FINAL REPORT OF THE SPECIAL COMMISSION ON ELECTION REFORM

Research Report No. 240

Legislative Research Commission
Frankfort, Kentucky
December, 1988

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The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the General Assembly. The Commission provides professional, clerical and other employees required by legislators when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual members in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, furnishing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting a pre-session orientation conference for legislators, and publishing a daily index of legislative activity during sessions of the General Assembly.

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FOREWORD

Allegations of voting irregularities have been made in Kentucky with increasing frequency. An eight-day series of articles relative to election fraud appeared in the Louisville *Courier-Journal* in October of 1987. The articles documented abuses in the areas of vote buying and selling; campaign contributors who subsequently receive state jobs, appointments or contracts; the increasing influence of political action committees; illegal cash contributions; the enforcement role of the Registry of Election Finance; and the rapidly increasing cost of campaigns.

The Legislative Research Commission created the Special Commission on Election Reform on December 2, 1987. The Commission was charged to examine current election statutes and procedures and to recommend changes which will ensure fair and ethical elections.

This report reflects the work of the Commission through November, 1988, including recommendations related to legislation considered during the 1988 session of the General Assembly and recommendations for the 1990 Session. As provided in the resolution which created the Commission, the body shall cease to exist effective December 31, 1988.

VIC HELLARD, JR.
DIRECTOR

THE CAPITOL
FRANKFORT, KENTUCKY
DECEMBER, 1988

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December 31, 1988

John A. "Eck" Rose and
Donald J. Blandford, Chairmen
Legislative Research Commission
Third Floor, Capitol Building
Frankfort, Kentucky 40601

Dear Senator Rose and Speaker Blandford:

The Special Commission on Election Reform hereby submits its final report to the Legislative Research Commission (LRC) as provided in the LRC's December 2, 1987, resolution creating the Commission.

As you may recall, our Commission issued an Interim Report last January. Most of our recommendations from that report were included in Senate Bill 385 introduced late in the 1988 session. The measure passed the Senate, appeared to have died in the House, was revived by the narrowest of margins, and eventually was enacted as SB 268. Along the way, a number of our recommendations were deleted.

On June 3, 1988, our Commission voted to request the LRC to extend the life of our body through the 1990 legislative session. That request was sent to you June 6. I received a July 15 memo from the LRC Executive Director, saying the LRC at its July meeting "took no action" on the request. Having received no further reply, our Commission in recent months has endeavored to wind up its work by December 31.

At a public hearing following the November 7 election, our Commission heard from several witnesses who said there were fewer reports of irregularities in the recent election. This improvement was attributed in large part to the election-law changes adopted by the 1988 General Assembly and to increased media attention and public awareness. So, I believe we have made considerable progress.

We also heard strong calls for change in our present system of financing major campaigns. Perhaps the most significant recommendation in this report is the call for public financing and expenditure limits in campaigns for governor and lieutenant governor.

Spending in the last governor's race reached $18.2 million, including $9.9 million by the winning candidate. According to one former candidate, "the people are thoroughly fed up" with the current system in which huge sums are raised primarily from those motivated by self-interest in their dealings with state government.

In addition to testimony from Kentuckians favoring public financing, we heard that such plans are in successful operation in New Jersey and other states. We believe that public financing is an idea whose time has come.

We also would like to re-emphasize one of our earlier recommendations - that the General Assembly provide adequate funding of enforcement agencies such as the Registry of Election Finance and the Attorney General's Office. We believe that is crucial to good enforcement of our election laws.

We respectfully request that our recommendations be turned over to the appropriate interim committee for active study and consideration between now and the 1990 session.

Having watched the legislative process for 25 years, I realize it is going to take a lot more than the recommendations of a study commission to achieve major change in something so near and dear to the hearts of legislators as the process of getting elected.

I have high hopes that one or more of the leaders of this legislature will adopt an election-reform package as your own and push it to passage in 1990.

Sincerely,

Livingston Taylor
Chair
Special Commission on Election Reform

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Enclosure
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INTRODUCTION

This report recommends a fundamental change in the financing of campaigns for governor and lieutenant governor, by establishing a system of partial public financing and expenditure limits.

The cost of gubernatorial campaigns, fueled by television spending, has mushroomed in recent years. In the 1975 race, the candidates spent $2.3 million. In the 1987 campaign, the figure was $18.2 million, including $9.9 million by the winning candidate. That represents nearly a 700 percent increase in total spending in 12 years.

The pressure on candidates to raise these huge amounts is damaging both before and after the election.

Before the election, the candidate must spend more and more time in raising money instead of meeting the voters and explaining his or her views. And to raise big money, too often the candidate must promise some financial benefit from government after the election.

As one former candidate told us:

This money does not simply fall out of the air. While there are many patriotic Kentuckians who donate . . . because of their interest in good government, the preponderance is given by people or organizations interested in themselves. The surest way to secure favorable governmental treatment for a special interest is by large campaign contributions. There is a political saying in Kentucky that 'if you don't stoke the locomotive, you don't get to ride on the train.' The result of that mentality is that the people's business suffers. There has been far more bad government foisted on Kentuckians to satisfy campaign demands than they can afford.

Our recommendation would relieve fund-raising pressures by limiting total spending and providing partial public financing to candidates who cross a threshold of serious candidacy. It also would provide free television time.

Under our recommended bill:

* A candidate for governor would be limited to spending 75 cents per registered voter in the primary and 75 cents per registered voter in the general

election. With present registration figures, that would mean a spending limit of about $1.5 million in each race.

* To qualify for public financing, a candidate would first have to raise 10 percent of the limit, or about $150,000, in private contributions of $250 or less.

* Once that threshold was reached, contributions of $250 or less would be matched dollar for dollar from the state treasury, until the total spending limit was reached.

* A candidate could choose not to accept spending limits and public financing. But if such a candidate exceeded the spending limit, his or her opponents would get $2 in public funds for each $1 the non-participating candidate exceeded the limit. The purpose obviously would be to strongly deter any candidate from exceeding the limit.

* Each participating candidate would get 30 minutes on Kentucky Educational Television to present his platform, plus additional time in debate or press conference format.

* A similar system would be in place for candidates for lieutenant governor, with a spending limit of 42.5 cents per registered voter, or about $850,000 per election.

In addition to the public financing bill, major recommendations in this report include:

** Prohibiting award of state contracts to businesses whose principals gave more than $10,000 total to the winning candidate, unless the contract is awarded by competitive bidding.

** Requiring random selection of precinct election judges if 25 percent or more of the candidates on the ballot petition the State Board of Elections.

** Applying state merit system rules on restricting political activity and on job protection to local school board employes in school board elections.

** Authorizing citizen lawsuits to enforce campaign finance laws if the Registry of Election Finance, after notice, fails to act.

RECOMMENDATIONS

PART I

Campaign Financing

Public Financing—Expenditure Limits

The Commission recommends passage of the bill draft entitled, "An Act relating to election campaign financing," included in this report as "Appendix A."

(See Appendix A)

(Explanation: The Commission's overall rationale for recommending this bill is set forth in the preceding Introduction. The bill draft is based on Senate Bill 356 introduced in the 1988 Session.

The Commission believes that, if public financing is enacted, then the present $4,000 contribution limit is unnecessarily high and should be reduced to $2,000, and this recommendation is included in the bill draft.)

The Commission recommends that an additional section be developed and added to the above bill draft, to accomplish the following:

* Limit or prohibit what political parties, independent groups and individuals can spend on behalf of candidates who have accepted expenditure limits.

(Explanation: "Independent" spending has been a problem under the federal system of public financing and needs to be addressed as part of a state system.)

Public Question Campaigns—Contribution Limits and Disclosure

The Commission recommends that:

Contributions to committees which take part in public-question campaigns be limited to $4,000 per question per year by any individual, committee, organization or corporation.

(Explanation: The Commission feels that the same limit that applies to contributions to candidates should apply to campaigns on public questions, such as constitutional amendments. The present situation opens the door for large contributors—including corporations, which may have access to huge sums—to unduly influence the outcome of public-question elections.)

Limit or Total PAC Contributions

The Commission recommends that:

A candidate's total contributions from permanent committees (PACs) be limited to 25 percent of the total contributions from all sources, by adopting the following:

No candidate, campaign committee or political issues committee shall accept more than twenty-five percent (25%) of the total contributions received in any one (1) election from permanent committees, or contributing organizations. Any amount in excess of twenty-five percent (25%) shall be returned to the donors, pro rata. The amounts received from such organizations shall be shown as a percentage of the total amount received in the reports to be filed pursuant to KRS 121.180(2)(3).

(Explanation: This is designed to curb undue influence by PACs, which tend to represent narrow special interests, and in so doing put more emphasis on individual contributions.)

Prohibition of "Bundling" of PAC Contributions

The Commission recommends that:

PACs be prohibited from "bundling" individual contributions, by adopting the following:

(1) Each contribution to a candidate or to any committee or to any person on behalf of any of them from any permanent committee or any contributing organization shall be in the form of a single check issued by the treasurer of the permanent committee or contributing organization, and no permanent committee, or contributing organization, nor anyone on their behalf, shall contribute to a

candidate or to any committee by delivering or forwarding to a candidate or committee the individual contributions of any person or group of persons.

(Explanation: When a PAC collects individual contributions to a candidate and passes them along to the candidate in a "bundle" (as opposed to making one contribution from the PAC treasury), the practice is called "bundling." It is used to evade limits on PAC giving while preserving the perceived influence of a PAC in arranging large amounts of financing for a candidate.

Until the 1988 General Assembly adopted new limits on PAC contributions to candidates, there was little or no incentive in Kentucky for "bundling." Now that the legislature has adopted PAC limits—wisely, we believe—there is a need to close a potential loophole by prohibiting "bundling." The need has been demonstrated at the federal level, where limits on PAC giving have led to "bundling" in federal elections. Even with the adoption of an anti-bundling provision, PAC members would still be free as individuals to make contributions directly to the candidate.)

Contribution Limits—Potential State Vendors

The Commission recommends that:

KRS 121.056 be amended by inserting after subsection (2), (. . . best bid) the following:

No business, partnership, corporation or other entity shall hold any contract with the Commonwealth of Kentucky during the term following a gubernatorial campaign if the principals of the entity and members of the principals' immediate families contributed a total of more than $10,000 to the winning gubernatorial candidate and committees supporting the winning candidate in the preceding campaign, unless said contract shall be awarded by competitive bidding following public advertisement and the entity shall have the lowest and best bid.

No contract with the Commonwealth of Kentucky shall be awarded until the entity receiving the contract files with the Secretary of Finance and Administration or his designee a complete list of the full names of the principals of the entity.

The person or persons signing the contract for the entity to which the contract is awarded shall certify, subject to penalty, that to the best of his or their knowledge the provisions of this Act have been complied with.

"Principal" means officer, director, partner, or holder of a substantial interest.

The Commission also recommends that a penalty clause be added to KRS 121.056, providing Class A misdemeanor penalties for violators and termination of the job or appointment, and requiring the Secretary of Finance and Administration to cancel any contract awarded in violation of KRS 121.056, unless the Secretary determines in writing that cancellation would mean substantial financial loss to the state.

(Explanation: The Commission believes this proposal would help counter a widespread perception that large campaign contributions are necessary in order to obtain certain state contracts. Such a perception breeds cynicism and distrust of state government and needs to be addressed. The 1988 General Assembly passed a much stronger bill in this area, Senate Bill 157, but the bill was vetoed and the veto was not brought up for an override vote.)

Restrict Campaigning at Public Expense

The Commission recommends that:

The General Assembly develop and pass legislation which prohibits public officeholders from conducting clearly political activity at public expense. The Commission suggests that laws in Wisconsin and other states and federal laws be considered in developing such legislation.

(Explanation: The Commission realizes it is difficult to separate public and political activities. We do not intend to discourage officeholders from frequent communication and direct contact with their constituents at public expense, except when such is clearly on behalf of a political party or candidacy. We think many citizens are outraged, and rightly so, when officeholders use taxpayer-financed planes, cars, telephones, publications,

or personnel for obviously political purposes.

The Commission's interest originated in efforts to address the unfair advantage held by incumbents who misuse the resources of their office during a campaign. We think new legislation is needed to help "level the playing field" when an incumbent is also a candidate. During the 1988 session, the Commission proposed a modest start in this direction, by calling for reimbursement of publicly-paid travel expenses. This was included as Section 19 (pp. 12-13) of Senate Bill 385, but the provision was deleted in the House. We think the General Assembly should now develop and pass more comprehensive limits on the advantages of incumbency.)

Inaugural Committees—Contribution Limits and Disclosure

The Commission recommends that:

The General Assembly study the financing of gubernatorial inaugurations and consider fixing a $4,000 limit on contributions to inaugural committees by persons or organizations, including corporations. The General Assembly should also consider requiring inaugural committees to file financial reports with the Registry of Election Finance or some other public office.

(Explanation: Contributions to inaugural committees are another potential means of currying favor with an incoming administration. Inaugural fundraising also could be a means of coercing those who seek favorable action by the administration. To discourage such abuses and to increase public confidence, the Commission recommends adoption of the same generous $4,000 contribution limit that applies to campaigns, plus full disclosure of inaugural finances.)

Registry of Election Finance—Analysis of Contributions

The Commission recommends that:

The Registry of Election Finance be required to analyze contributions exceeding $300 by interest group and occupation within one year after an election.

The General Assembly should appropriate any additional funds needed to perform such analyses.

(Explanation: We believe public disclosure has a strong, positive influence on elections. This step would provide a regular, official analysis of which interest groups are supporting which candidates. While we were reluctant to put less than a one-year limit on the Registry, we hope with computerization that the Registry could provide pre-election analyses in major races.)

PART II

Conduct of Elections

Election Officers—Petition for Random Selection of Precinct Judges

The Commission recommends that:

Upon petition of 25% or more of the state and local candidates appearing on a precinct ballot, the State Board of Elections shall be required to remove the previously selected precinct election judges and to select randomly two election judges, one from each major party. In the case of a primary election, a petition shall be submitted to the State Board of Elections at least 45 days before a primary, and in the case of a general election, a petition shall be submitted at least 30 days before a general election or within 5 days after selection of election judges by the State Board of Elections, whichever is later. The State Board of Elections shall devise a method of random selection.

(Explanation: Most election fraud at the polls requires the cooperation or acquiescense of the precinct election officials, by such means as illegal assistance in using the voting machines. During the 1988 session, the Commission recommended a random-selection method for choosing the two precinct election judges. A random selection provision was introduced as part of Senate Bill 385 but was deleted in the House.

A frequent argument against such a plan is that fraud at the polls is not a problem in many counties, and in such counties there is a corps of trained and efficient precinct workers who should not be replaced.

The above proposal is designed not to upset the present selection method in those counties where the system seems to be working well. However, it would provide a way to attack fraud in those precincts where at least 25 percent of the candidates want to bring new judges into the polling places. There is precedent for the 25 percent petition method in the present law concerning challengers.)

Job Promises

The Commission recommends that:

KRS 121.055 be amended to read as follows:

(1) No officeholder or candidate for nomination or election to any state, county, city or district office shall expend, pay, promise, loan or become liable in any way for money or other thing of value, either directly or indirectly, to any person in consideration for[~~of~~] the vote or financial or political or moral support of any[~~that~~] person, nor shall any such officeholder or candidate authorize anyone else to expend, pay, promise, loan or become liable in any way for money or other thing of value, either directly or indirectly, to any person in consideration for the vote or financial or political or moral support of any person.

(2) No officeholder or candidate shall give or promise to give either a job or an appointment to a board, commission or other governmental unit to any person as consideration for the vote or the financial or moral or political support of any person, nor shall any such candidate authorize anyone else to make such a promise on his behalf.

(3) Any officeholder or candidate who gives or promises to give such job or appointment, and the promise is not consideration for the vote or the financial or moral or political support of any person, shall within forty-eight (48) hours after the promise is made, or the candidate files for office, whichever is later, publicly announce the promise to the news media of general circulation in the election district.

(4) No officeholder or [~~such~~] candidate shall give or promise to give [~~, agree or make~~] a contract to [~~with~~] any person to vote for or support any particular individual, thing or measure, in consideration for the vote or the financial or political or moral support of that person in any election, primary or nominating convention, and no person shall require that any candidate make such a promise, agreement or contract.

(Explanation: Courts have held that a political candidate's promise of a job in exchange for campaign contributions or other support is not illegal under present law. The Commission believes it should be, just as the buying of votes with cash is illegal. We recognize that a candidate could legitimately offer a person a job in his/her administration in order to

show the public the kinds of people to be employed or the policies to be followed. If that promise is not made in exchange for financial or political support, and if the promise is publicly announced, we feel it should be permissible and would be good public policy.)

School Board Employees—Restrict Political Activities in School Board Races

The Commission recommends that:

The job protections and restrictions on political activity which apply to state merit system employees in KRS Chapter 18A be made applicable to local school board employees in school board elections, with an added provision to prohibit anyone from soliciting a school board employee to take part in a prohibited political activity in a school board race.

The Commission also recommends study of an additional provision which would permit school board employees, acting through an established employee organization which represents a significant number of employees, to interview and endorse school board candidates.

(Explanation: In some of our counties, the school superintendent and other school employes are deeply involved in the politics of school board elections. Unfortunately, their actions in running the schools can be influenced more by their desire to elect their supporters to the school board than by their desire for high educational standards.

Our solution is to prohibit our professional school employees from engaging in most political activities during a school board race, just as we prohibit our professional state employees from engaging in political activities concerning state policymaking offices.

Another part of this proposal would make it illegal to solicit school board employees to take part in prohibited political activities. This would protect employees from being coerced by their superiors or local politicians outside the school system.

In small counties particularly, such a law would curb the undue influence which school board employees and their families as a bloc could exert in school board races.

At our last meeting, a Kentucky Education Association official opposed such a law, partly on grounds that local KEA chapters should have the right to interview and endorse school board candidates and that at the local level there would be no one to do this except employees covered by such a law. Perhaps a clause can be drafted to answer this objection.

While we realize such a law would require school employees to give up certain rights, we feel this loss would be more than offset by the job protection they would gain and the curbing of political harrassment and coercion.

Surely our children's education deserves the same protection from political patronage as provided at the state government level.)

Publication of Election Law Summary

The Commission recommends adoption of the following:

KRS CHAPTER 118.235 IS AMENDED TO READ AS FOLLOWS:

(1) The county clerk of each county shall publish pursuant to KRS chapter 424 and shall post notice at the courthouse, under the proper party designation and title of each office the names of all persons certified to him by the secretary of state, in the order in which they were certified, and of all persons for whom nomination papers have been filed with the county clerk. Only the names of persons who have substantially complied with provisions of KRS 118.125 to 118.165 shall be published. The names shall be published in the order in which they are to appear on the voting machine.

(2) The state board of elections shall prepare a summary of election statutes which, in its judgment, are intended to ensure the integrity of the election process. The summary shall include penalties for violation. Concurrent with the publication of the list of candidates, the county clerk shall publish the summary. The county shall pay the cost of printing.

(Explanation: Any long-term solution of Kentucky's election-fraud problems must include better education of the voting public about our election laws and the serious penalties for violations. The above is one step toward better education. Publication of the election-law summary would be combined with publication of the sample ballot in order to minimize cost.)

Publication of Special Ballot Procedures

The Commission recommends adoption of the following:

A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

The state board of elections shall prepare a summary of statutes which provide for special ballot application, use and penalties. The county clerk of each county shall cause the summary to be published in a newspaper meeting the requirements of KRS 424.120. The notice shall be published, at the expense of the county and at least thirty (30), but not more than forty (40), days prior to an election.

(Explanation: This is another step toward better education. We have in mind a display-type ad, not small type buried in the legal ad columns. The ad should briefly describe the procedure for obtaining and voting a special ballot, and the penalties for violations.)

Special Ballots - Solicitation, Assistance

The Commission recommends adoption of the following:

A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

No person shall personally solicit another to apply for a special ballot, unless that person is the spouse, parent or child of the voter. If the voter has no immediate family, this restriction shall not apply to a brother, sister, nephew, or niece. Any person who is aiding another in completing a special ballot shall not solicit or encourage that person to vote for or against any individual candidate, party, or issue.

(Explanation: This might be called the "nursing home amendment." In some areas, there has been widespread solicitation of special ballots among nursing home residents and others. The practice sometimes involves coercion of voters or vote-buying. Our recommendation is based on the idea that if a voter does not have the interest and capacity to apply for and vote the ballot on his or her own, he or she should not be voting.)

Election Officers' Pay

The Commission recommends that:

Precinct election officers be paid a minimum of $10.00 salary and $5.00 expenses to attend a training session and a minimum of $35.00 salary and $10.00 expenses to work at the polls on election day.

(Explanation: Good precinct election officers are crucial to the fair conduct of elections, and they should be fairly compensated. These officers are required to attend a training session and to work at least 12 hours on election day. The minimum pay is now $5 for the training session and $15 for election day, although many counties pay more. We have presented what we believe are reasonable expense amounts as separate items because of unofficial information we received concerning federal social security tax rules.

State payments to the counties for election costs were raised in the 1988 session from $85 to $255 per precinct, more than enough to cover the proposed increase in election officers' pay in those counties which do not already pay at the proposed levels.)

Electioneering at the Polls—Enforcement

The Commission recommends that:

KRS 117.235 be amended as follows:

The election sheriff, under the supervision of the precinct election judges, shall see that the election laws are enforced and that law and order is maintained at the polls and within five hundred (500) ~~enforce the election laws and maintain law and order at the polls and within fifty (50)~~ feet of any entrance to the building

in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(Explanation: The law as amended in 1988 extended the ban on electioneering to 500 feet of the polls, but left the election sheriff's enforcement powers at 50 feet.

The Commission felt that it makes sense to extend the election sheriff's responsibilities to the full 500 feet, but we also could see potential danger in untrained, non-uniformed sheriffs attempting to physically restrain persons at some distance from the polls.

The above language is an attempt to fix the responsibility for election-law enforcement with the election sheriff within the full 500-feet limit, while at the same time encouraging sheriffs to call on trained law officers if necessary. We think it probably reflects actual practice at present in those instances when violators will not voluntarily comply with the election sheriff's requests.)

PART III

Enforcement

Jury Selection from Circuit Court Districts

The Commission recommends that:

The General Assembly study the possibility of drawing grand juries and trial juries in election-law cases from Circuit Court districts.

(Explanation: The Commission heard considerable testimony that the extent of local political pressure in some counties makes it difficult to find impartial jurors who will indict and convict election-law violators. After considering several proposals to attack this problem, the Commission felt the above recommendation would increase the chances of seating impartial juries in multi-county districts while complying with the state constitution's requirement that jurors be drawn from the "vicinage" of the offense.)

Citizen Lawsuits

The Commission recommends that:

Citizens be authorized to file lawsuits to enforce the campaign finance laws after an election, provided the citizen first notifies the Registry of the alleged violation and the Registry fails to act. Citizen plaintiffs should be required to post a reasonable bond.

(Explanation: The Commission heard testimony that such a provision in the California law has had the effect of encouraging more vigorous enforcement. Only a very small number of citizen suits have been filed and none has been successful, we were told.)

Penalties for Election—Law Offenses

The Commission recommends that:

1. The authority to impose a fine up to $10,000 be added to those election-

law penalties which currently allow the imposition of a prison sentence but do not authorize a fine. Such penalties would then provide for a fine or a prison sentence or both.

(Explanation: The Kentucky Penal Code currently provides for a fine up to $10,000 as an alternate penalty to a prison sentence, but election-law offenses are "crimes defined outside the penal code" and thus the Penal Code provision does not apply. The Commission believes some juries might shrink from convicting the guilty if there is no alternative to a prison sentence. The above recommendation should make it easier to gain convictions for election-law offenses and thus tend to deter future violations.)

2. The penalty provisions in KRS Chapters 117-121 be revised to use terminology consistent with the Kentucky Penal Code, and in particular to use the term "intentionally" rather than "wilfully." "Intentionally" should be inserted in KRS 119.095 whenever neither term is used.

(Explanation: The election laws in Chapters 117-121 often use the term "wilfully" to describe the mental state necessary for a conviction, whereas the term "intentionally" is used in the Penal Code. The Penal Code defines the term "intentionally" but not the term "wilfully." We believe it would help prosecutors, judges and juries if the defined term "intentionally" were used throughout the election laws where required to establish the culpable mental state.)

3. The penalty provisions of KRS 119.025 and 119.035 (Wrongful Registration) be revised to include uniform penalty language, namely that a violator shall be "fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years, or both."

(Explanation: The present statutes contain different penalties for offenses in first-class cities and offenses outside first-class cities. The above proposal

would use the existing language of the more severe penalty as the uniform penalty for such violations regardless of location.)

4. KRS 119.355 be amended as follows:

No prosecution shall be had under the election laws where the offense is classified as a misdemeanor or a violation [~~penalty is less than confinement in the penitentiary~~] unless the prosecution is commenced within two (2) years from the time of the commission of the offense.

(Explanation: The proposed language is consistent with the current method of classifying offenses.)

APPENDIX A

AN ACT relating to election campaign financing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 122 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This Act shall be cited as the campaign matching payment fund act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Registry" means the Kentucky registry of election finance;

(2) "Committee" means any combination of one (1) of more persons acting jointly, or any individual, including a state or county executive committee of a political party, or any organization or group, organized, in whole or in part, for the purpose of furthering candidacies for the offices of governor or lieutenant governor;

(3) "Candidacy" means a candidacy for nomination or election to the office of governor or lieutenant governor;

(4) "Eligible candidate" means any candidate of a political party or any independent nominee for the office of governor or lieutenant governor whose name is qualified to appear on the primary or general election ballot;

(5) "Candidate campaign account" means one (1) bank account established by a candidate for governor or lieutenant governor in a bank insured by the federal deposit insurance corporation for the sole purpose of receiving subsidy payments from the fund and contributions or other moneys raised from personal resources;

(6) "Qualified campaign expenses" means expenditures on behalf of a candidate to further his nomination or election to the office of governor or lieutenant governor by an authorized treasurer;

(7) "Contribution" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, or political committee; or

(b) Payment by any person other than the candidate, his authorized agents, or political committees, of compensation for the personal services of another person which are rendered to a candidate's campaign; or

(c) Goods, advertising, or services furnished to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such goods or services; or

(d) Payment by any person other than the candidate, his authorized treasurer, or political committees for any goods, or services utilized in candidate's campaign; or

(e) Expenditure in connection with any other activity undertaken independently of the candidate's campaign made or furnished for the purpose of influencing the results of a

primary for the nomination for election, or the results of an election to the office of governor or lieutenant governor; or

(f) Notwithstanding foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate;

(8) "Campaign expenditure period" means the period between the general election of a year preceding a gubernatorial election year to the next primary election and the period between the primary election to the general election of a gubernatorial election year;

(9) "Person" means an individual, partnership, committee, permanent committee, association, firm, society, club, or any other organization or group of persons which may lawfully make a political contribution;

(10) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, designated a campaign depository pursuant to this Act, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination or election to the office of governor or lieutenant governor;

(11) "Fund" means the campaign matching payment fund established under this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established under the direction of the registry a special fund to be known as the campaign matching payment fund.

(2) The registry shall award grants for the matching of political campaign contributions to candidates for the office of governor and lieutenant governor as provided in this Act. The grants shall be paid from moneys derived from the income tax check-off procedure established by KRS 141.071 and 141.072 and from any appropriations made to the registry for that purpose.

(3) The registry shall file a report with the legislature within three (3) months following a gubernatorial election reporting the total amount paid to all candidates for qualified matching contributions.

(4) The registry shall preserve all receipted bills and accounts required to be kept by this Act for a period of the term of office of governor.

(5) After each campaign expenditure period, the registry shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates.

(6) The registry shall adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

(1)(a) Before grants may be awarded from the fund, at least two candidates for an office must have met the

qualifications therefor as provided in this Act.

(b) Any eligible candidate who is qualified for and elects to receive matching grants out of the fund credited to his account shall be entitled to receive contributions and make expenditures for his campaign, subject to the limitations set forth in this section.

(c) For the purposes of this section, the number of registered voters in the state shall be the number registered on January 1 of each year, as determined by the state board of elections.

(2) A candidate for governor who elects to receive transfers from the fund may receive contributions which, in the aggregate, plus the transfers from the fund do not exceed seventy-five cents (75¢) per registered voter in connection with a primary election campaign and seventy-five cents (75¢) per registered voter in connection with a general election campaign. The amounts for the office of lieutenant governor shall be forty-two and one-half cents (42.5¢) per registered voter for a primary election, and forty-two and one-half cents (42.5¢) per registered voter in a general election. These amounts shall be increased or decreased in accordance with the consumer price index, and the registry shall annually make such adjustment to reflect the changes in the contribution and fund limitation. The total campaign expenditures of such a candidate and by any person, committee or organization on behalf of such candidate for either a primary or general election shall not exceed the contribution and fund transfer limitation.

(3) Any funds raised in excess of the limitations set forth in this section shall be forfeited to the registry for use in the fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

In order to be eligible to receive amounts from the fund, a candidate for governor or lieutenant governor shall:

(1) Furnish the registry with satisfactory evidence that he qualifies under applicable laws for nomination and election to the office;

(2) Furnish the registry evidence in a form prescribed by the registry, that as a candidate for governor or lieutenant governor he has raised at least ten percent (10%) of the applicable expenditure limit in individual contributions of two hundred fifty dollars ($250) or less intended to further his nomination or election.

SECTION 6. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

(1) Each candidate making application for the transfer of money from the fund to his account shall establish a single candidate campaign account in a bank insured by the federal deposit insurance corporation for the sole purpose of receiving transfers from the fund and private moneys received for use in the campaign and for making campaign expenditures.

(2) All payments received from the fund, and all contributions or personal resources of the candidate to be used for campaign expenditures shall be deposited in the candidate

campaign account. Each deposit made in the account shall be accompanied by a short statement, in the form prescribed by the registry, showing each payment from the fund, contribution or amount of the candidate's personal resources deposited, the date each contribution was received and each amount of the candidate's personal resources was made available, and the name, address, and, in the case of individuals, occupation of each contributor and of the source of the candidate's personal resources. The statement shall be verified as to the amounts deposited by the depository and then transmitted to the registry within fourteen (14) working days after the deposit is made. The depository shall furnish to the registry at least every fourteen (14) working days a statement of all withdrawals made from the account.

(3) The candidate shall designate for purposes of this Act by writing, filed with the registry, an individual or individuals (not to exceed three (3)) who shall be authorized, in addition to the candidate, to withdraw funds from the campaign account and who each shall share responsibility with the candidate, jointly and individually, for compliance with the provisions of this Act.

(4) No person authorized to make withdrawals from the candidate campaign account shall pay any amount out of that account for goods or services furnished, other than staff salaries, except upon the presentation of an invoice submitted by the person to whom the payment is to be made. The invoice shall describe disbursements to persons, the name, address and occupation of the person, and the date and the amount

disbursed. Invoices for goods or services furnished to or for the benefit of the candidate shall be accompanied by a statement, executed by the person furnishing the goods or services, certifying that the charges are the fair market value of such goods and services, and containing such other information as may be required by the registry. Such invoices and statements shall be preserved by the candidate and made available for reasonable inspection and auditing by employes of the registry. Copies of the invoices and statements shall be furnished to the registry upon request.

SECTION 7. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

(1) Any candidate is entitled upon certification by the registry, for payments from the fund, in an amount equal, dollar for dollar, of each contribution received by such candidate. For purposes of receiving matching funds, only the first two hundred fifty dollars ($250), or lesser amount, in individual contributions shall count toward the amount which a candidate may receive from the fund. The contribution for matching purposes shall be in the form of a personal check. If it appears to the registry that in the course of a primary election or general election campaign that a candidate who has not accepted the provisions of this Act has exceeded the expenditure limits as provided in Section (4)(2) of this Act, then those candidates who have elected to become eligible for matching funds shall be entitled to receive from the fund two dollars ($2) for every one dollar ($1) by which a candidate exceeds the expenditure limit. If more than one (1) candidate

exceeds the expenditure limit, two-for-one (2 for 1) matching grants shall be based on the highest excess amount spent, however, no candidate exceeding the expenditure limit shall receive two-for-one (2 for 1) matching grants. Candidates exceeding the expenditure limit, either by actual expenditures or obligations for future expenditures, shall make daily reports of receipts and expenditures to the registry of election finance, effective on the date the limit is first exceeded, until thirty (30) days have passed after the election.

(2) To be eligible for the matching grant established by this Act, each eligible candidate shall submit to the registry at such times and in such form and manner as the registry may require, a matching payment entitlement voucher. Such voucher shall include the full name of any person making a contribution together with the date, the exact amount of the contribution, the complete address and occupation of the contributor and such other information as the registry may require.

(3) Within three (3) working days of the receipt of such voucher the registry shall:

(a) Make a determination, according to such procedures as the registry may establish, as to whether each contribution enumerated on the voucher is consistent with the provisions of this Act;

(b) Certify for payment to such candidate an amount equal to the sum of the contribution enumerated on such voucher;

(c) Promptly upon certification, the registry shall make a payment from the fund to such candidate or his authorized treasurer in the amount certified by the registry.

(4) The registry shall not certify any portion of any contribution made by any person to a candidate entitled to matching payments under the fund, which when added to other contributions made by such person to such candidate in connection with one (1) campaign expenditure period violates the provisions of KRS 121.150.

(5) For the purposes of financing primary campaigns, the registry shall make no payment to a candidate entitled to payments from the fund earlier than the date of the general election preceding the gubernatorial primary election. For the purposes of financing general election campaigns, the registry shall make no payment to a candidate entitled to payments from the fund earlier than the date of the primary election preceding the gubernatorial general election.

SECTION 8. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

If it appears, after a candidate has filed financial statements as required by KRS 121.180, that an unexpended balance of contributions and fund transfers exist not otherwise obligated for the payment of the expenses of the completed campaign, the fund shall be reimbursed a proportion of the unexpended balance equal to the percentage of total campaign expenditures and unexpended balance consisting of fund transfers. The reimbursement payment shall be due and owing within ten (10) working days of the filing of the final financial statement for a particular election.

SECTION 9. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

Any candidacy that receives transfers from the fund shall comply with and be subject to campaign finance requirements contained in KRS Chapter 121 where such requirements are not inconsistent with the provisions of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

(1) Any eligible candidate who is qualified and elects to receive matching grants out of the fund shall, as an additional state subsidy of his campaign, be entitled, should he so desire, to appear during a particular campaign expenditure period on the Kentucky educational television network.

(2) Thirty (30) minutes of television time shall be set aside per each qualified candidate for governor and fifteen (15) minutes shall be set aside for each qualified candidate for lieutenant governor individually for the purpose of explanation and presentation of his candidacy platform.

(3) An additional thirty (30) minutes of television time shall be set aside per each qualified candidate for governor and fifteen (15) minutes shall be set aside per each qualified candidate for lieutenant governor for appearances by the candidates in a press conference or debate format.

(4) The Kentucky authority of educational television shall be responsible for offering the candidate television time prescribed in this section on such dates and at such times as may reasonably be determined. The authority shall be empowered to adopt such regulations and procedures as may be necessary to implement the requirements of this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any person who receives any payment from the fund, or to whom any portion of any payment received from the fund is transferred, knowingly and willfully to use, or authorize the use of, such payment or portion thereof for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made.

SECTION 12. A NEW SECTION OF KRS CHAPTER 122 IS CREATED TO READ AS FOLLOWS:

(1) Any candidate, authorized treasurer, or any other person who knowingly and willfully violates the contribution or expenditure limits imposed by Section 4 of this Act, knowingly and willfully misuses any transfers from the fund in violation of Section 11 of this Act, or knowingly and willfully falsifies any record required to be submitted or retained by the candidate under this Act shall be fined in an amount not less than five thousand dollars ($5,000) nor greater than twenty-five thousand dollars ($25,000) or imprisoned for not less than thirty (30) days nor more than one (1) year or both and shall be disqualified from being appointed to or becoming a candidate for public office for a period of five (5) years. In addition to the penalties set out in this section, any candidate nominated or elected prior to a judicial determination that he has knowingly and willfully committed any of the violations contained in this subsection shall, upon such judicial determination, forfeit his nomination or election.

(2) Any person who violates any other provision of this Act, or of any rule or regulation promulgated by the registry under this Act, shall be fined in an amount not exceeding one thousand dollars ($1,000) or imprisoned for not more than thirty (30) days, or both.

(3) Any candidate who receives matching grants from the fund who exceeds the expenditure limit by less than two percent (2%) shall be fined the amount of the excess by the registry of election finance. Any receiving candidate who exceeds the expenditure limit by two percent (2%) or more shall be fined an amount from one (1) to three (3) times the amount of the excess, as determined by the registry.

(4) If the registry determines that probable cause exists to believe a violation of this Act has occurred, the registry shall immediately transmit such determination to the attorney general.

Section 13. KRS 121.056 is amended to read as follows:

(1) No person who contributes more than two [four] thousand dollars ($2,000) [($1,000)] to a gubernatorial candidate shall hold any appointive state office or position, which shall be made by gubernatorial appointment, during the term of office following the campaign in which the contribution shall be made.

(2) No person who has contributed more than two [four] thousand dollars ($2,000) [($1,000)] or any entity in which such a person has a substantial interest shall have any contract with the Commonwealth of Kentucky unless said contract shall be attained by competitive bidding and the person or entity shall have the lowest and best bid.

(a) "Substantial interest" means the person making the contribution owns or controls ten percent (10%) or more of an entity or a member of the person's immediate family owns or controls ten percent (10%) of such entity or the person and his immediate family together own or control ten percent (10%) or more of such entity.

(b) "Immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(3) No person shall give or conspire to contribute money or property to any other person for the purpose of making a campaign contribution, in violation of this section, if the money or property contributed together with any other contribution made by such person would exceed the limit on individual campaign contributions. The restrictions established by subsections (1) and (2) of this section to a person who shall contribute in excess of two [four] thousand dollars ($2,000) [($1,000)] as provided by those subsections, shall apply to a person who makes a total contribution in excess of two [four] thousand dollars ($2,000) [($1,000)] as provided by this subsection.

Section 14. KRS 121.120 is amended to read as follows:

(1) The registry shall appoint a full-time executive director, legal counsel and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry shall also appoint such other employes as are necessary to carry out the purposes of this chapter.

(2) The registry may conduct hearings with regard to possible violations and for the effective carrying out of its responsibilities the registry shall have the authority to initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this chapter or enjoining violations thereof or recovering any penalty prescribed by this chapter.

(3) The registry shall adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 121.015 [and] 121.110 to 121.200, and KRS Chapter 122. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to reporting dates and the length of time that candidates and committees are required to keep any records pursuant to the provisions of this chapter;

(c) Develop a filing, coding and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same;

(e) Preserve all reports for at least four (4) years from the date of receipt;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates and parties, containing the total receipts and expenditures, and the date, name, address and occupation, and amount contributed by each contributor, listed alphabetically, shown to have contributed in excess of three hundred dollars ($300);

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140(2); make public the fact that a violation has occurred and the nature thereof;

(j) Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of any books, papers, correspondence, memorandums or other records and the attendance of witnesses which the registry deems relevant or material for the purpose of any investigation;

(k) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, or district office;

(l) Conduct audits of receipts and expenditures of all candidates running for statewide office;

(m) Require that candidates shall maintain their records for a period of four (4) years from the date of the general election in their respective political races;

(n) Initiate investigations and make investigations with respect to reports upon complaint by any registered voter and to initiate proceedings on its own motion;[and]

(o) Forward to the attorney general any violations of this chapter which may become the subject of civil prosecution; and

(p) Direct and administer the campaign matching payment fund pursuant to the scope and intent expressed by KRS Chapter 122.

Section 15. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign

treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request or suggestion or consultation involving a candidate or his authorized committee or agent. Any person making an "independent expenditure" as defined herein must report these expenditures, when he exceeds three hundred dollars ($300) per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) No candidate, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of one hundred dollars ($100), and all such contributions in excess of one hundred dollars ($100) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, or committee or anyone acting for the candidate, shall accept a contribution of more than two [four] thousand dollars ($2,000) [($4,000)] from any person, permanent committee, or contributing organization in any one (1) election. No person, permanent committee or contributing organization shall contribute more than two [four] thousand dollars ($2,000) [($4,000)] to any one (1) candidate, or anyone acting for the candidate, in any one (1) election.

(7) Except for permanent committees organized as of January 1, 1988, permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the registry of election finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute more than two [four] thousand dollars ($2,000) [($4,000)] to all permanent committees and contributing organizations in any one (1) year.

(10) No person shall contribute more than six thousand dollars ($6,000) to the state executive committee of a political party and their subdivisions and affiliates in any one (1) year.

(11) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person.

(12) No candidate for the office of governor shall make a personal loan to his committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000).

(13) No candidate for nomination to any state, county, city, or district office, nor committee, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate shall contribute for primary election expenses after the date of the primary.

(14) No candidate for any state, county, city or district office at a general election, nor committee, nor anyone on their behalf, shall solicit or accept contributions for general election expenses after the date of the general election. No person other than the candidate shall contribute for general election expenses after the date of the general election.

(15) The provisions of subsections (13) and (14) of this section shall apply only to those candidates in a primary or election which shall be conducted subsequent to January 1, 1989.

(16) No candidate for governor or the immediate family thereof may loan any money, service or other thing of value to his campaign, and all such moneys or services shall be deemed a contribution, which may not be recovered by the candidate, except to the extent of a total of fifty thousand dollars ($50,000).

(17) No candidate shall accept or have accepted on his behalf contributions from committees, political action committees, or similar groups which are organized outside of the Commonwealth, where the aggregate of such contributions exceeds one hundred thousand dollars ($100,000) for that candidate for a particular election.

Section 16. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall

be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. [*The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required by this subsection, to be submitted within thirty (30) days after each general election.*]

(2) Each campaign treasurer of an opposed candidate, who receives or expends, expects to receive or expend or contracts to expend more than three thousand dollars ($3000), campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the

amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of one hundred dollars ($100), and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Such candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be in the hands of the registry or postmarked within five (5) days of each filing deadline.

(3) All candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election, except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office.

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed; proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign

treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300) and if in cash it shall be so stated, and an aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6) If the final statement of an opposed candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually by opposed candidates and annually by unopposed candidates, to be in the

hands of the registry postmarked within ten (10) days after April 15 and October 15 for opposed candidates and October 15 for unopposed candidates, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The secretary of state and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the

candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(10) No candidate as defined in this section, nor any committee as defined in this section, shall use or permit the use of contributions or funds solicited or received for such person or in support of a public issue to further the candidacy of such person for a different public office or to further a different public issue. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if

the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate or committee, escheat to the state treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds to further the same political issue or to seek election to the same office.

Section 17. KRS 141.071 is amended to read as follows:

(1) [*The term "political party" shall, for the purposes of this section and KRS 141.072 and 141.073, mean those parties who met the requirements of KRS 118.015 on January 1 of the taxable year.*]

(2)] Every individual whose income tax liability for the taxable year is as great or greater than amounts permitted to be designated under this section, may designate that the tax paid or portion thereof be paid, as provided under this section and KRS 141.072, to the campaign matching payment fund established by KRS Chapter 122. Each individual may designate that five dollars ($5) of the tax paid shall be paid as provided in KRS 141.072 [*a political party. Amounts of individual tax liability permitted to be so designated are as follows: for the 1982 taxable year, one dollar and fifty cents*

($1.50); for the 1983 taxable year, one dollar and seventy-five cents ($1.75); and for the 1984 taxable year and for every year thereafter, two dollars ($2)]. In the case of a joint return, each spouse shall, for the purposes of this section, be considered to have an equal tax liability and may each designate amounts as provided in this section, provided that the joint tax liability is at least as great as amounts jointly so designated. Such designation shall not increase or decrease the income tax liability of any taxpayer nor shall it reduce the overpayment of any taxpayer.

Section 18. KRS 141.072 is amended to read as follows:

The designation for the campaign matching payment fund [*a political party*] shall appear on the face of the individual income tax return. [*Fifty cents ($.50) of any designation pursuant to KRS 141.071 shall be reserved for remittance to the appropriate official of the local governing authority of the designated political party within the taxpayer's resident county. The remainder of the designation shall be reserved for remittance to the appropriate official of the state governing authority of the designated political party.*] The secretary of revenue shall annually certify by December 1 all such designated amounts to be established as and deposited in a revolving trust and agency account within the meaning of KRS 45.140 and to be administered by the registry of election finance for the purpose of complying with the provisions of KRS Chapter 122, the campaign matching payment fund act. The account and funds therein shall not lapse but shall be

continual and cumulative and any interest income that may be generated by the funds therein shall be credited to the account to be utilized for the purposes for which the fund was created. The account shall be permitted to receive any donations, devises, or federal appropriations that may arise for the purpose of defraying the cost of election campaigns [*paid by the state treasurer, and the treasurer shall annually remit by the following January 1 such funds to the appropriate official of the state and local governing authorities of the designated political party*].

Section 19. KRS 121.230, Use of portion of income tax designated to political party -- Records and reports -- Audit, is repealed.

APPENDIX B

1987 Campaign Spending Totals

	PRIMARY*		GENERAL		GRAND TOTAL
	RECEIPTS	EXPENDITURES	RECEIPTS	EXPENDITURES	EXPENDITURES
GOVERNOR					
Beshear, Steven L. (D)	$ 2,860,687	$ 2,957,338			
Brown, John Y., Jr. (D)	3,479,491	3,504,011			
Carroll, Julian M. (D)	738,382	797,986			
Lampton, Dinwiddie, Jr. (D)	39,450	39,450			
Moore, Anne (D)	2,933	2,942			
Stumbo, W. Grady (D)	258,719	744,464			
Wilkinson, Wallace G. (D) (W)	6,816,536	6,804,181	$3,121,856	$3,101,770	
Beasley, Leonard W. "Buck" (R)	13,712	13,699			
Hamlin, Thurman Jerome (R)	-0-	100			
Harper, John (R)	33,265	33,265	265,774	263,459	
TOTAL	$14,243,175	$14,897,436	$3,387,630	$3,365,229	$18,262,665
LIEUTENANT GOVERNOR					
Armstrong, Dave (D)	$ 569,955	$ 618,421			
Boswell, David E. (D)	301,967	340,251			
Cupp, Wilton B. (D)	-0-	-0-			
Jones, Brereton (D) (W)	2,686,472	2,641,901	$ 873,482	$ 399,264	
McDonald, Alice (D)	304,402	339,936			
Patton, Paul (D)	1,111,636	1,670,618			
Klein, Tommy (R)	196	196			
Webster, Lawrence R. (R)	1,000	227	5,526	6,229	
TOTAL	$4,975,628	$5,611,550	$ 879,008	$ 405,493	$ 6,017,043

*Money Raised During 1985-87

Source - Registry of Election Finance

APPENDIX C

Late in its deliberations, the Commission discussed a proposed federal constitutional amendment which would give Congress and state legislatures unrestricted authority to limit campaign contributions and expenditures. (The U. S. Supreme Court has held that certain limits, such as on a candidate's own spending on his own behalf, are unconstitutional on First Amendment grounds.) While the Commission took no position on the amendment, we suggest the General Assembly study whether or not to petition Congress on behalf of such an amendment.