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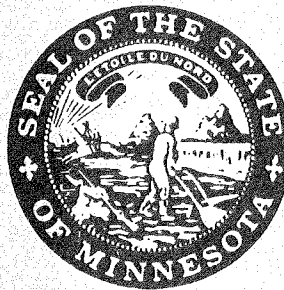
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# ANNUAL REPORT

## 1974-75

Public Disclosure: The First Year



MINNESOTA STATE ETHICS COMMISSION

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ANNUAL REPORT  
1974-1975

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## COMMISSION MEMBERS

### 1974 - 1975

Spencer Sokolowski	Chairperson
Stanley Holmquist	Vice Chairperson
Rosemary Davis	Secretary
David Durenberger	Commissioner
Elizabeth Ebbott	Commissioner
Irene Scott	Commissioner

### 1975 - 1976

Elizabeth Ebbott	Chairperson
David Durenberger	Vice Chairperson
Rosemary Davis	Secretary
Stanley Holmquist	Commissioner
Irene Scott	Commissioner
Spencer Sokolowski	Commissioner

## COMMISSION STAFF

David L. Norrgard	Executive Director
Elsa Carpenter	Staff Associate
Daniel Lundstrom	Staff Auditor
Mary Alice Murphy	Staff Associate (Resigned, June 24, 1975)
JoAnn Hill	Secretary
Paula Hoover	Secretary (Resigned, August 8, 1975)
Rosemary Olmscheid	Secretary
Susan Scott	Secretary (Resigned, January 10, 1975)
Jonathan Morgan	Special Counsel
Joan Swartz	Special Assistant Attorney General

Minn. Stat. §10A.02, subd. 8(a) (1974) requires that the Minnesota State Ethics Commission report to the legislature, the governor and the public at the close of each fiscal year regarding actions taken; the names, salaries and duties of its staff; a financial report; and such other matters as the Commission may choose to report.

## DISCLOSURE: THE FIRST YEAR

Minnesota's Ethics in Government Act is an ambitious effort to communicate to Minnesota citizens information on the operation of the political process. Its focus is upon three areas of political decision-making — how, to what extent, and by whom are state political campaigns financed; by whom, to what extent, and for what purpose is money used in lobbying activities; and the financial interests and holdings of public officials in relation to official actions or decisions. The Ethics Commission is responsible for monitoring reports aimed at reassuring the residents of this state that these questions are answered promptly and fully.

The Commission's first full year was devoted principally to building and shaping the program and staff. Detailed procedures outlining each office function and responsibility were being developed. Rules and regulations necessary to implement six areas of statutory requirements were drafted, submitted to public hearing and adopted — a process which took more than 90 days for each set of rules and regulations. Forms were designed and adopted too. Information to be obtained by the Commission had not previously been gathered by the state in any systematic fashion. While some forms need revision, they did serve to collect the required information. In the next fiscal year the Commission will simplify the forms.

The following is a discussion of several aspects of Commission activity designed to illustrate the overall dimension of the Commission. Principal areas of concern are discussed together with supportive data collected by the Commission in its first year. Further, and more detailed, reports are available from the Commission office.

### CAMPAIGN FINANCE

Minnesota's 1974 Ethics in Government Act requires public accountability for all aspects of political campaigns in Minnesota. For the first time political candidates and supporting political committees and funds must disclose the names of persons who make significant contributions to political committees, the amounts contributed, when the contributions are made, and the expenditures made with contributed funds. Previous efforts at disclosure were more limited. The new statute, through its mandatory registration and reporting requirements, will serve over time to give a full and accurate picture of political campaign financing in Minnesota.

#### Principal Campaign Committees

According to unaudited reports, candidates for the State House of Representatives raised \$1.2 million in 1974 and spent slightly more than \$1 million as of December 5, 1974.

A total of 295 individuals sought election to the House of Representatives with the average candidate raising \$4,256.34 and spending \$3,664.39. The range in receipts was from zero to \$10,693 and from no expenditures by a number of candidates to a high of \$8,947 for one candidate who was involved in a strongly contested primary as well as a general election. The 134 winning general election candidates received an average of \$5,518.52 and spent an average of \$4,457.82. Details are noted in Table 1.

The maximum spending limit for a House election is \$7,500. If there is a contested primary where the winning candidate receives less than twice the votes of the closest challenger, however, an additional twenty per cent of the limit is allowed in the general election, or a total of \$9,000.

Candidates for state wide office raised approximately \$1.1 million and spent nearly \$1.2 million according to unaudited campaign reports submitted December 5, 1974. All candidates for the governor/lieutenant governor election raised \$750,000 and spent \$795,000; attorney general candidates raised nearly \$170,000 and spent about \$151,000; secretary of state candidates totals respectively were \$87,000 and \$93,000; candidates for state treasurer showed \$90,000 in receipts and \$94,000 in expenditures; and, finally, the state auditor candidates revealed total receipts as \$48,000 and total expenditures of \$51,000. Individual limits for the races per candidate for 1974 were: governor/lieutenant

governor \$600,000; attorney general, \$100,000; state auditor, state treasurer and secretary of state, \$50,000.

TABLE 1  
Receipts and Expenditures for all  
House of Representative Candidates in 1974\*

Range	Receipts		Expenditures	
	Per Cent	Number	Per Cent	Number
\$ 0-999	13.6	40	16.3	48
1,000-1,999	9.2	27	9.8	29
2,000-2,999	8.8	26	9.8	29
3,000-3,999	13.9	41	20.0	59
4,000-4,999	12.9	38	14.3	42
5,000-5,999	16.9	50	12.9	38
over 6,000	24.7	73	16.9	50
	100%	295	100%	295

\*Based upon unaudited reports submitted December 5, 1974.

Candidates for statewide and district judicial office are also required to report. Supreme Court candidates reported raising nearly \$22,000 while spending approximately \$17,500. Candidates for district court showed receipts of somewhat more than \$58,000 while disclosing about \$55,000 in campaign expenditures. There is no limit for judicial positions.

Two state senate seats were open in 1974 with eleven candidates making election bids. A total of \$25,220 was raised and \$21,580 spent, an average of \$1,961 per candidate in expenditures. The campaign spending limit for a senate race is \$15,000. No candidate in 1974 expended even one-fourth of the allowable limit.

Two special senate elections held in 1975 saw greater spending. Eight candidates for the two races raised over \$52,000 and spent about \$49,000 according to unaudited figures, an average per candidate of \$6,553 in money raised and \$6,187 in money spent for campaign purposes, a significant increase over the senate races held in conjunction with the general elections of 1974.

Total spending by candidate committees in the 1974 general elections and the 1975 special elections equalled \$2,372,370 based upon the unaudited December 5, 1974 reports. Total receipts by candidate committees during the same period was \$2,512,000.

#### Other Political Committees and Funds

In addition to the nearly 400 candidate-controlled political committees there were nearly 350 other political committees and funds active in 1974. Together these political committees raised \$2,769,262 and had total outlays (expenses and contributions) of \$1,735,546 according to unaudited December 5, 1974 reports. It was these committees and funds which together with individual contributions provided the funds which candidates used to mount campaigns.

Labor organizations raised \$657,850 in 1974 and had total outlays of \$564,808 according to the unaudited December 5, 1974 reports. Some of the leading contributors among labor organizations were the Minnesota AFL-CIO Political Fund, (\$145,000 raised, \$138,500 in outlays); the Minnesota Education Association's political action arm, IMPACE, (\$195,173 in revenue and \$159,470 in total

outlays); Minnesota DRIVE, the Teamster political action arm (\$71,135 in receipts and \$75,588 in outlays); and the United Auto Workers CAP Council Political Fund (\$18,551 in revenue and \$17,610 in outlays). Ninety labor organizations registered political committees and funds with the Ethics Commission in 1974.

Forty-one specialized business and professional associations registered political committees with the Commission and in the aggregate raised \$191,028 and had \$148,756 in total outlays as revealed in the unaudited December 5, 1974 reports. Among the more active special groups were the Minnesota Medical Political Action Committee (\$40,321 raised and \$38,578 in outlays); the Bankers Political Action Committee (\$13,055 in receipts and \$8,825 in outlays); the Hospitality Industry Education Committee (\$30,598 in income and \$11,970 in outlays); and the Life Underwriters Political Action Committee (\$11,934 in revenue and \$5,415 in outlays).

Minnesota Republicans had 74 registered political committees representing state organizations, congressional district party units, city and county units as well as legislative caucus groups. Together Republican units raised \$1,056,572 in 1974 and had total outlays of \$1,188,307 according to unaudited December 5, 1974 reports. The Democratic Farmer-Labor Party is similarly organized and a total of 133 separate DFL party units have registered with the Commission. In 1974 the DFL units raised \$863,812 and had total outlays of \$834,774 according to the unaudited December 5, 1974 data.

## LOBBYIST REGISTRATION AND REPORTING

In prior years both the Senate and the House of Representatives by rules required lobbyists appearing before them to register and report expenditures. No provision was made to extend coverage to administrative agencies or boards and commissions with rule-making power. Continuous reporting was not required. Once the legislative session adjourned, the requirement to file reports also ended. Passage of the 1974 Ethics in Government Act for the first time imposed a statutory requirement upon lobbyists to register and report on a regular basis. Coverage also was extended to administrative rule-making as well as matters of power plant siting and rate setting. The Commission was given the authority to implement and administer the program on an on-going basis which has produced the first full-time monitoring of the lobbyists activities. Implementation of the statutory provisions was difficult and time-consuming because the enabling legislation contains no statement as to the purposes of the law.

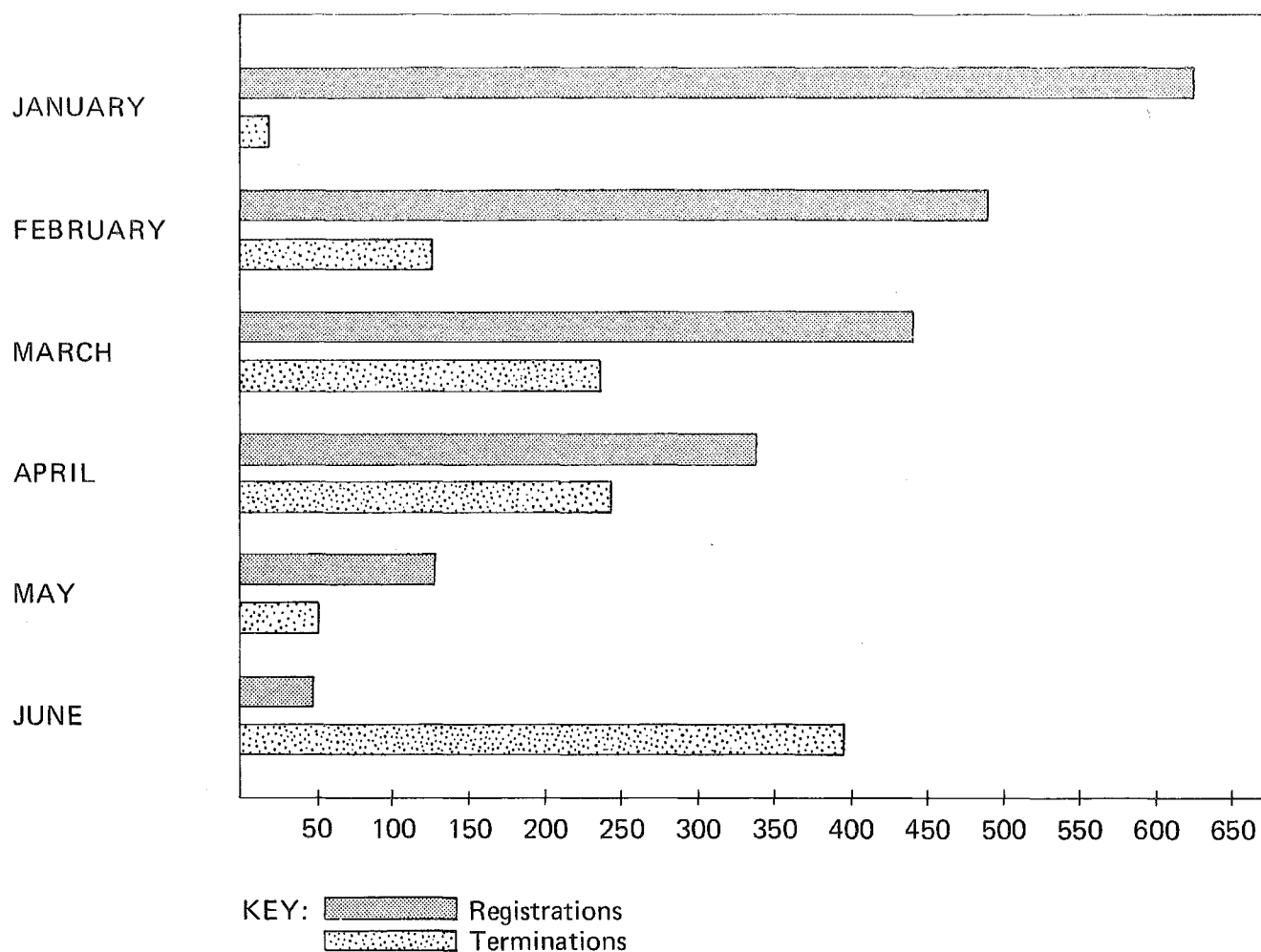
### Lobbyist Registration

Nearly 2,000 persons registered as lobbyists under Minnesota's new registration and reporting requirements on behalf of 878 different organizations. These lobbyists reported total disbursements for lobbying purposes of \$220,366.88 through the first six months of 1975.

Of the total number of individual lobbyists, 417 represented more than one association for lobbying purposes, while the balance represented only one association. More than two hundred individuals registered as lobbyists making only a single appearance. Typically this latter group consists of individuals expert in a particular subject whose testimony was sought for that reason and where a continuing lobbying effort was not necessary. January was the peak month for lobbyist registrations. The combination of a new registration and reporting requirement together with the beginning of a new legislative session resulted in 626 individuals filing as lobbyists. In subsequent months new registrations began to decline while terminations increased. By June nearly 400 individuals chose to terminate their lobbying activity once the legislative session adjourned. Details are found in Table 2.

According to the new statute, lobbying occurs when a person communicates with a public official for the purpose of attempting to influence legislative or administrative action. If a person corresponds with a senator or representative on official letterhead, sees the public official on a personal visit, or even telephones the legislator regarding a matter of interest to a business or group and urges the legislator to take some particular action, then lobbying has occurred. Some critics have regarded this as unduly limiting sound legislator/constituent communications. It is an area where legislative modification may be desirable. If a person communicates personal views, not those of an association or group, the person is not a lobbyist within the meaning of the law unless more than \$250 has been spent for lobbying purposes.

TABLE 2  
Lobbyist Registration and Termination\*  
First Six Months, 1975



\*Registration may occur in any month. Termination occurs in two ways, either as a single-appearance lobbyist or in a regular termination of a continuing lobbyist.

### Lobbyist Spending

Disbursements for lobbying purposes increased as the legislative session moved towards its May 19, 1975, adjournment date. During January, the first period for which reports were received, \$28,147.99 were reported spent by lobbyists. In February the totals reached \$36,071.27 and in March \$43,667.70. The combined April-May report revealed \$112,480.52 in new spending by lobbyists for a total of \$220,366.88 in the first six months of 1975. Effective contrasts with prior year spending are not possible because of the significant change in reporting requirements.

A vast majority of the registered lobbyists reported little spending for lobbying purposes in the first six months of 1975. Seventy per cent of all registered lobbyists revealed they had no reportable disbursements while 24 per cent reported spending less than \$250. From another vantage point, 55 per cent of the associations represented reported having no money spent on their behalf while 31 per cent showed less than \$250 spent on a similar basis. Details are set forth in Table 3.

TABLE 3  
 Spending By Lobbyists  
 January 1, 1975 through May 30, 1975

Amount	By Individual		By Organization	
	Number	Per Cent	Number	Per Cent
None	1363	69.9%	482	54.9%
\$ 0-249	461	23.6	276	31.4
250-499	45	2.3	37	4.2
500-999	44	2.3	37	4.2
1,000-2,499	26	1.3	33	3.7
2,500-4,999	7	.4	7	.8
5,000-9,000	2	.1	3	.3
over \$10,000	3	.1	3	.3
TOTAL	1951	100%	878	99.8%

Total spending per lobbyist for lobbying purposes equaled \$113. If this calculation is limited only to those reporting actual disbursements, the per lobbyist level of reported disbursements becomes \$374. Only three registered lobbyists reported expenditures in excess of \$10,000 (respectively \$29,733.39, \$23,016.82 and \$25,321.39), or 35 per cent of all the money spent for lobbying purposes. These expenditures principally were for public relations and media advertising activities, not for entertainment or personal benefit of legislators and other public officials.

Lobbyists are required to report their disbursements for lobbying purposes in several categories. Included are expenditures incurred while providing entertainment, food and beverage for legislators and other public officials; costs of preparing and distributing printed and related material to public officials, fees and allowances paid to others to augment a lobbying effort, media advertising calling attention to specific legislative or administrative matters and urging a particular action or decision to be made. By rule the Commission has chosen not to require reporting of travel and lodging costs incurred solely for the benefit of the lobbyists. Similarly, food and entertainment costs are not reported when purchased for the sole benefit of the lobbyist. It was the Commission's view that expenditures of this type were personal in nature and not expended for actual lobbying purposes. On the other hand, when such expenses are borne by a lobbyist for the benefit of a legislator or other public official, then they must be reported as a lobbyist disbursement. If the value of any gift, loan, honorarium, item or benefit equals in value \$20 or more, then the name of the public official benefiting must be disclosed as well. Few such disclosures were reported.

By advisory opinion the Commission determined that indirect lobbying expenses need not be reported. For example, a technique used by professional and trade associations is to communicate on a regular basis with their membership and urge those members to engage in direct communication with legislators on issues of importance to the group. This gives the appearance of "grass-roots" support to positions taken by the principal association. It was the Commission's view, however, that only direct costs incurred by the association itself in communicating to the public official need be reported. Costs incurred by the association to further a grass-roots campaign were viewed as being outside the Commission's authority. On the other hand, the Commission did rule that media advertising advocating some specific legislative or administrative action did constitute lobbying, even if not "communicated" directly to a public official.



## FINANCIAL DISCLOSURE

Key to the disclosure of financial interests of public officials is the annual filing of a Statement of Economic Interest by those officials. Included among those who must file are all state elected officials and their chief aides, the top administrative officials of the state, key legislative staff, and members of the state boards and commissions with rule-making power. In election years all candidates for state office (except those seeking judicial office) must file economic interest statements as well.

The purpose of the financial disclosure requirements is to make public the sources of compensation as well as any real or personal property which a public official or candidate for state elective office might receive or own. Reported is the source of all compensation received in excess of \$50 per month during the reporting period; the general location of real property (other than a homestead) having a value of more than \$2,500 and located in Minnesota; and other holdings such as stocks and bonds which have a value in excess of \$2,500. A total of 1,051 such statements were filed in 1974, an election year, and 834 in 1975, a non-election year. Details can be seen in Table 4.

TABLE 4		
Individuals Filing Statements of Economic Interest		
	<u>1974</u>	<u>1975</u>
Candidates and Elected Officials	467	207
Administrative Personnel	203	216
Members of Boards	<u>381</u>	<u>411</u>
Totals	1051	834

The statute provides that if any public official (other than a constitutional officer or state legislator) fails to file a Statement of Economic Interest, after receiving official notice of his failure to do so from the Ethics Commission, then steps may be undertaken to suspend the public official from office until the statement has been filed. Three such contested cases were commenced in June, 1975, and in each instance, as soon as the contested case proceedings were initiated, the individuals concerned submitted the required information. It was, therefore, not necessary to hold any formal proceedings.

There are two additional public disclosure reports which public officials must file if the occasion arises. If a public official is called upon to make a decision or perform some act which might have a substantial impact on his or her own financial interests, the official has the responsibility to file a Conflict of Interest Notice with the Commission as well as his or her superior, if any. The decision or action involved in the possible conflict of interest is referred by the individual or the superior to another official for disposition if appropriate. If the official with the potential conflict has an obligation by law to determine the matter in question, however, then the official must inform all the parties involved in the matter of his potential conflict. No such statements were filed in the first year of this requirement.

Another provision requires that a public official representing a private party for a fee in rule-making or administrative proceedings before state agencies must file a Representation Disclosure Statement with the Commission. If, for example, a member of the House of Representatives is also a lawyer he might represent a client in an administrative proceeding before a state agency such as the Pollution Control Agency or the Public Service Commission. If so, a Representation Disclosure Statement is filed. Two such reports were filed during the period covered by this Annual Report.

## ADVISORY OPINIONS

Twenty-six advisory opinions were issued by the Commission between its inception and November, 1975, twenty of them in the period covered in this report. Six opinions issued in this fiscal year were concerned with the lobbyist provisions of Chapter 10A, while the remainder focused upon interpretations of the campaign finance provisions of the law.

Minn. Stat. §10A.02, subd. 12 (1974) provides that the Commission may issue advisory opinions on the requirements of sections 10A.01 to 10A.34, based upon real or hypothetical situations. Opinions must be provided within 30 days after written request is made unless the Commission chooses to extend the time limit. Of the twenty written requests processed in the first fiscal year, all but three were answered within the 30 day time period. None took longer than 60 days.

Opinions are prepared in draft form by legal counsel for consideration by the Commission. The first section of each opinion outlines the facts, the second sets forth the questions raised, and the third contains the detailed opinion. Opinions are available to anyone upon request and a permanent mailing list is being developed for routine distribution. A publication containing all opinions is contemplated for general distribution.

### Lobbyist Requirements

Opinions interpreting portions of the lobbyist provisions of Chapter 10A issued in the first fiscal year are abstracted as follows:

#### Opinion No. 13 - Publication Costs

Publication costs must be reported as a lobbyist expense if three requirements are met. First, the publication must be prepared by or for a lobbyist's employer. Second, the publication must advocate, support or promote the special interests of the lobbyist. A mere presentation of factual material without comment does not constitute a reportable lobbyist expense. Third, the publication must be communicated directly to a public official.

#### Opinion No. 15 - Rate-setting

If an individual communicates with public officials regarding any type of rate-setting determination made by a state agency, that individual must register and report as a lobbyist. If communication occurs with state employees not defined as public officials, the lobbyist provisions do not apply unless the person making the communication requests that its substance be reported to a public official. Communication with a public official in the course of contested case or appeal procedure does not constitute lobbying.

#### Opinion No. 16 - Advisory Boards

Individuals serving on an advisory board appointed by a public official to provide advice to the official need not register and report as lobbyists in connection with communications to that public official on the subject matter which the board was appointed to consider.

#### Opinion No. 17 - Media Advertising

Individuals affiliated with an association which disseminates informational material which is not communicated directly to public officials are not required to register or report as lobbyists, unless media advertising is used to advocate a specific legislative or administrative action and, therefore, might influence public officials. If media advertisements having such character are used, disbursements for that purpose must be reported as a lobbyist expense by an official or employee of the association.

#### Opinion No. 20 - Local Government Associations

An employee of an association of local governments or officials has an obligation to register and report as a lobbyist if that employee engages in lobbying activity on behalf of such an association.

#### Opinion No. 22 - Employees of Corporations

Whenever, as a part of his duties for the corporation, an employee communicates with public

officials on behalf of a corporation or other associations from which the individual receives compensation as an employee, the individual is required to register and report as a lobbyist.

### **Campaign Reporting Requirements**

Opinions interpreting portions of the campaign finance provisions of Chapter 10A issued in the first fiscal year are abstracted as follows:

#### **Opinion No. 3 - Spending Limits**

When a candidate unsuccessfully seeks endorsement for one office and subsequently receives endorsement for another office, campaign funds expended unsuccessfully seeking endorsement for the first office will be included within the authorized spending limit for the second if both offices were sought within the same election period, unless it can be demonstrated that the initial expenses provided no benefit to the candidacy for which endorsement ultimately was received.

#### **Opinion No. 4 - Endorsement of Candidates**

If political literature distributed by a candidate contains incidental references to other candidates seeking election, the expenditure is not considered to be made on behalf of the other candidates. A prominent statement such as one urging the election of other candidates, however, would be an expenditure made on behalf of the other candidates and would need to be reported as an expenditure by the candidates whose election is urged in the literature if authorized either directly or indirectly by them.

#### **Opinion No. 5 - Committees for Judicial Candidates**

A principal campaign committee established under Chapter 10A is not automatically deemed to be a personal campaign committee under Chapter 211, and the expenditure limitations of Chapter 211 may apply to a candidate for Judge of District Court.

#### **Opinion No. 6 - Corporate Plans**

A corporation doing business in Minnesota may establish a non-partisan or conduit plan to solicit and collect voluntary contributions from employees in order to facilitate the employee's ability to make political contributions, if the individual employee making the contribution retains sole control over the disposition of his accumulated funds. Under these circumstances the corporation is not required to register and report as a political committee of fund. Minnesota law does not permit, however, the non-conduit or partisan plan where the individual employee does not control the final disposition of his accumulated funds.

#### **Opinion No. 7 - Labor Union Fund**

A local labor organization may designate a statewide labor organization as its political fund for the purpose of making political contributions and need not establish a separate political fund for its own use.

#### **Opinion No. 8 - Television Commercials**

The mere participation of a candidate for one office in television commercials supporting a candidate for another office does not constitute an expenditure made on behalf of the first candidate if no direct reference or appeal for support is made in the commercial on behalf of the first candidate.

#### **Opinion No. 9 - Sample Ballots**

Since individuals whose names are contained on a sample ballot benefit from such listing, the costs of the preparation and distribution must be counted toward the appropriate campaign expense limitations. If a candidate chooses to prepare and distribute his own sample ballots, and includes names of other candidates without their authorization, the ballot must contain the proper disclaimer and the total cost will be assessed against the candidate preparing it.

#### **Opinion No. 10 - Letters From Associations to Members**

The cost of preparing and distributing letters from an association to its members urging the election

of specific candidates represents an expenditure made on behalf of the candidates named and therefore must be allocated on a pro-rata basis among all individuals named in such letters.

**Opinion No. 11 - Media Advertising**

If a candidate for one office participates in media advertisements on behalf of candidates for other offices and the costs of preparing the advertisements are borne by the other candidates then no expenditures need be allocated to the first candidate as long as the candidacy of the first candidate is not mentioned and no appeal for support is made on his behalf.

**Opinion No. 12 - Special Elections**

The limitation on campaign expenditures for a given office within a calendar year applies to each specific election and is not cumulative. Therefore a candidate who stands for election in both a general and any special election which may be held in the same year for the same office may expend funds in each election up to the spending limit for that office.

**Opinion No. 14 - Joint Limitations for Governor and Lt. Governor**

The maximum limitation which applies to the governor and lieutenant governor is a joint limitation, both in campaign and non-campaign years. There is no individual limitation. Individual accounts for the governor and lieutenant governor may be established within an overall fund so long as the joint maximum limit is not exceeded and the principal campaign committee treasurer retains overall responsibility for the reports submitted to the Commission.

**Opinion No. 18 - Expenditures to Repay Debts From Previous Years**

If expenditures are incurred in one calendar year in order to raise money to repay obligations incurred by a political committee in a preceding year, the expenditures shall be counted toward the spending limit in the year in which the goods and services were used or consumed.

**Opinion No. 19 - Constituent Service**

Expenses incurred by a legislator in the course of providing constituent services during a legislative session, or immediately prior to the commencement of a legislative session, need not be reported as campaign expenses. Expenses incurred after a legislative session may, in some circumstances, be reportable as campaign expenditures if paid for by the principal campaign committee.

**Opinion No. 21 - Registration Requirement**

Any political committee which receives or spend in excess of \$100 after the effective date of the Act must register and report as a political committee within 14 days after receiving or spending the funds.

**SOCIALIST WORKERS EXEMPTION REQUEST**

A unique aspect of Minnesota's Campaign Disclosure Law is an exception procedure whereby the Commission may waive the required disclosure of the identity of certain contributors to political committees or funds under specified conditions. This measure is designed to protect the anonymity of individuals when disclosure of their names may result in economic reprisals, loss of employment, or threats of physical coercion. It became the subject of intensive examination by the Commission in consideration of an exemption request from the Minnesota Socialist Workers 1974 Campaign Committee.

Application for exemption was made by the Socialist Workers Committee on June 27, 1974, followed by a detailed written statement setting forth the reasons for seeking such an exemption on July 16, 1974. Five public hearings ranging in length from two to four hours were held by the Commission on the following dates:

July 23, 1974	September 17, 1974
July 30, 1974	September 24, 1974
August 1, 1974	

The Commission also reviewed associated matters at four regular meetings. The hearing was conducted

pursuant to the contested case requirements of Chapter 15. Notice was given, witnesses presented and cross-examined, and findings of fact and conclusion were issued. The Socialist Workers 1974 Campaign Committee was represented by counsel at all hearings. An Order setting forth the Commission's decision was issued October 16, 1974.

Testimony came from a variety of sources. Sixty-eight affidavits were filed by individuals affiliated with the Socialist Workers Party attesting to various acts of alleged harassment, surveillance, loss of employment and other related issues. Sworn testimony was taken from nine national or state Socialist Workers Party officials or members, including past and current candidates for office. Eleven subpoenas duces tecum were issued by the Commission to individuals representing various law enforcement or military intelligence agencies.

Representatives of seven law enforcement agencies (two state, two city, two county, one university) and one military intelligence agency appeared in response to the subpoenas and answered questions. One witness appeared twice in response to a second subpoena.

The assistance special agent in charge of the Minneapolis field office of the Federal Bureau of Investigation appeared in response to subpoena but through counsel advised the Commission that he would not testify by order of the Attorney General of the United States. The Commission was informed that the Postmaster of Minneapolis similarly would not be permitted by his superior to testify. A subpoena to an alleged informer for a Federal agency could not be served as the individual was not located.

Counsel representing the Socialist Workers 1974 Campaign Committee, and Commission members and staff had an opportunity to question all witnesses. Eighteen documents were introduced into the record in addition to the affidavits. No witnesses appeared in opposition to the exemption request.

The Commission granted the Minnesota Socialist Workers 1974 Campaign Committee an exemption from the requirement to disclose names, addresses, and occupations of individuals contributing or loaning in excess of \$100 to the Committee. Two facts were crucial to the Commission's determination. First, evidence presented regarding alleged political surveillance and harassment of Socialist Workers party members by Federal agencies went unrefuted when Federal officials were not permitted by their superiors to testify. Second, no witnesses appeared in opposition to the request and no evidence was presented refuting the testimony by the Committee. The exemption granted by the Commission was limited to the 1974 election and involved an exemption only from the requirement to identify the source of contributions or loans in excess of \$100. All other aspects of the reporting requirements were retained including the nature and amount of contributions in excess of \$100 or loans received in excess of the same amount.

## LITIGATION

In August, 1974, former State Representative Walter Klaus filed suit in Ramsey County District Court challenging the constitutionality of Minn. Stat. §10A.09 (1974), which requires certain public officials and candidates to file a Statement of Economic Interest. Following commencement of the action, Klaus moved for a temporary restraining order to prevent enforcement of the statute against him. The motion was denied. The Ethics Commission thereafter moved for summary judgment upholding constitutionality of the statute. Briefs were filed and oral arguments heard on October 10, 1974.

On October 23, 1974, Judge John W. Graff granted the motion for summary judgment and upheld the constitutionality of the statute on all grounds. A mandatory injunction also was issued by the Court directing Klaus to comply with the filing requirement. Klaus appealed the decision to the Minnesota Supreme Court. Briefs were submitted and oral arguments heard by that Court September 22, 1975. A decision from the Supreme Court is expected late in 1975 or early in 1976.

The essential facts of the case are these. Walter Klaus, an incumbent state representative, sought re-election during the November, 1974, general election. Under Minn. Stat. §10A.09 (1974), Klaus was

required to file a Statement of Economic Interest with the Ethics Commission, both in his capacity as an incumbent public official and in his capacity as a candidate. He failed to file his statement by August 7, 1974, the date on which it was due, and he did not file it after receiving notice of his failure to file. In his action for declaratory relief Klaus argued that the statute was unconstitutional for several principal reasons. First, Klaus contended the statute constituted an unreasonable invasion of his privacy. Second, he argued that the statute impinged upon his rights to free expression and association. Third, he argued that the statute established a requirement for being a candidate in addition to those provided in the Minnesota Constitution.

In upholding the statute the trial court drew upon precedents from California, Washington, and Illinois upholding the constitutionality of comparable statutes in those states. The court held that the statute has a valid purpose in that disclosure of sources of income and ownership of real and personal property are related to voter consideration of the candidate's possible conflicts of interest. One purpose of the statute stated the trial court's opinion, "... is to disclose any abuse of office and to instill in the public, trust and confidence in its government and officials thereof." The court ruled that while the right to privacy does exist, as with other rights, it is not absolute. This disclosure of information of a reasonable nature which bears upon a candidate's fitness and qualifications may be required of one who voluntarily projects himself into the public domain. The court also ruled that the statute had no "chilling effects" upon Klaus' First Amendment rights to expression and association, particularly since Klaus chose to make public voluntarily the required financial information even though he did not file the required statement. Finally, the court held that no additional qualifications for a candidate were imposed by the statute in that failure to file did not prevent a person from being a candidate, or disqualify him from holding office.

## **LEGISLATIVE PROGRAM**

A comprehensive legislative program was advanced by the Commission, embracing both general policy and technical changes in the legislation establishing the Ethics Commission. A three person subcommittee held ten public meetings from early October through late December, 1974, at which individuals representing various points of view were invited to offer suggestions to strengthen or improve the law. The Committee made eleven recommendations for change designed to clarify or simplify various reporting requirements, as well as three broader policy changes which would, if implemented, cause substantive change in the basic law. The recommendations of the subcommittee were considered and adopted by the full Commission on January 17, 1975.

### **General Policy Recommendations**

Three principal changes were recommended by the Commission.

The first major suggestion was to urge the prohibition of the use of mandatory dues or membership fees for the purpose of making political contributions. Four reasons were advanced in support of this suggestion. The first was to make state law consistent with federal law in not permitting political contributions to be made from labor organization dues. Second, mandatory dues may be used to finance political campaigns without the approval of the contributing members. Commission members felt the decision to contribute to a political campaign by an individual should be voluntary. Third, other interest groups must rely upon voluntary contributions. Minn. Stat. 211.27 (1974) for example, prohibits contributions by corporations to political candidates. It seemed logical to impose similar constraints upon all potential contributors. Finally, data showed that labor organizations currently utilizing voluntary funds were capable of participating in state political campaigns, some on a large scale, without any apparent burden.

The second key policy recommendation was to seek a restriction on the ability of a legislative caucus to make substantial contributions to particular candidates. Present law defines a political party organization as consisting of a number of elements, including any legislative body. A political party in its aggregate may contribute to a candidate as much as 50 per cent of the expenditure limit for the office sought. Other contributors are limited to 10 per cent of the limit. The Commission concluded that it was

inappropriate to define a legislative caucus as one of several elements of a political party, principally because a political party has no organizational or other control over a legislative caucus. A party's relationship to a legislative caucus can be distinguished from that of a precinct, ward, county or other traditional party element, and for that reason the Commission determined that they should not be joined together in setting contribution limits. It was recommended that the word "legislative body" be deleted from the definition of political party which would then limit such groups to a maximum contribution of 10 per cent of the limit for the office sought.

The third recommended major change involved curbing the transfer of money between candidate-controlled political committees. Present law permits one principal campaign committee to make contributions to another so long as the maximum contribution limit is observed. Some candidates, especially those unopposed, often are able to raise significant funds and then make contributions to other candidates having less success in fundraising. For example, one unopposed legislative candidate raised over \$10,000 and transferred several thousand dollars to candidates for other offices. The Commission's concern was that individuals or associations contributing to the first candidate may not desire to have their funds redistributed without their consent. This practice also could enhance unduly the political or policy-making influence of the candidate with funds available for redistribution. Consequently, the Commission suggested a ban on that practice.

### **Technical Recommendations**

The technical or housekeeping suggestions advanced by the Commission affect numerous sections of the statute but would not result in significant change to the purposes of the law. Rather, these suggestions were designed to make more clear statutory meaning or to make reporting obligations less complex. A few illustrations will serve to give an understanding of the nature of the technical changes offered.

For example, the Commission found that the mixture of singular and plural references in the statutory language caused confusion. The Commission recommended changing all such references to the singular. It was noted by the Commission that the current law does not make clear the required procedure when a mandated report date happens to fall due on a Saturday, Sunday or legal holiday. The Commission recommended that reports be submitted on the next regular working day to avoid imposing a hardship. Another provision calls for the Lobbyist Disbursement Report to contain all the same information already filed through a Lobby Registration Report, in addition to other data. This duplication seemed unnecessary and it was recommended that the Commission itself determine what type of information should be contained in both reports.

These represent a few of the technical recommendations made by the Commission. None by themselves would represent any significant change in the basic statute but, taken as a whole, they would serve to simplify reporting requirements without sacrificing desired public disclosure.

### **COMMISSION STAFF AND BUDGET**

A five person staff is involved in the day-to-day work of the Commission, supported by the assistance of two part-time attorneys. One attorney is engaged in private legal practice and works with the Commission on an hourly fee basis as a special counsel. This attorney represents the Commission in litigation and plays a key role in the drafting of advisory opinions, rules and regulations. The second attorney is a special assistant attorney general made available to the Commission at no direct cost to the Commission. Cooperation from the Attorney General's office has been excellent in the difficult formulative stages of the Commission's work and this assistance is appreciated greatly.

The executive director is responsible for the overall work program of the Ethics Commission and its staff. The director is selected by the Commission, serves at its pleasure, and under its policy direction. Other staff members are selected by the Commission based upon the director's recommendations.

Work assignments given Commission staff members this past year reflect the priority attention given to providing assistance to those required to file reports in the initial reporting periods. It was viewed as an

important task to work with individual political committees, political funds, and lobbyists and seek mutual understanding of the requirements of a complex statute. Ambiguities and divergent views were highlighted as much as possible in a non-adversary manner so as to achieve a consistent view in the handling of the detailed reporting provisions. Emphasis was one of voluntary compliance rather than enforcement. This approach will shift in future years as those required to report become more familiar with the new disclosure process. The addition of an auditor in fiscal year 1975-1976 through filling a staff vacancy demarks a transition from an assistance focus of the first year to that of a more balanced approach between providing technical assistance and stressing compliance. The addition of an auditor also corrects a deficiency in the Commission's first year of operation, the inability to conduct any meaningful audits of political committees and fund reports.

Much of the Commission's routine processing of documents lends itself to data processing applications. Examples include preparation of summary reports on disbursements made by lobbyists; summary reports on campaign financing activities of particular committees, lists of registered lobbyists and committees, and related tasks. These reports are now prepared by hand and seldom can be available for use on a timely basis as a result. Other useful summaries of data have not been attempted because of staff limitations. A data processing feasibility study was undertaken by the Commission through the services of the Department of Administration, Information Services Division. It was not concluded, however, because no appropriation was made to the Commission to implement any resulting recommendations. The Commission has taken steps, however, to begin conversion of its records to microfilm.

A total of \$150,500 was made available to the Ethics Commission for its first 15 months of operation; \$120,000 through its initial appropriation and an additional \$30,500 through a supplemental appropriation. The supplemental money did not become available to the Commission until April 29, 1975. The appropriation for the forthcoming year limits staff size to a maximum complement of five. Of the total funds available for the 15 month period the Commission spent \$7,608 in the period April 29, 1974 to June 30, 1974, and \$122,453.27 in the period July 1, 1974, through June 30, 1975. Of the total money available for Commission activities approximately \$20,000 was returned to the state's general fund. Detail related to Commission expenditures is reflected in Table 5.

TABLE 5  
1974-75 Financial Statement  
Ethics Commission  
(unaudited)

Salaries and Benefits	\$ 61,394.64
Postage and Telephone	5,757.62
General Office Supplies	6,044.65
Commission Per Diem	7,800.00
Travel	1,982.65
Legal Services	18,427.24
Data Processing Study	1,210.00
Office Improvements	731.00
Reproduction Services	5,214.30
Printing	4,126.97
Office Equipment	4,695.02
Office Furniture	3,753.42
Other	1,315.76
Total Spent FY 1974-75	\$122,453.27
Total Spent FY 1973-74	<u>7,608.00</u>
Grand Total 15 Months	\$130,061.27



In the 1974-75 fiscal year total payroll costs were \$53,843 with an additional cost of \$7,702 for pay-related benefits. Current salaries paid to Ethics staff members are as follows:

Executive Director (David L. Norrgard)	\$22,500
Staff Associate (Elsa M. Carpenter)	\$14,094
Staff Auditor (Daniel W. Lundstrom)	\$12,507
Staff Associate <sup>1</sup> (Mary Alice Murphy)	\$12,840
Secretary <sup>2</sup> (Paula Hoover)	\$8,220
Secretary (JoAnn Hill)	\$7,914
Secretary <sup>3</sup> (Susan Scott)	\$7,524
Secretary (Rosemary Olmscheid)	\$6,598

1/ Resigned June 24, 1975

2/ Resigned August 8, 1975

3/ Resigned January 10, 1975

All Ethics staff members are in the unclassified state service. Personnel policies applying to the classified state service, however, apply as well to the unclassified staff. Positions on the Commission staff are rated as to their comparability with similar positions in the classified state service and pay ranges established accordingly. The Commission is empowered to set specific salaries with the established ranges consistent with normal state procedures regarding salary adjustments.