

**2004
ANNUAL REPORT
TO THE
GOVERNOR AND THE GENERAL ASSEMBLY**



**TENNESSEE
REGISTRY OF ELECTION FINANCE**

MARCH 2005

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The Registry

The Tennessee Registry of Election Finance (Registry) was created by the General Assembly and Governor in 1989 as an independent entity of state government. The Registry is responsible for the enforcement of the following laws:

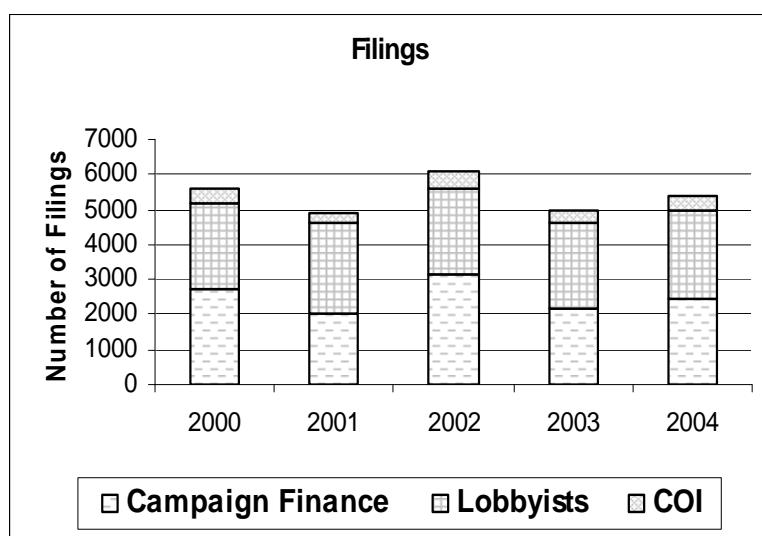
- Campaign Financial Disclosure Act (T.C.A. §2-10-101, et seq.)
- Campaign Contribution Limits Act (T.C.A. §2-10-301, et seq.)
- Gubernatorial Inauguration Finance Disclosure Act (T.C.A. §2-10-401, et seq.)
- Lobbyist Registration and Disclosure Act (T.C.A. §3-6-101, et seq.)
- Conflict of Interest Disclosure Act (T.C.A. §8-50-501, et seq.)

The Registry's board consists of a seven member board appointed to five (5) year terms. The board members are appointed by the Governor and General Assembly as follows:

- Three appointees by the Governor
 - One appointee representing the majority party
 - One appointee representing the minority party
 - One appointee that has demonstrated a nonpartisan interest in fair elections and informed voting
- One appointee by the Senate Democratic Caucus
- One appointee by the Senate Republican Caucus
- One appointee by the House Democratic Caucus
- One appointee by the House Republican Caucus

The Registry normally meets on the second Wednesday of each month. A meeting agenda is posted on the Registry's web site, www.state.tn.us/tref, one week in advance of any meeting and the meetings are open to the public.

The Registry staff consists of only four employees. The staff operates the Registry office on a day to day basis. In addition to handling notification and input for over 5,000 filings a year, some of the Registry's staff responsibilities are aiding filers with questions,



answering questions from the press and public looking for information, advising Administrators of Elections on local election questions and working with the General Assembly and Governor on the statutes the Registry enforces.

The Registry has been administratively attached to the Secretary of State's office since its creation in 1989. This step was taken as a cost saving move and allows the Registry to operate without the costs of having their own administrative staff.

Education and Information

Two of the main functions of the Registry are to educate and to provide information to our customer base. This includes candidates, officials, PACs, lobbyists, political parties, press and the general public. The Registry staff attempts to accomplish these functions through several methods.

The best tool the Registry has to educate and inform is our website (www.state.tn.us/tref). The Registry is continuously updating and making improvements to our website to insure that we provide the best information available to our customer base in a cost efficient method. In fact, the Registry's website was ranked sixth in the nation in 2004 in a study, *Grading State Disclosures*, completed by the California Voter Foundation with the Center for Government Studies and the UCLA School of Law.

The most recent addition to the website is the ability to view campaign financial disclosure statements on the Internet. Starting with the 2004 elections, the site allows you to search for complete campaign financial disclosure reports filed by candidates and PACs or to search for contributions made by a specific contributor. The campaign financial disclosure viewing site, which has only been operational since June 2004, had close to 40,000 hits in 2004. The site has already had over 10,000 hits in the first two months of 2005.

The Registry also uses the website to provide our customer base with the most up to date information available. This information includes summary data on candidate's and PAC's campaign financial disclosure statements, lists of registered lobbyists by lobbyists and client and lists of qualified candidates.

The website is also used for educational purposes. The website includes frequently asked question (FAQs) sections specifically for candidates, PACs, lobbyists and public officials who file conflict of interest statements. In addition, the web site contains filing calendars, blank reporting forms and links to the Registry's laws and rules.

While the website is a good starting point for educational purposes, the Registry staff uses several more direct methods to educate its customer base. The most obvious is method is making sure that a staff member is available to answer questions received by telephone and e-mail.

The Registry staff conducts seminars for candidates and committees on the campaign finance disclosure laws. These seminars are usually held throughout the state and not only include education on the laws but a detail discussion on how to complete the campaign financial disclosure reports.

The Registry staff also regularly attends conferences and seminars put on by other groups. The staff annually attends the county Administrators of Election seminars held on a statewide and regional basis. The Registry hopes that the training received at these seminars can be passed on to both state and local candidates by the Administrators of Elections.

Another seminar attended annually by the Registry staff is the Tennessee Lobbyist Association seminar. Most of the active registered lobbyists in Tennessee are members of this organization and attend the annual seminar. The Registry uses this seminar to update lobbyists on any upcoming law changes and to reinforce the current lobbying law.

The Registry also publishes separate campaign financial disclosure guidelines for candidates and PACs. The booklets include frequently asked question sections, campaign financial disclosure laws and campaign finance rules. These booklets are made available to candidates, PACs and to the Administrators of Elections. In a cost saving attempt, the Registry has also made the guidelines available on our web site for printing by any interested party.

Enforcement

The main goal of the Registry is for all disclosures to be filed in a timely and accurate manner. When this does not occur or when any other Registry statute is violated, the Registry has civil penalty authority.

The Registry goes through several steps before assessing a civil penalty against an individual or organization. For example, a two week notification is sent to any candidate, lobbyist or PAC owing a disclosure report notifying them of the report due and the due date. If the report is not filed by the due date, the Registry sends a certified notice to the individual or group notifying them that they have five (5) days to file the required report or civil penalties will begin to accrue. If the required report is filed during this five day period no action will be taken.

If a filing is not made during the five day period, the matter will be presented by the Registry staff to the Registry for action. At this point, the Registry can vote to issue a show cause notice or to take no action. Before making this decision, the Registry will consider all the facts in the matter including how many days late the report was filed and whether the person or organization has had matters before the Registry in the past.

If the Registry votes to issue a show cause notice, a letter is sent to the individual or organization notifying them of the allegations in the matter and the maximum civil penalty that may be assessed. In addition, the individual or organization is notified that they may respond in a sworn statement or appear in person at the Registry's next meeting to explain why civil penalties should not be assessed against them.

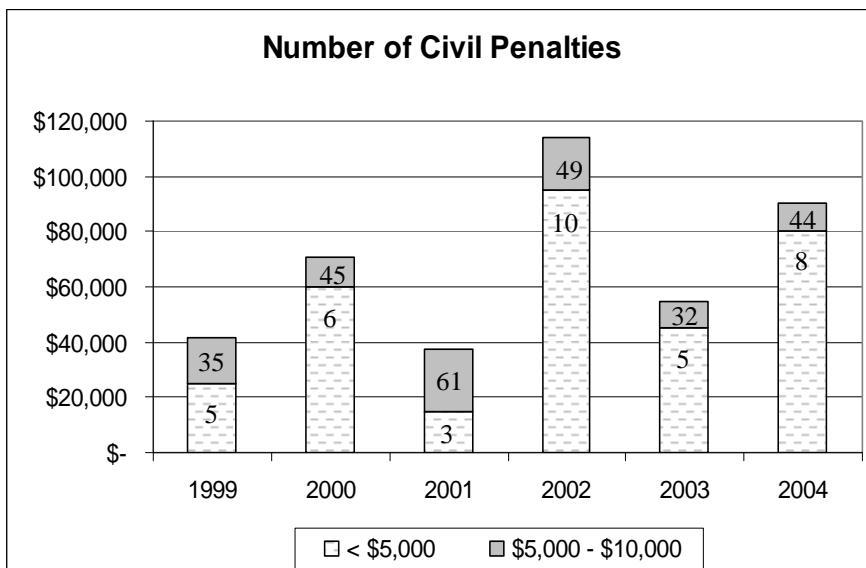
Before assessing a civil penalty, the Registry will consider all information provided to them in response to a show cause notice. Most of the civil penalties assessed by the Registry are small. The largest civil penalty assessments are in cases where there is no response to the show cause notice or when an individual or group have had multiple violations of the statutes enforced by the Registry.

Breaking down the Registry civil penalty assessments between large civil penalties, \$5,000 to \$10,000, and the under \$5,000 civil penalties, it is easy to see that a small number of penalties make up a large percentage of the civil penalty assessments. For example, in 2004

the chart to the right shows that the Registry assessed \$80,000 (89%) in the eight civil penalty assessments

where the penalty was greater than \$5,000. The remaining \$10,075 in civil penalties assessments were assessed in 44 cases with each

civil penalty being less than \$5,000. The trend is the same for the six years shown in the chart. Overall during this six year period, over 78% of civil penalties were assessed in just over 12 % of the civil penalty cases.



After any assessment of a civil penalty, the individual or group assessed the civil penalty has the right to request a reconsideration of the civil penalty assessment against them. The individual must notify the Registry in writing of the request for reconsideration within 14 days of the issuance of the Registry's civil penalty order.

In addition to being subject to civil penalties, any candidate that is assessed a civil penalty or fails to file a campaign financial disclosure report is ineligible to qualify to run for state or local office until the penalty is paid and/or the report is filed.

In addition to being subject to civil penalties, any lobbyist that fails to file an activity report is subject to having their lobbyist registration suspended. The lobbyist shall not be reinstated or be allowed to register as a lobbyist until the activity report is filed.

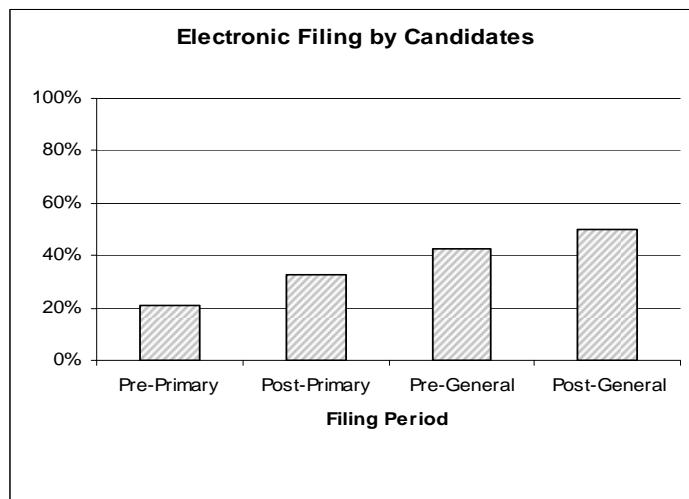
The Registry also has the authority to assess civil penalties based on sworn complaints filed with our office. The Registry follows the same procedures with a sworn complaint as it does with late filing. All information available will be examined before any action is taken in a case involving a sworn complaint.

Campaign Financial Disclosure Act

The Campaign Financial Disclosure Act requires candidates for state office, multi-candidates committees (PACs) and single-measure committees to file campaign financial disclosure reports with the Registry. For the first time, candidates and PACs had the option in 2004 of filing campaign financial disclosure statements electronically.

The Internet based electronic filing system was made available to candidates in June 2004 for the 2004 elections. All candidates were given an opportunity to receive an ID and password which would provide access to the Internet based system. By going to www.tennesseeanytime.org/tncamp and typing in their ID and password, candidates had secure access to their campaign financial disclosure information. At this site, candidates could enter their campaign financial disclosure information all at once or on an ongoing basis, build reports and submit them to the Registry.

The Registry has received numerous positive feedback on the electronic filing system.



Many candidates that have used the system have stated that they do not know why anyone would file on paper with the electronic filing system available. As can be seen in the chart to the left, the percentage of electronic filers increased for each campaign financial disclosure filing period, for the 2004 elections.

In August 2004, PACs were allowed to begin using the electronic filing system to file their quarterly campaign financial disclosure statements. As of today, the Registry has given out ID and passwords to nearly 200 of the approximately 400 PACs registered.

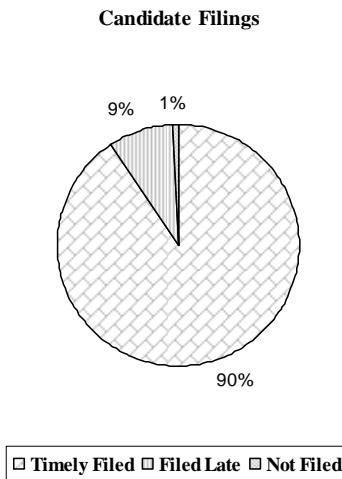
Candidates

In 2004, state elections were held for state senate seats in the even numbered districts, state representative seats in all districts and two court of appeal seats. The 250 candidates participating in the 2004 elections and the 74 candidates with open campaign accounts from previous or future elections were required to file disclosure reports with the Registry in 2004.

Candidates in the state elections were required to file pre-election and post-election campaign financial disclosure reports for the primary and general elections. While candidates with open campaign accounts, from 1990 to 2006 elections, were required to

file supplemental campaign financial disclosure reports covering their activity for the 2004 year.

For the 2004 year, candidates from past, present and future elections were required to file 943 campaign financial disclosure reports with the Registry (See Appendix A for summary information on each candidate). Of the 943 disclosure reports required to be filed with the Registry 854 were filed timely. Certified notices were sent to the remaining 82 candidates notifying them that civil penalties could be assessed if their disclosure reports were not filed within five days of their receipt of the notice. Out of the 82 disclosure reports that were not filed timely, seven disclosure reports have still not been filed.



Multi-Candidate Committee (PACs)

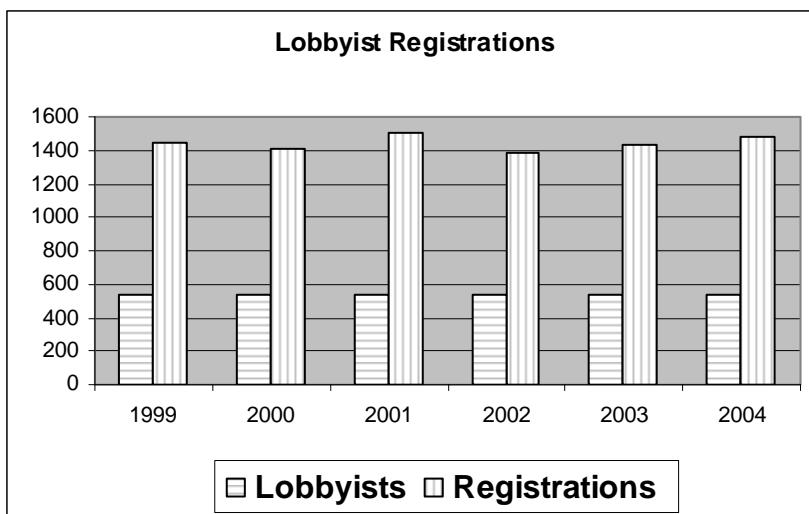
PACs are required to file quarterly campaign financial disclosure statements with the Registry. These reports disclose receipts and the contributions they made to candidates. PACs registered with the Registry made contributions totaling \$4,954,757 to state candidates in 2004 (See Appendix B for a detailed list of PAC contributions to candidates).

During 2004, PACs were required to file 1497 disclosure reports with the Registry. Of the 1497 disclosure reports required to be filed with the Registry 1409 were filed timely. Certified letters were sent to the remaining 88 PACs. Of the 88 late PAC reports for 2004, 16 have still not been filed.

Lobbyist Registration and Disclosure Act

The Lobbyist Registration and Disclosure Act requires lobbyists to register with the Registry in order to lobby legislative or executive branch for pay or consideration. A lobbyist must complete and file a lobbyist registration form for each client. In addition, a registered lobbyist must file a mid-year and year-end lobbyist activities report disclosing campaign contributions to state candidates of over \$100. (See Appendix C for a detailed list of lobbyist contributions to candidates.)

During 2004, lobbyists were required to file 1059 activities reports with the Registry. Of these required filing 997 were timely filed. Civil penalty letters were sent out to the remaining 62 lobbyists. At this time, 12 of these activities reports have still not been filed.



In 2004, the Registry had 542 lobbyists register with our office. These 542 lobbyists filed 1475 lobbyist registrations with the Registry. As can be seen in the chart, the number of registered lobbyists and lobbyist registrations has remained very consistent over the past six years. The

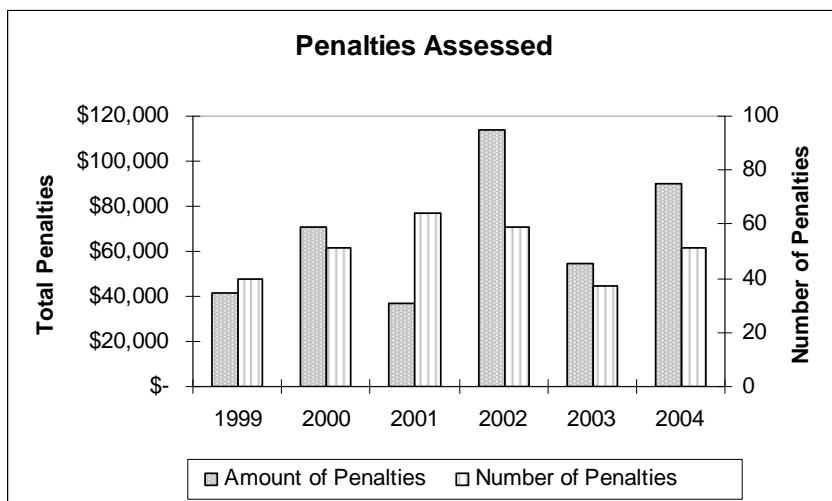
average number of registered lobbyists has been 538 over that period and lobbyist registrations have averaged 1441.

Conflict of Interest Disclosure Act

The Conflict of Interest Disclosure Act requires state candidates and certain public office holders to file Statement of Interests with the Registry. The disclosure statement must list the major sources of income of over \$1,000, investments of over \$10,000 or 5% of the total capital of a business or corporation, any compensated lobbying by the official or their spouse, general terms by area's of interest of any professional services, retainer fees received from any person conducting lobbying activity, any adjudication of any bankruptcy in the last five years and certain loans received. None of the above categories require the public official to disclose dollar amounts. In addition, general assembly members must disclose any contributions received for the purpose of defraying expenses of the officeholder.

In 2004, 438 public officials and state candidates were required to file Statement of Interests with the Registry of Election Finance. This number included 308 public officials and 130 candidates (sitting members of the legislature are included in the public officials count and not in the candidate count). Certified notices were sent to 24 officeholders in 2004. Two Statement of Interests have still not been filed.

To ensure compliance with the statutes that the Registry is mandated to enforce, the Registry assessed civil penalties against 52 individuals and organizations in 2004. In 31 of the cases the violations were class 1 violations, which carry a maximum \$750 civil penalty. The other 21 cases were class 2 violations, which carry a \$10,000 or 115% of the amount in controversy maximum penalty.



In 2004, the 52 penalty assessments by the Registry totaled \$90,075. As the chart to the left shows, this compares with civil penalty assessments of \$114,098 for 2002 and \$54,510 for 2003. The total civil penalty assessments are normally higher in even number years

due to the state elections being held in those years. The state elections held in those years result in more required filings with the Registry, which in turn result in more civil penalty assessments in those years.

Below is a breakdown by type of violation of the 52 civil penalty assessments by the Registry:

- 17 civil penalties for late filing of campaign financial disclosure reports by candidates
- 15 civil penalties for late filing of lobbyist activity reports
- 12 civil penalties for late filing of campaign financial disclosure reports by PACs
- 6 civil penalties for late filing of Statement of Interests
- 1 civil penalty for late registration of a lobbyist
- 1 civil penalty for a legislator accepting a contribution during session

The Registry hopes to continue to improve its services to its customers in the future. The creation of electronic filing and on-line viewing of reports is the first step in this direction. The Registry hopes to continue to improve its services with the development of other electronic filing systems for lobbyists and public officials. This will not only improve the timeliness and accuracy of reports filed in our office but it will aid the Registry in making the information available on a more timely basis to the public.

Campaign Finance Electronic Filing and Viewing

The Registry is already in the process of improving the electronic filing and viewing system. A new version of the electronic filing and viewing should be available in the summer of 2005. The upgraded electronic filing system will have better error checking and will allow candidates and PACs to view the summary pages of their reports before the reports are built for submission to the Registry.

The on-line viewing system will see the most dramatic changes. Currently, you can view and print an entire candidate or PAC report, only the contribution pages or only the expenditure pages. In addition, you can search for specific contributors to candidate's campaigns. The updated system will allow contributor searches by zip codes as well as names. You will also be able to search expenditure information by payee.

Currently, you can only view and/or print the information that is found in the on-line searches. The upgraded version will include the ability to download the information that is found in the searches.

The Registry will continue to educate filers on the electronic filing system to ensure that as many filers as possible use the system to file. The one drawback to the system is that all reports that are filed on paper must be entered into the system by hand so that they are part of the public viewing system. So, in order to make efficient use of the system, the Registry needs to insure that as many filers as possible file electronically.

Future Electronic Filing Systems

The Registry hopes that the electronic filing system for campaign finance is the forerunner to future electronic filing systems. Compared to the campaign finance on-line filing project, systems to allow lobbyists to file on-line and public officials to file Statement of Interests on-line would be relatively simple. These reports are much less complicated and therefore would be less expensive and less complicated to develop.

The Registry staff is currently working with TennesseeAnytime on the structure and cost of a system that would allow lobbyists to register electronically and to file activity reports electronically. There is currently legislation proposed that would require the Registry to develop a lobbyist registration and reporting system.

Law Changes

The Registry believes that implementation of the following recommendations would improve the statutes over which the Registry has authority:

- 1.) The requirement that an allocation report must be filed by a candidate that has excess campaign funds after an election should be deleted. The allocation report does not provide the public with any useful information and is an unnecessary report. Deletion of this report would save the Registry money and would lessen the burden on future candidates.
- 2.) The Registry should be authorized to assess lobbyists class 2 civil penalties of up to \$10,000 for failure to file lobbyist registration and activities reports as required by the Lobbyist Registration and Disclosure Act. Currently, the Registry's civil penalty authority is limited to a civil penalty of \$750 for late filing of required lobbyist reports. This is contrary to the Registry's authority to access class 2 civil penalties of up to \$10,000 against candidates and PACs for late filing of campaign financial disclosure reports.
- 3.) The inspection notice provision of the Campaign Financial Disclosure Law, which requires persons inspecting or copying candidates' disclosure reports to disclose their names and extensive personal information to the Registry and the local county election commissions, should be repealed. Beginning with the 2004 primary election, disclosure reports are available for viewing on the Internet without the inspection notice requirement. Thus, the inspection notice requirement should also be eliminated for viewing the records in the Registry's office.
- 4.) The Registry should be provided subpoena authority and random audit authority as part of its investigative powers, with the requirement that two-thirds of the board, as constituted on the date of any motion to utilize subpoena authority, must vote in favor of the issuance of a subpoena for such subpoena to be issued.
- 5.) A provision should be made in the campaign finance law to hold candidate treasurers accountable for negligence in the filing of candidate reports.
- 6.) Campaign financial disclosure reports should be made viewable on the Internet as soon as they are filed and reviewed by the Registry. Currently, a state candidate's campaign financial disclosure statement can not be viewed on the Internet until all candidates running for the same office have been filed. This gives the appearance to people using the Internet viewing site that some candidates have not filed when they have filed.

Goals

The Registry's main goal is to have reports filed in a timely and accurate manner, while at the same time reducing the costs of the Registry. The first step in this process has been completed with the campaign finance electronic filing and viewing system. The electronic filing system should help the Registry reduce costs with more timely and accurate reports.

The most obvious cost savings of the new system will be that reports can be filed electronically and will not have to be hand entered. This is why widespread usage of the new system is so important.

Next, with more accurate reports being filed with the Registry, the Registry will not need to send as many reports back for corrections. This will reduce the Registry's postage and supply costs. The timelier filing of campaign finance reports will also help the Registry reduce costs. With less late filers the Registry can again cut postage and supply costs.

The Registry hopes to continue the trend towards electronic filings and away from paper filings. The Registry would like to continue this trend with the development of the system allowing lobbyists to register on-line and file activity reports on-line.

The Registry also hopes to continue the trend of making more information available to the public on the Internet. The new search features that will be available soon will only enhance the ability to search candidate and PAC records on-line.