
Political Action Committees -- 283  
Party Committees -- 194  
Campaign Finance Reports Filed -- 2113  
Failure to File Notices Issued -- 103  
Errors & Omissions Notifications sent -- 608

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. In FY 1995, only ten audits were conducted. For the number of candidates and committees filing reports in the 1994 election cycle, the Commission feels that a minimum 105 candidates and 47 political committees should have been audited.

The House and Senate Appropriation Subcommittees requested the Commission summarize the types of discrepancies being detected during the comprehensive audits being conducted. The most prevalent discrepancies are: 1) the mismanagement of cash; 2) failure to open a campaign bank account; 3) failure to provide and maintain receipts for cash and in-kind contributions; 4) failure to report in-kind contributions; 5) failure to disclose all monetary contributions received by the campaign or committee; 5) failure to disclose all expenditures made by the campaign or committee.

Candidates and committees filed a total of 2,113 receipts and expenditures reports during the 1994 election cycle. With the additional help provided by the special projects positions, the comprehensive desk review of all reports was completed in July of 1995. Without their assistance, the reports would have taken many more months to review. As it turned out, the notifications of material errors and/or omissions were not mailed to treasurers until August of 1995.

The Commission has compiled statistical summaries of the 1994 election contributions and expenditures for statewide and house of representatives candidates. Charts and graphs of campaign finance activity can be found at the conclusion of this report.

## CANDIDATES FOR STATEWIDE OFFICE

There were 5 contested races for statewide office in 1994. Statewide candidates received monetary contributions totalling \$9,746,613 and made expenditures totalling \$9,789,269.

Statewide candidates received their largest percentage of itemized contributions from individuals, with candidate/spouse's personal funds making up the second largest source of campaign funds.

An analysis of the 1994 candidate campaign expenditures indicates that statewide candidates spent a total of \$9,789,269 on their campaigns. As in past election years, statewide candidates expended the largest amount of their funds for radio and television advertising (42%).

## CANDIDATES FOR HOUSE OF REPRESENTATIVES

There were 102 contested and 23 uncontested races for the House of Representatives in 1994. An analysis of the 1994 campaign contributions indicates candidates for the House of Representatives received contributions totalling \$2,937,636.

State House candidates received their largest percentage of itemized contributions from political action committees (37%), with individuals (24%) making up the second largest source of campaign funds.

During the 1994 election cycle, \$369,400 was contributed to House candidates by out-of-state organizations; i.e., corporations, unions, and political action committees. This is a 21% increase over out-of-state contributions in 1992. The number of out-of-state organizations making contributions to Kansas candidates has increased significantly since 1978. Out-of-state contributions to House candidates in a ten year period have gone from \$58,800 in 1984 to \$369,400 in 1994.

House of Representatives candidates who filed campaign finance reports received an average of \$12,395 in monetary contributions and spent an average of \$11,249 on their campaigns.

An analysis of the 1994 candidate campaign expenditures indicates that House candidates spent a total of \$2,665,935 on their campaigns. As in past election years, House candidates expended the largest amount of their funds for the printing and distribution of campaign literature (47%).

Conflict of Interests. The Kansas conflict of interests statutes provide for (1) the filing of statements of substantial interests and for public inspection of those forms; (2) a code of conduct making it illegal for state officials and employees to be involved in certain conflicts; and (3) the issuance of advisory opinions.

Those required to file Statements of Substantial Interests are elected state officials and candidates for such office, individuals whose appointments are subject to confirmation by the Senate, general counsels for state agencies

and state officers, employees, and members of boards, councils or commissions meeting the definition of a "designee" and so listed by the head of their agency. There were 6198 individuals who filed statements in FY 1995.

**1995 STATEMENTS OF SUBSTANTIAL INTERESTS FILINGS**

Employees listed as Designees -- 5514  
Elected officials -- 194  
Candidates for State Office -- n/a  
Appointees subject to Senate Confirmation - 145  
Board members listed as designees -- 297  
General Counsels -- 38  
Executive Directors of Compacts -- 3  
KS High School Activities Assn. -- 7  
Number of Past Due Notices Mailed -- 337  
Number of Failure to File Notices Issued -- 61

Many state officials and employees are in a position to make or influence decisions which could directly affect their personal interests. The state conflict of interests laws prohibit such activity. To assist these individuals, the Commission issues advisory opinions upon its own initiative and upon the request of any person to whom the relevant law applies. In FY 1995, the Commission issued 12 opinions to state officers and employees concerning their positions, personal interests and how the conflict laws applied to them.

The Commission has found that the conflict 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 interests 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.

Representation Case Disclosure. There were 17 Representation Case Disclosure Statements filed in FY 1995. It is possible that other individuals required to file such statements have not done so. However, given the structure of the statutory requirements, there is no way of knowing who should file such statements.

Disclosure of State Agency Contractual Services with Legislators and their Firms. Any state agency which contracts with a legislator or a legislator's firm to perform services for a state agency for compensation must file a disclosure statement. In FY 1995, there were 170 State Agency Statements of Contractual Services filed with the Secretary of State's office.

Lobbying Provisions. There are 618 lobbyists registered for 1995 as of November 1, 1995, which figure compares with the total of 616 registered

lobbyists in 1994. Of the 618 registered, some are registered on behalf of more than one person or organization. To date, 1014 persons or organizations have been represented this year. The Commission's statistical analysis of the lobbyist employment and expenditures reports shows that at least \$547,251 has been spent on lobbying activities to date during 1995. Every registered lobbyist is required to file a lobbyist employment and expenditures report six times a year. These reports show expenditures if the lobbyist spends more than \$100 in a reporting period. To date this calendar year, 4784 Lobbyist Employment and Expenditures Reports have been filed.

**Lobbyist Registrations and Expenditures  
to date for Calendar Year 1995**

Number of Registered Lobbyists -- 618
Number of Lobbyist Registration Statements Filed -- 1014
Number of Reports Filed by Lobbyists -- 4784
Total Expenditures Reported for Year -- \$547,251
Number of Past Due Notices Sent -- 251
Number of Failure to File Notices Issued -- 89

Investigations

In FY 1995, the Commission initiated six investigations, five of which have been terminated with one complaint being filed. In addition to these investigations conducted prior to complaints being filed, investigations are conducted following the filing of complaints.

Investigations remain confidential until a complaint has been filed and a probable cause determination has been made regarding the complaint. Whenever an investigation does not disclose facts sufficient to warrant further action, the Commission may issue a report concerning the findings of the Commission to the person or persons investigated. This report can be made public by the person or persons who were investigated. Due to the confidentiality provisions set by statute, the Commission cannot publicly discuss the investigation or even confirm or deny that any investigation has taken place.

Enforcement Program

Complaints. There were 37 complaints filed in FY 1995. Of the 37 complaints filed, 34 complaints were filed for campaign finance violations and 3 for conflict of interests violations. Thirty-four complaints were dismissed on the basis that there was insufficient evidence to support a probable cause determination and 3 were scheduled for hearing. It should be understood that after an investigation, if the Commission concludes that there is no evidence to establish probable cause that there was an intentional violation, a complaint is dismissed and no public hearing is held. Anyone who suspects that any of the provisions administered by the Commission have been violated may file a complaint in writing with the Commission.

Hearings. Three complaints were scheduled for public hearing during FY 1995. They were forwarded to the Attorney General for prosecution following public 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. Ultimate determination as to whether intentional violations have occurred is a decision which is not reached until the conclusion of the public hearing.

Civil Penalties and Fines. 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, lobbying and state conflict of interests statutes. Individuals can be subject to a \$10 per day penalty for each day the report or statement remains unfiled up to a maximum of \$300. The Commission is authorized to waive any imposed civil penalty, upon a finding of good cause.

In addition to any other penalty prescribed under the campaign finance, lobbying or state conflict of interests statutes, the Commission can assess a civil fine not to exceed \$5000 for the first violation, \$10,000 for the second violation and \$15,000 for the third and each subsequent violation. Before a civil fine can be assessed, the person must be given proper notice and an opportunity to be heard.

<b>FY 1995 Civil Penalties and Fines</b>	
Civil Penalties Assessed	
Campaign Finance --	\$3310
Lobbying Reports --	\$1350
Statements of Substantial Interests --	\$1550
Total Civil Penalties --	\$6210
Total Civil Fines --	\$-0-

There were \$6210 in civil penalties assessed in FY 1995 against individuals who failed to file their reports in a timely manner.

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 individuals subject to the campaign finance, conflict of interests and lobbying provisions are complying with the laws. 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 filings 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.



## COMMISSION 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 revision, modification, and in some cases, major changes. To that end, the Commission makes the following recommendations:

### CAMPAIGN FINANCE PROVISIONS

1. Last year, the Commission recommended that political brochures that are mailed or distributed during an election should disclose the name of the person paying to have the information printed and distributed. Staff encountered numerous instances during the 1994 election year where it was impossible to determine who has paid for mailings which were intended to aid or defeat candidates for state or local office. Many candidates called the Commission to inquire who had paid for mailings that came out on their behalf or in opposition to their campaigns. When a mailing is not paid from the campaign funds of a candidate and the cost of the mailing is in excess of \$100, the person paying for the mailing has a responsibility to file a report under K.S.A. 25-4150. Amending K.S.A. 25-4156 to require the same "paid for by" disclaimer on brochures would dramatically cut down on the time staff has to spend determining who paid for these independent mailings. The added advantage would be that the public would know who is paying for political brochures and fact sheets they receive at home. HB 2123 was introduced during the 1995 legislative session requiring a political brochure to disclose the individual responsible for its printing and distribution. The House passed HB2123 with a vote of 113 to 11. The bill is currently in Senate Elections. With both House and Senate elections in 1996, the Commission believes this bill should become law.

2. Currently, K.S.A. 25-4156 requires any political advertisement which is published in a newspaper or other periodical or broadcast on television or radio to be followed by the word "advertisement" in a separate line together with the name of the chairperson of the political or other organization inserting the same or the name of the person who is responsible therefor. Person is defined in the Campaign Finance Act to mean any individual, committee, corporation, partnership, trust, organization or association. Since person can be an organization or association of individuals, the actual name of a responsible individual is not required to be disclosed. The Commission recommends amending K.S.A. 25-4156(b)(1) to change the word "person" to "individual". This change would require all ads to disclose the name of the individual responsible for placing the advertisement. At the county and city level, the Commission has had a difficult, if not impossible, time identifying the individual or individuals responsible for placing political newspaper advertisements. The advertisements have had the necessary attribution statement and have listed the name of the organization as the responsible person without providing the name of any individual.

## LOBBYING PROVISIONS

1. K.S.A. 46-269(e) states "Records in support of every report or statement filed shall be maintained and preserved by the lobbyist for a period of five years from the date of the filing of such report or statement and may be inspected under conditions determined by the Commission". This provision permits the Commission to audit any lobbyist's records that support any report filed by the lobbyist. The Commission would like to be able to review all relevant lobbying records in order to perform a complete audit. Current language only permits the review of those specific bills and receipts that the lobbyist chooses to disclose as expenditures on his or her lobbyist employment and expenditures report. The Commission would propose adopting the language found in the Campaign Finance Act which permits the Commission to conduct comprehensive audits of all candidates and political committees. The language found in K.S.A. 25-4147(b) states "Accounts of any treasurer may be inspected under conditions determined by the Commission". The Commission believes it must have access to a lobbyist's entire account to perform a complete audit. All audits conducted by the commission are confidential.

2. The Commission endorses the recommendations made by the Special Committee on Governmental Standards concerning more detailed disclosure of reportable lobbying expenses. Under current law, lobbyists report aggregate totals in the categories of food and beverage provided as hospitality; entertainment, gifts, honoraria or payments; mass media communications; recreation; communications for the purposes of influencing legislative or executive action; and all other reportable expenditures. The Special Committee on Governmental Standards will propose changes to the 1996 Kansas Legislature requiring a lobbyist to disclose each individual expenditure made for the purpose of providing entertainment and hospitality in the form of recreation or food and beverages to members of the legislature. The name of the legislator, the amount of each expenditure made for such member and the purpose for which the expenditure was made, whether for entertainment, recreation or food and beverages would be itemized on the lobbyist's employment and expenditures report. The Commission recommends the Legislature enact the Special Committee's recommendations.

## STATE CONFLICT OF INTERESTS PROVISIONS

1. With the impending closure of two state hospitals which will shift the delivery of a government function to the private sector, as well as the layoff of state employees due to budget cuts, the Commission recommends that a provision of the state conflict statutes be amended to permit employees terminated due to budgetary constraints to accept employment with a person or business they currently would be prohibited from accepting employment with. Current law prohibits a state employee from accepting employment for one year with a person or business the employee has participated in the making of a contract with in the preceding two years. Since circumstances beyond the state employee's control will cause the termination of his or her employment with the state, the Commission does not believe a state employee should be further penalized by not being permitted to accept employment with

any person or business because the employee may have participated in the making of a contract with that entity within the preceding two years. Due to their educational and or work background, many of these state employees will be performing the same tasks whether for government or the private sector. The Commission recommends an exception to K.S.A. 46-233(a) which would permit a state employee to accept a position with a person or business with which he or she participated in making a contract if his or her state position is terminated due to layoff because of agency closure or budget cuts.

2. K.S.A. 46-235 states "No state officer or employee shall accept compensation for performance of official duties, other than that to which such person is entitled for such performance. No person shall pay or offer to pay any state officer or employee any compensation for performance of official duties, except a state officer or employee performing official duties in making payments to state officers and employees. The receipt of wages or salary from an individual's non-state employer during a period of service as a state officer or employee shall not be construed as compensation for performance of official duties." The Commission interprets this statute to mean a state employee cannot contract to perform or be paid to perform official duties on off-duty time from any person other than the state. The current language, though, makes it difficult to discern what type of conduct is prohibited. The Commission would recommend amending K.S.A. 46-235 to state "No state officer or employee shall accept compensation for ~~performance of official duties, other than that to which such person is entitled for such performance~~ providing information or services that he or she is required to provide in carrying out his or her state job responsibilities from anyone other than a state payroll officer or employee who pays that state officer or employee for performance of official duties. (b) Except for a state payroll officer or employee performing official duties in making payments to state officers and employees, no person shall pay or offer to pay any state officer or employee any compensation for performance of official duties..." This amendment would make this provision easier to understand.

#### LOCAL CONFLICT OF INTERESTS PROVISIONS

The Commission believes that in two specific areas the local conflict of interests provisions should be brought more in line with the state conflict of interest statutes. State officers and employees are prohibited from accepting gifts, favors, gratuities, etc. in excess of \$40 per calendar year from anyone known to have a special interest. There are no gift limit provisions at the local level. The Commission receives numerous calls from citizens throughout the year concerned about gifts local officials receive which they perceive are being given to influence governmental decision making. The state conflicts law has a revolving door provision which precludes a state employee from accepting a position with a person or business for one year if the state employee participated in the making of a contract with that person or business within the preceding two years. Currently, a local government official can participate in the making of a contract with a person or business and go to work for that person or business the next day while remaining a local government official. The Commission recommends the State's conflict statutes applicable to revolving door be amended into the local level conflict of interests provisions.

1994

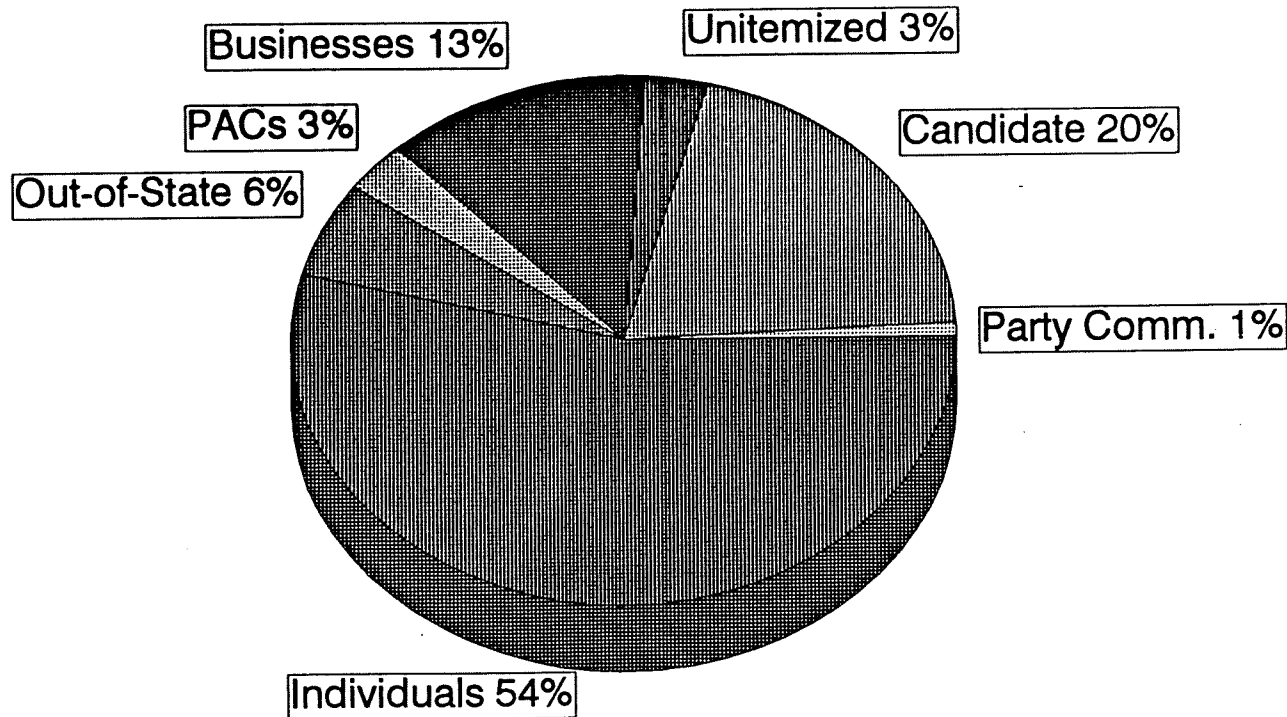
STATEWIDE  
CANDIDATES  
CHART SUMMARY OF  
CONTRIBUTIONS  
AND  
EXPENDITURES

## **PREFACE**

**This campaign statistics summary has been prepared with the objective of increasing the utilization of reported campaign finance information and is intended to:**

- (1) Meaningfully condense reported campaign finance information into a published form which is more accessible to the citizens of Kansas;**
- (2) Chart the candidates' receipts and expenditures in a manner which allows the reader to assess financial influences on the election process; and**
- (3) Establish a basis for identifying trends in campaign financing by comparing information from year to year.**

# 1994 Statewide Election Cycle Monetary Contributions by Category



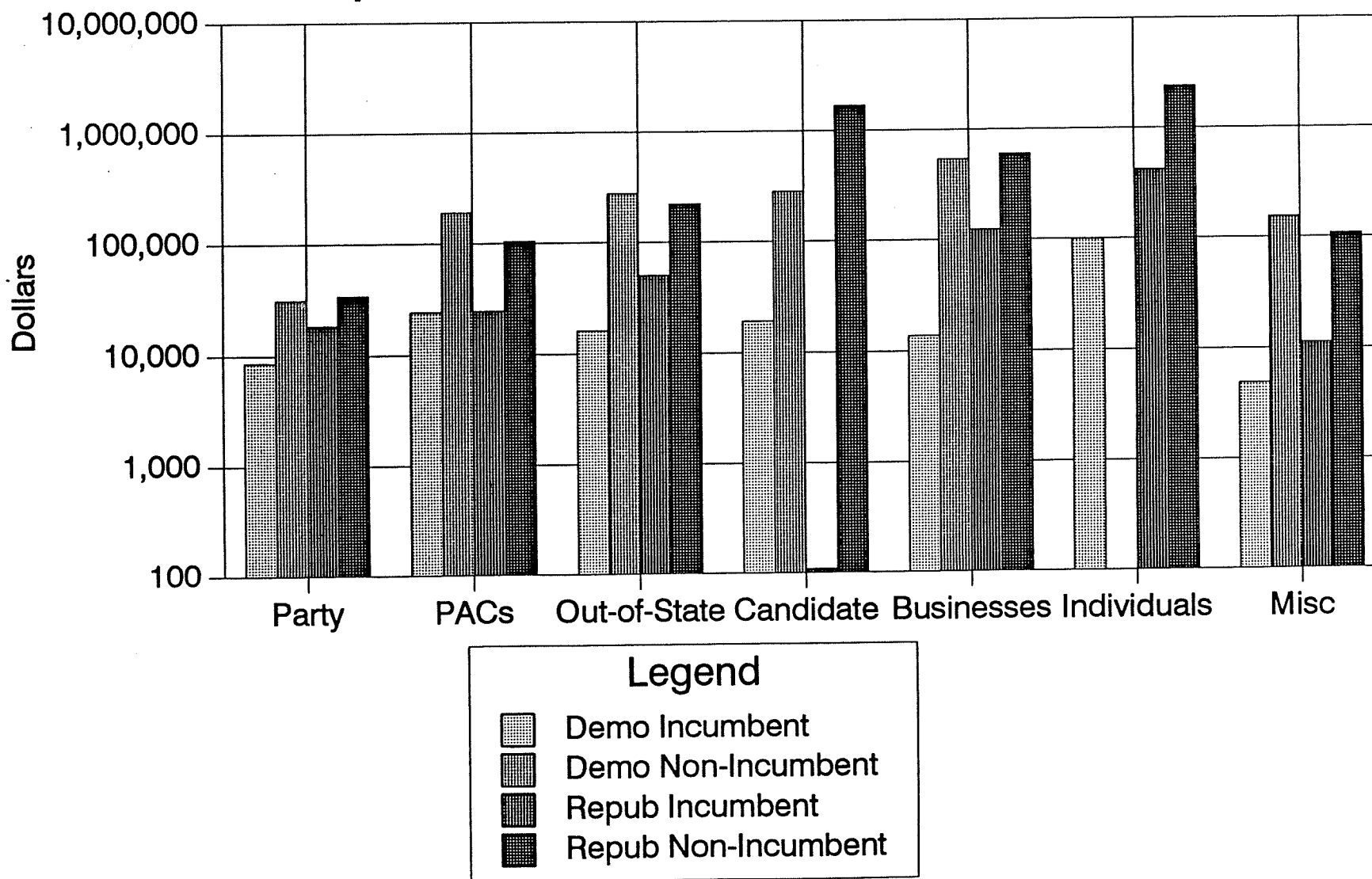
## 1994 ELECTION CYCLE MONETARY CONTRIBUTIONS TO STATEWIDE CANDIDATES

TYPE OF CONTRIBUTOR	CANDIDATE								
	Total Amount	% of Total Contributions	Incumbent	Non-Incumbent	Democrat Incumbent	Democrat Non-Incumbent	Republican Incumbent	Republican Non-Incumbent	Non-Incumbent Libertarian & Independent
Businesses, Corporations, Unions	\$1,275,022.74	13%	\$137,399.79	\$1,137,622.95	\$13,680.00	\$538,053.42	\$123,719.79	\$599,369.53	\$200.00
Candidates/Spouse's Personal Funds	1,984,859.78	20	19,236.87	1,965,622.91	19,128.12	283,687.04	108.75	1,677,958.86	3,977.01
Individuals	5,204,230.88	54	518,535.24	4,685,695.64	99,603.50	2,276,222.45	418,931.74	2,399,838.19	9,635.00
Out-of-State Organizations	564,144.23	6	66,637.75	497,506.48	16,200.00	275,334.00	50,437.75	222,172.48	0
Political Action Committees	343,979.54	3	48,845.00	295,134.54	24,235.00	190,796.00	24,610.00	104,338.54	0
Party Committees	93,333.70	1	27,197.50	66,136.20	8,622.50	31,221.95	18,575.00	34,062.00	852.25
Unitemized & Miscellaneous	281,042.69	3	16,130.88	264,911.81	4,880.20	154,067.18	11,250.68	108,590.18	2,254.45
<b>Total Contributions</b>	<b>\$9,746,613.56</b>	<b>100%</b>	<b>\$833,983.03</b>	<b>\$8,912,630.53</b>	<b>\$186,349.32</b>	<b>\$3,749,382.04</b>	<b>\$647,633.71</b>	<b>\$5,146,329.78</b>	<b>\$16,918.71</b>

Number of Candidates	Won Lost Total	CANDIDATE								
		Total	% of Total	Incumbent	Non-Incumbent	Democrat Incumbent	Democrat Non-Incumbent	Republican Incumbent	Republican Non-Incumbent	Non-Incumbent Libertarian & Independent
	5	14	1	4	1	1	0	3	0	
	30	86	1	29	0	11	1	13	5	
	35	100%	2	33	1	12	1	16	5	

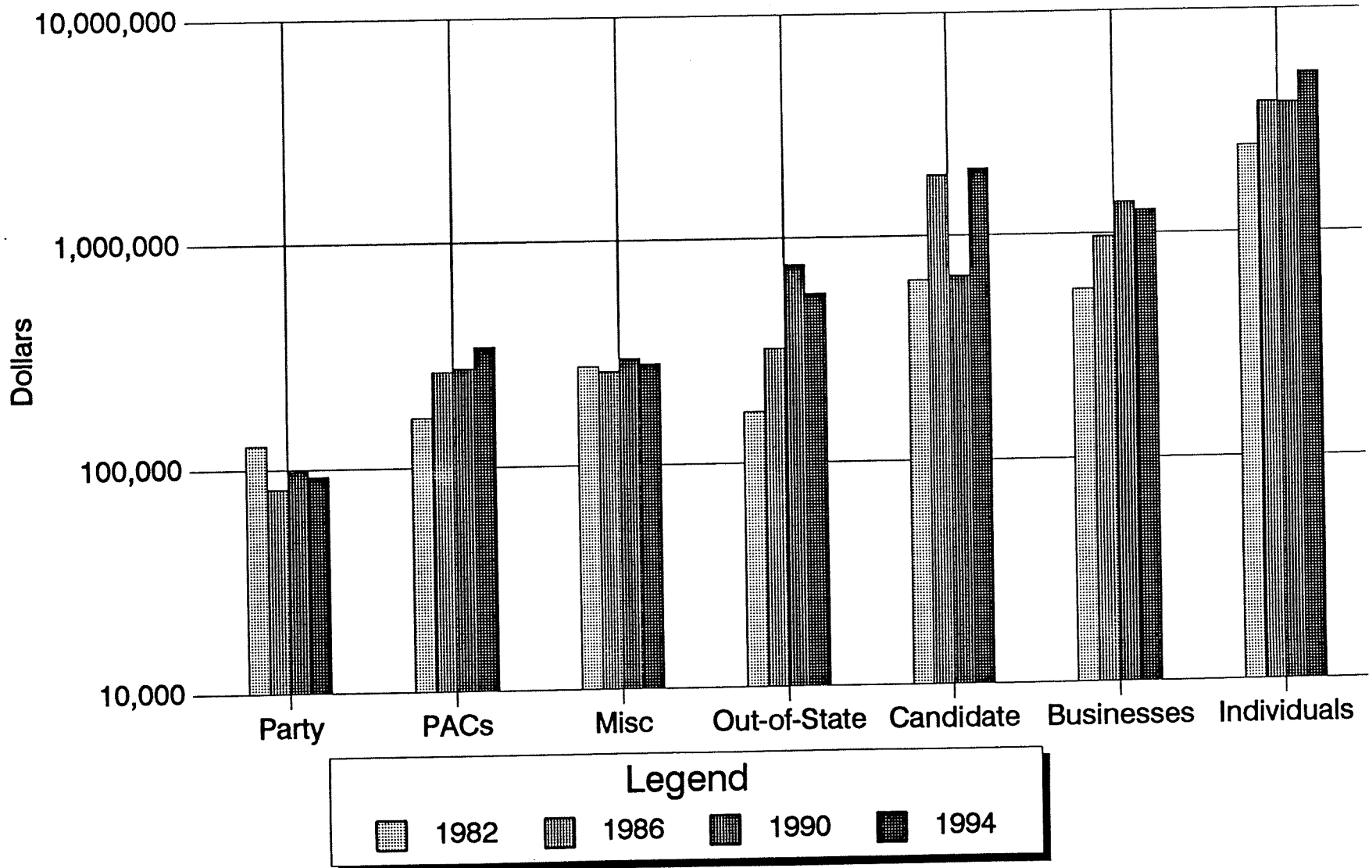
# Monetary Contributions

## Demo/Repub\*\*Incumbent/Non-Incumbent





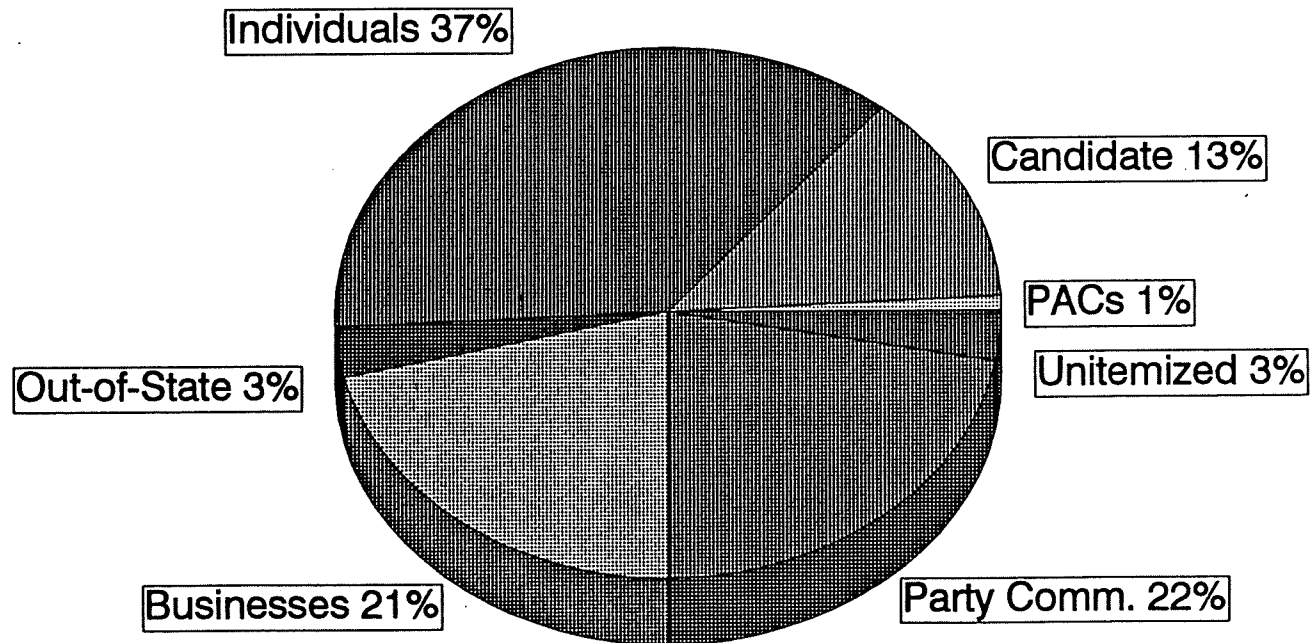
# Comparison of Statewide Election Cycles Monetary Contributions



## Comparison of Statewide Election Cycles Monetary Contributions

Type of Contributor	1982	1986	1990	1994
Party Committees	\$ 127,982	\$ 82,145	\$ 97,906	\$ 93,334
Political Action Committees	166,784	266,680	275,566	343,980
Miscellaneous	275,803	261,713	297,593	281,043
Out-of-State	168,857	324,477	759,177	564,144
Candidate - Spouse	636,975	1,866,369	663,104	1,984,859
Businesses, Corporations, Unions	567,642	972,071	1,379,281	1,275,023
Individuals	2,430,076	3,837,316	3,800,245	5,204,231

# 1994 Statewide Election Cycle Inkind Contributions by Category



## 1994 ELECTION CYCLE INKIND CONTRIBUTIONS TO STATEWIDE CANDIDATES

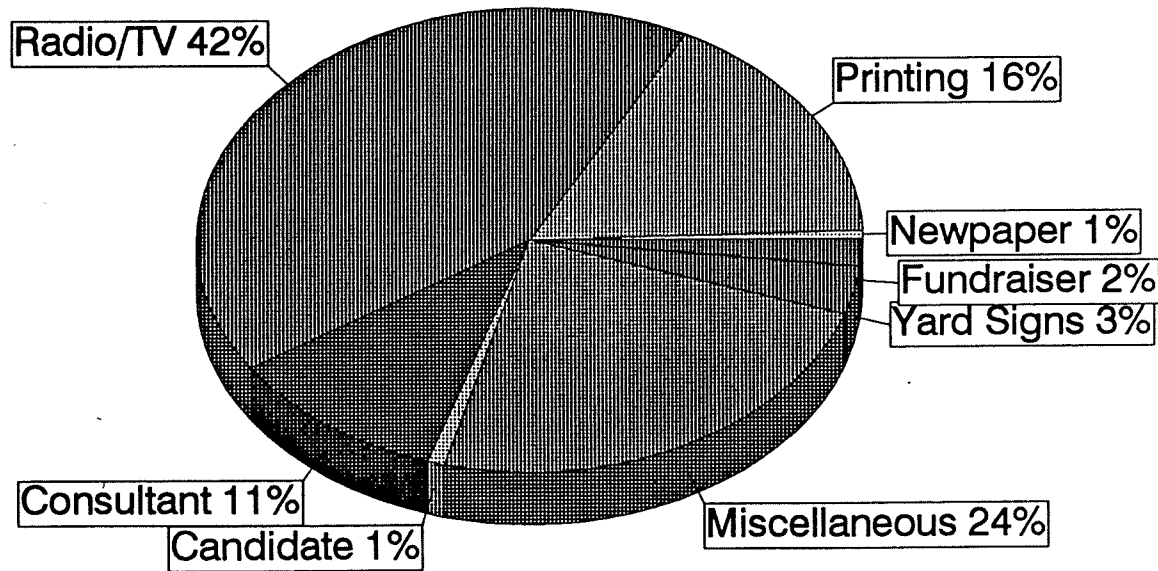
TYPE OF CONTRIBUTOR	CANDIDATE								
	Total Amount	% of Total Contributions	Incumbent	Non-Incumbent	Democrat Incumbent	Democrat Non-Incumbent	Republican Incumbent	Republican Non-Incumbent	Non-Incumbent Libertarian & Independent
Businesses, Corporations, Unions	\$112,177.53	21%	\$5,320.88	\$106,856.65	\$101.40	\$50,960.17	\$5,219.48	\$55,555.98	\$340.50
Candidates/Spouse's Personal Funds	68,353.25	13	0	68,353.25	0	58,265.03	0	9,865.94	222.28
Individuals	196,467.74	37	18,856.66	177,611.08	1,646.69	83,924.19	17,209.97	93,067.01	619.88
Out-of-State Organizations	15,031.24	3	0	15,031.24	0	7,167.12	0	7,864.12	0
Political Action Committees	3,070.97	1	0	3,070.97	0	630.97	0	2,440.00	0
Party Committees	119,378.26	22	2,383.25	116,995.01	0	0	2,383.25	116,995.01	0
Unitemized & Miscellaneous	14,530.59	3	0	14,530.59	0	13,541.07	0	540.00	449.52
<b>Total Contributions</b>	<b>\$529,009.58</b>	<b>100%</b>	<b>\$26,560.79</b>	<b>\$502,448.79</b>	<b>\$1,748.09</b>	<b>\$214,488.55</b>	<b>\$24,812.70</b>	<b>\$286,328.06</b>	<b>\$1,632.18</b>

Number of Candidates	Won	5	14	1	4	1	1	0	3	0
	Lost	30	86	1	29	0	11	1	13	5
	Total	35	100%	2	33	1	12	1	16	5

1-47

# 1994 Statewide Election Cycle Expenditures by Category



## 1994 ELECTION CYCLE EXPENDITURES FOR STATEWIDE CANDIDATES

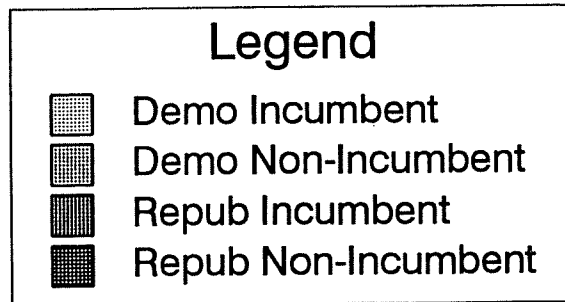
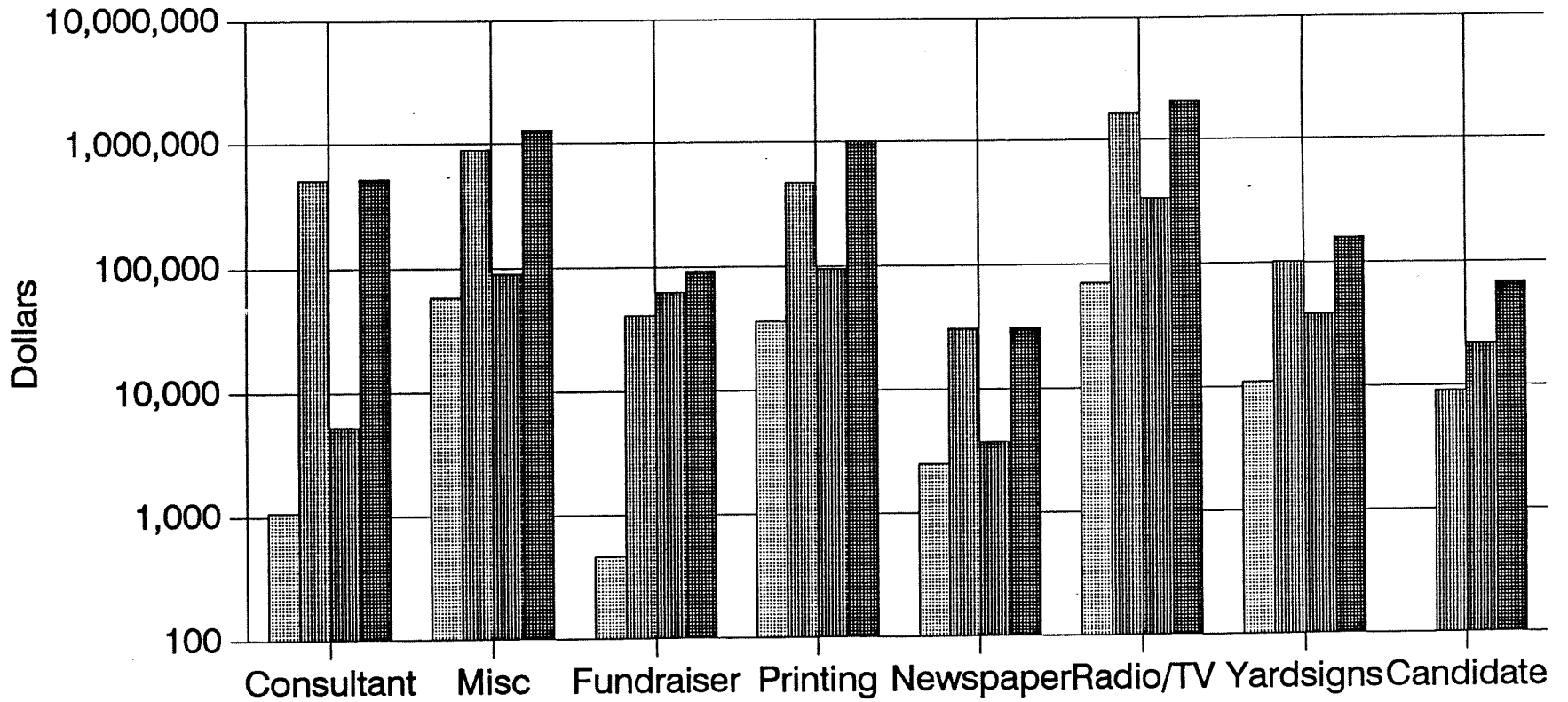
TYPE OF EXPENDITURE	CANDIDATE								
	Total Amount	% of Total Expenditures	Incumbent	Non-Incumbent	Democrat Incumbent	Democrat Non-Incumbent	Republican Incumbent	Republican Non-Incumbent	Non-Incumbent Libertarian & Independent
Consultant	\$1,042,594	11%	\$6,434	\$1,036,160	\$1,074	\$514,370	\$5,360	\$521,790	\$ 0
Fundraiser	187,023	2	63,593	123,430	461	30,951	63,132	92,479	0
Newspaper Advertising	68,668	1	6,257	62,411	2,498	30,905	3,759	31,236	270
Printing, Postage and Distribution	1,617,551	16	131,324	1,486,227	36,018	470,892	95,306	1,011,695	3,640
Radio and Television Advertising	4,127,473	42	409,774	3,717,699	71,077	1,658,081	338,697	2,059,482	136
Yard Signs, Bumper Stickers, etc	313,288	3	49,958	263,330	11,106	101,515	38,852	160,386	1,429
Reimbursement to Candidate	100,083	1	22,173	77,910	0	9,147	22,173	68,479	284
Miscellaneous	2,332,589	24	149,884	2,182,705	58,790	893,861	91,094	1,278,473	10,371
Total Expenditures	\$9,789,269	100%	\$839,397	\$8,949,872	\$181,024	\$3,709,722	\$658,373	\$5,224,020	\$16,190

Number of Candidates	Won	5	14	1	4	1	1	0	3	0
	Lost	<u>30</u>	<u>86</u>	<u>1</u>	<u>29</u>	<u>0</u>	<u>11</u>	<u>1</u>	<u>13</u>	<u>5</u>
	Total	35	100%	2	33	1	12	1	16	5

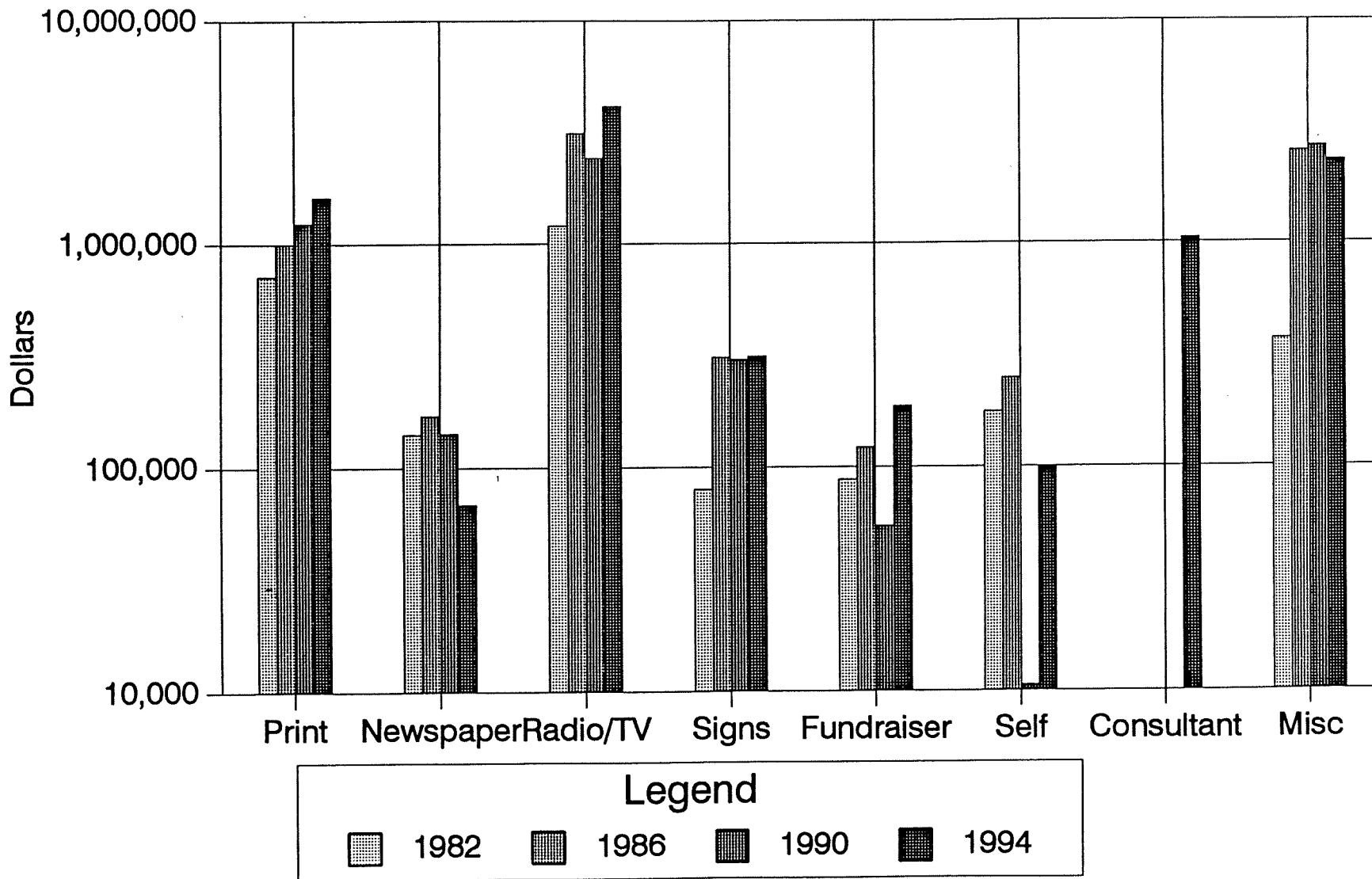
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# Expenditures

## Demo/Repub\*\*Incumbent/Non-Incumbent



# Comparison of Statewide Election Cycles Expenditures



97-1



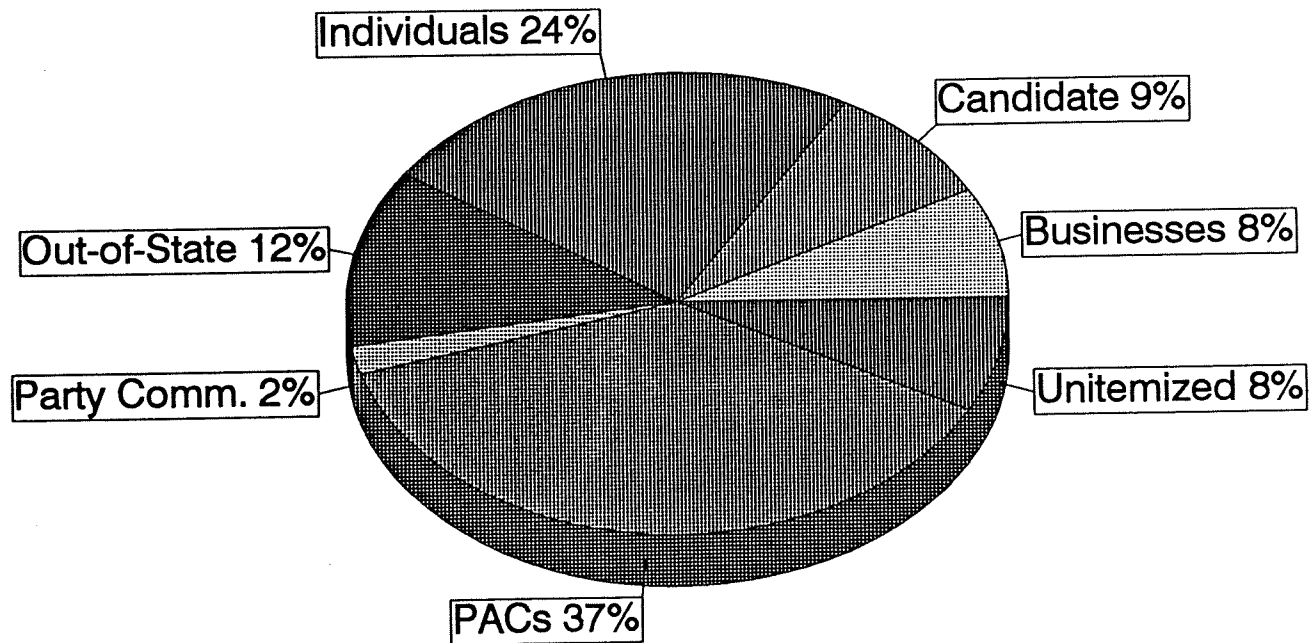
## Comparison of Statewide Election Cycles Expenditures

Type of Expenditure	1982	1986	1990	1994
Printing, Mailing/Distribution	\$ 719,243	\$ 998,636	\$ 1,238,438	\$ 1,617,551
Newspaper & Other Publication Ads	151,146	170,454	142,639	68,668
Radio & Television Advertising	1,203,400	3,134,504	2,419,908	4,127,473
Yard Signs, Bumper Stickers, Buttons	79,684	309,285	303,455	313,288
Fundraising Expenses	87,969	122,509	54,634	187,023
Reimbursements to Candidate	175,911	247,969	10,585	100,083
Consultants	N/A	N/A	N/A	1,042,594
Miscellaneous & Unitemized	371,938	2,561,088	2,694,896	2,332,589

1994

HOUSE CANDIDATES  
CHART SUMMARY OF  
CONTRIBUTIONS  
AND  
EXPENDITURES

# 1994 House Election Cycle Monetary Contributions by Category



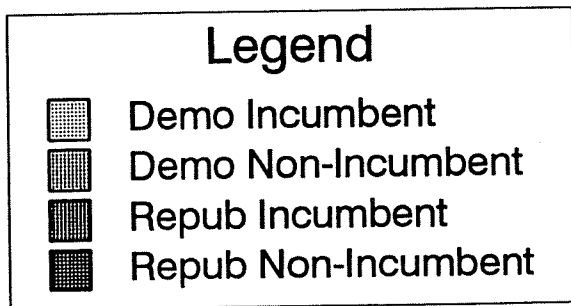
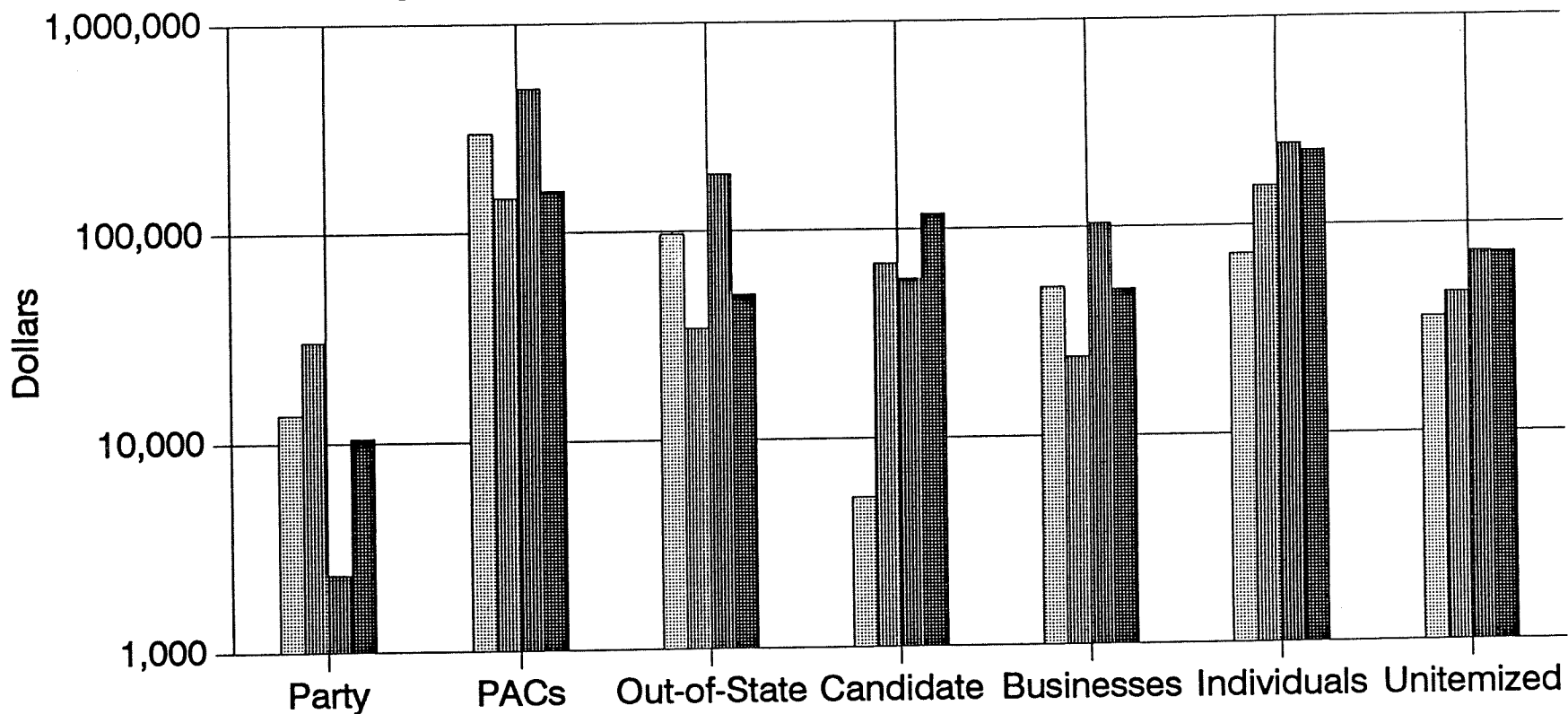
## KANSAS HOUSE 1994 MONETARY CONTRIBUTIONS

TYPE OF CONTRIBUTOR	CANDIDATE								
	Total Amount	% of Total Contributions	Incumbent	Non-Incumbent	Democrat Incumbent	Democrat Non-Incumbent	Republican Incumbent	Republican Non-Incumbent	Non-Incumbent Libertarian & Independent
Businesses, Corporations, Unions	\$ 230,945.03	8%	\$ 156,388.14	\$ 74,556.89	\$ 51,865.00	\$ 23,998.50	\$ 104,523.14	\$ 50,558.39	-0-
Candidates/Spouse's Personal Funds	251,714.45	9%	63,207.71	188,506.74	5,194.95	68,744.18	58,012.76	118,382.32	1,380.24
Individuals	702,530.87	24%	319,528.53	383,002.34	73,332.88	154,192.02	246,195.65	227,675.75	1,134.57
Out-of-State Organizations	369,400.00	12%	285,355.00	84,045.00	97,400.00	34,300.00	187,955.00	49,745.00	-0-
Political Action Committees	1,095,686.00	37%	791,631.00	304,055.00	300,335.00	146,230.00	491,296.00	157,825.00	-0-
Party Committees	57,115.56	2%	15,990.00	41,125.56	13,645.00	30,455.00	2,345.00	10,470.00	200.56
Unitemized & Miscellaneous	230,244.84	8%	109,014.63	121,230.21	35,756.57	46,690.42	73,258.06	72,969.50	1,570.29
<b>Total Contributions</b>	<b>2,937,636.75</b>	<b>100%</b>	<b>1,741,115.01</b>	<b>1,196,521.74</b>	<b>577,529.40</b>	<b>504,610.12</b>	<b>1,163,585.61</b>	<b>687,625.96</b>	<b>4,285.66</b>

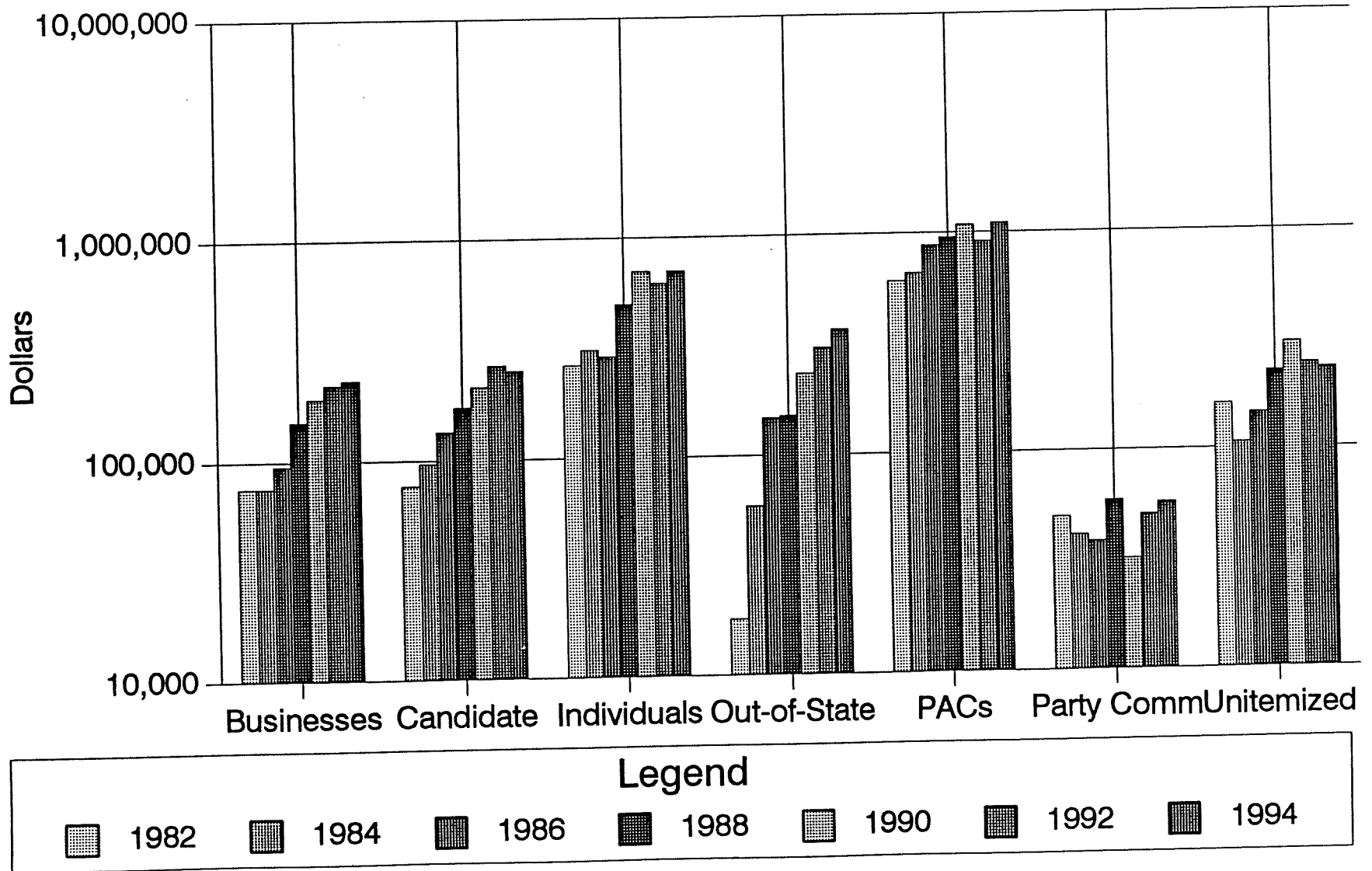
Number of Candidates	Won	125	90	35	34	10	56	25	0
	Lost	<u>164</u>	<u>16</u>	<u>148</u>	<u>14</u>	<u>76</u>	<u>2</u>	<u>63</u>	<u>9</u>
	Total	289	106	183	48	86	58	88	9

# Monetary Contributions

## Demo/Repub\*\*Incumbent/Non-Incumbent



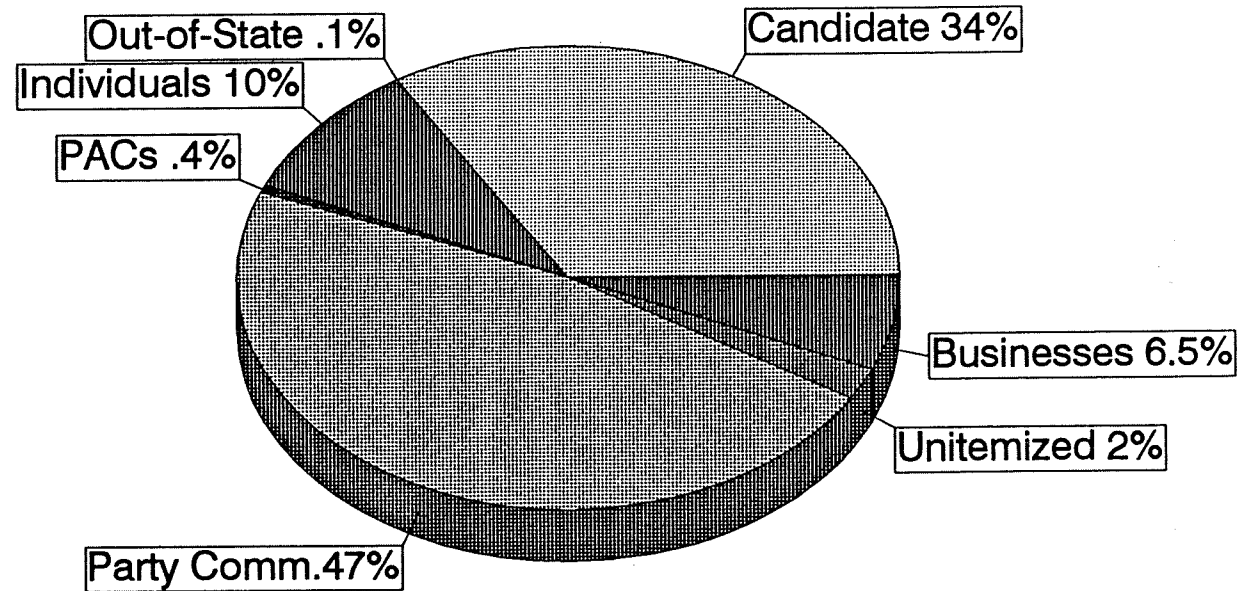
# Comparison of House Election Cycles Monetary Contributions



TWELVE YEAR COMPARISON OF MONETARY CONTRIBUTIONS REPORTED  
BY CANDIDATES FOR THE KANSAS HOUSE BY TYPE OF CONTRIBUTOR

TYPE OF CONTRIBUTOR	1982	1984	1986	1988	1990	1992	1994
Businesses, Corporations, Unions	\$75,320	\$75,328	\$95,389	\$150,674	\$191,850	\$220,222	\$230,945
Candidate / Spouse's Personal Funds	76,375	96,264	134,718	173,412	213,862	266,611	251,714
Individuals	263,620	310,126	288,420	498,558	702,393	616,816	702,531
Out-of-State Organizations	17,850	58,800	147,725	150,936	234,200	306,180	369,400
Political Action Committees	603,974	658,639	873,416	946,104	1,079,455	905,575	1,095,686
Party Committees	49,614	41,060	38,369	58,843	31,683	50,540	57,116
Unitemized and Miscellaneous	159,606	106,065	144,613	224,755	302,848	242,892	230,244
<b>TOTAL CONTRIBUTIONS</b>	<b>\$1,246,359</b>	<b>\$1,346,282</b>	<b>\$1,722,650</b>	<b>\$2,203,282</b>	<b>\$2,756,291</b>	<b>\$2,608,836</b>	<b>\$2,937,636</b>

# 1994 House Election Cycle Inkind Contributions by Category



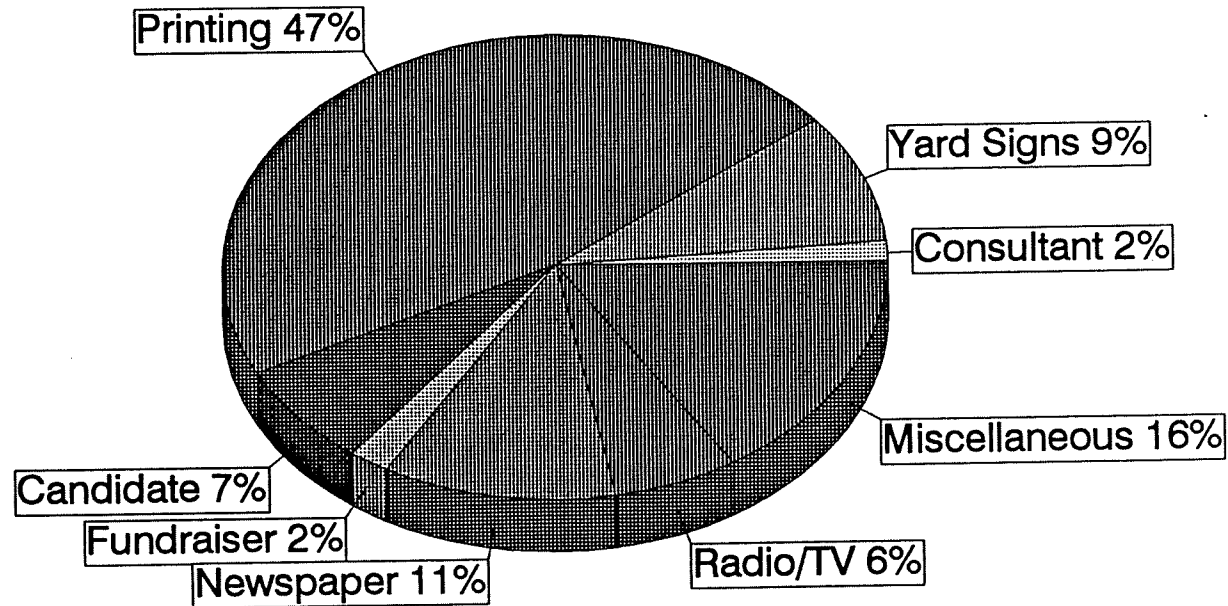


## KANSAS HOUSE 1994 INKIND CONTRIBUTIONS

TYPE OF CONTRIBUTOR	CANDIDATE								
	Total Amount	% of Total Contributions	Incumbent	Non-Incumbent	Democrat Incumbent	Democrat Non-Incumbent	Republican Incumbent	Republican Non-Incumbent	Non-Incumbent Libertarian & Independent
Businesses, Corporations, Unions	\$ 22,558.73	6.5%	\$ 6,779.06	\$ 15,779.67	\$ 2,021.15	\$ 6,831.84	\$ 4,757.91	\$ 8,947.83	-0-
Candidates/Spouse's Personal Funds	116,130.35	34.0%	19,792.21	96,338.14	4,779.80	43,066.43	15,012.41	51,605.40	1,666.31
Individuals	33,490.23	10.0%	8,475.22	25,015.01	2,557.57	6,686.59	5,917.65	18,328.42	-0-
Out-of-State Organizations	338.00	.1%	88.00	250.00	-0-	-0-	88.00	250.00	-0-
Political Action Committees	1,430.15	.4%	749.15	681.00	549.04	586.00	200.11	95.00	-0-
Party Committees	162,829.59	47.0%	35,448.51	127,381.08	17,234.59	40,486.49	18,213.92	86,894.59	-0-
Unitemized & Miscellaneous	7,543.58	2.0%	1,123.72	6,419.86	462.22	2,373.69	661.50	4,019.17	27.00
<b>Total Contributions</b>	<b>344,320.63</b>	<b>100.0%</b>	<b>72,455.87</b>	<b>271,864.76</b>	<b>27,604.37</b>	<b>100,031.04</b>	<b>44,851.50</b>	<b>170,140.41</b>	<b>1,693.31</b>

Number of Candidates	Won	125	90	35	34	10	56	25	0
	Lost	164	16	148	14	76	2	63	9
	Total	289	106	183	48	86	58	88	9

# 1994 House Election Cycle Expenditures by Category



## KANSAS HOUSE 1994 EXPENDITURES

TYPE OF EXPENDITURE	CANDIDATE								
	Total Amount	% of Total Contributions	Incumbent	Non-Incumbent	Democrat Incumbent	Democrat Non-Incumbent	Republican Incumbent	Republican Non-Incumbent	Non-Incumbent Libertarian & Independent
Consultant	\$ 41,548	2%	\$ 35,268	\$ 6,280	\$ 2,190	\$ 5,167	\$ 33,078	\$ 1,113	-0-
Fundraiser	47,252	2%	32,325	14,927	5,376	6,258	26,949	8,669	-0-
Newspaper Advertising	307,734	11%	176,950	130,784	64,822	47,233	112,128	83,451	100
Printing, Postage and Distribution	1,241,211	47%	667,851	573,360	220,328	256,187	447,523	313,698	3,475
Radio and Television Advertising	163,883	6%	93,506	70,377	42,104	17,134	51,402	53,042	201
Yard Signs, Bumper Stickers, etc	244,237	9%	97,938	146,299	35,987	68,442	61,951	77,857	-0-
Reimbursement to Candidate	196,954	7%	125,805	71,149	30,717	29,573	95,088	41,500	76
Miscellaneous	423,115	16%	322,192	100,923	125,228	47,047	196,964	53,453	423
<b>Total Expenditures</b>	<b>2,665,935</b>	<b>100%</b>	<b>1,551,835</b>	<b>1,114,100</b>	<b>526,732</b>	<b>2,477,042</b>	<b>1,025,083</b>	<b>632,783</b>	<b>4,275</b>
Number of Candidates	Won	125	90	35	34	10	56	25	0
	Lost	<u>164</u>	<u>16</u>	<u>148</u>	<u>14</u>	<u>76</u>	<u>2</u>	<u>63</u>	<u>9</u>
	Total	289	106	183	48	86	58	88	9

# Expenditures

## Demo/Repub\*\*Incumbent/Non-Incumbent

