MEMORANDUM

TO: Members of the House of Representatives
FROM: Speaker David M. Jennings
RE: Staten Case

Attached is a copy of the Report from the Select Committee on the Staten Case. It has been adopted by the House Rules Committee and referred to the full House for action. We expect to take it up before the House early next week and I would encourage you, given the serious nature of this matter, to review the committee's report over the weekend in preparation for action by the House.

DMJ: jr

Enclosure: Report
REPORT OF THE SELECT COMMITTEE
ON THE STATEN CASE

APPOINTMENT OF SELECT COMMITTEE

On January 24, 1986 the Speaker of the House appointed a select committee to investigate:

(1) findings by the Ethical Practices Board in the matter of repeated filings of incomplete reports of receipts and expenditures by the Staten Volunteer Committee, referred to the House Rules Committee on November 8, 1985 (Hereafter, "Board Findings"); and

(2) a plea of guilty to felony theft entered in district court by Representative Randolph W. Staten on January 17, 1986.

The committee was directed to make a recommendation to the House Rules Committee no later than February 26, 1986 as to what action, if any, the House of Representatives should take on these matters.

The committee's charge was to decide whether action should be taken pursuant to the House's power to judge the eligibility of its members (Minn. Const., Art IV, Sec. 6; Art. VII, Secs. 1, 6) or its power to punish or expel members (Art IV, Sec. 7).

The committee determined its inquiry would be limited to the public record in the two matters under investigation and any additional evidence Representative Staten might supply. The committee's meetings were conducted in public with the same advance notice and other procedures as apply to all legislative committee hearings. Representative Staten and his attorney were invited to be present and were offered the opportunity to question witnesses and to call their own witnesses.

SUMMARY OF COMMITTEE MEETINGS

The committee held its first meeting Tuesday, February 11, 1986 at 4:00 p.m. Representative Dempsey, chairman of the committee, outlined the procedures the committee would follow.
and introduced Representative Staten to the committee. After
making a statement, answering questions, and submitting a copy
(attached) of the check in question in Board Finding No. 4,
Representative Staten left the meeting.

Copies of the Board Findings and supporting records were
provided to the committee and are attached to this report. Mary
Ann McCoy, Executive Director of the Ethical Practices Board,
explained the Findings.

Martha J. Casserly, Special Assistant Attorney General for
the Ethical Practices Board, explained her work on the Staten
matter and answered questions from the committee.

The committee held its second meeting Friday, February 14,
1986, at 10:30 a.m. Representative Staten was not present. Ms.
McCoy, Ms. Casserly, and Martin McGowan, Chairman of the Ethical
Practices Board, answered further questions about the Board
Findings. The complaint and transcripts of the plead and
sentencing hearings in State v. Staten (D.C. 89406; C.A.
85-2600) were provided to the committee and are attached to this
report. William Edwards, Chief of the Hennepin County Attorney's
Office Criminal Division, and Stephen L. Redding, the Assistant
Hennepin County Attorney responsible for prosecuting State v.
Staten, explained the complaint, plea, and sentencing in the
case and answered questions from the committee.

The committee held its third meeting, Tuesday, February 18,
1986, at 11:00 a.m. Representative Staten and his attorney,
Kenneth Tilsen, were present.

Mr. Tilsen made a statement and answered questions from the
committee.

Ms. McCoy, Ms. Casserly, and Harmon Ogdahl, Vice-Chair of
the Ethical Practices Board, answered questions from the
committee.

Representative Brandl made a statement. He then made a
motion that the staff be directed to prepare a document in two
parts:

(1) a chronology of Representative Staten's reports and
other communications to the Ethical Practices Board and the
Board's findings, and the facts regarding Representative Staten's felony plea; and

(2) a recommendation to the Rules Committee for the Select Committee's consideration at its next meeting, that Representative Staten be expelled from the House of Representatives.

The committee adopted Representative Brandi's motion.

Based upon the documents submitted to the committee and the testimony of witnesses appearing at its meetings, the undersigned members of the committee find as follows.

**FINDINGS OF FACT**

I. ETHICAL PRACTICES BOARD MATTER

The Select Committee incorporates in its findings as background to the Board's 1985 Findings a chronology of the incidents relating to Representative Staten's filing of incomplete and untimely reports with the Ethical Practices Board from 1981 through January 31, 1986, identified as APPENDIX - REPORT OF THE SELECT COMMITTEE. Board Findings Nos. 4 and 8 are incorporated only to the extent specified in Part B of this section.

The Select Committee adopts seven of the nine 1985 Ethical Practices Board Findings in their entirety, and portions of the remaining two. (The committee has noted in parentheses criminal penalties where applicable for the Chapter 10A provisions cited in the Board Findings.)

A. Board Findings Adopted in Their Entirety

Finding #1. As treasurer of his principal campaign committee, Representative Staten failed to timely file two of the three reports covering the 1984 election year. In two instances, certified letters and other official communications were sent. Reports as filed and subsequent amendments were incomplete and inconsistent with subpoenaed committee and bank records. Minn. Stat. Sec. 10A.20, subsd. 2, 3, and 12 (misdemeanor).

Finding #2. Representative Staten stated on several filed reports or amendments that the contents were incomplete as filed and would need subsequent amendments. Amendments were not filed within the ten days required by law. Minn. Stat. Sec. 10A.23 (gross misdemeanor).
Finding #3. Although a public financing warrant for $3,115.36 was presented to the committee depository for payment, $2,040 in cash was paid at the same time and only $1,874.36 of public financing was deposited in the committee depository. Minn. Stat. Sec. 10A.15, subd. 3 (misdemeanor).

Finding #5. Representative Staten has failed to maintain committee records as required by law, due to the event of a fire at his home in January, 1985. However, he has failed to demonstrate good faith efforts to reconstruct his records. Minn. Stat. Sec. 10A.22, subd. 6 (misdemeanor).

Finding #6. The pattern observed by the Board in its 1983 investigation of a second "all zeros" filing by Representative Staten on behalf of his committee has continued into 1984 and 1985, despite Representative Staten's declaration in 1983 that any problem encountered in the past would not occur in the future. Board Findings, July 5, 1983.

Finding #7. Representative Staten has repeatedly failed to comply with the requirements imposed by Minn. Stat. Ch. 10A for timely, accurate disclosure of campaign contributions, campaign expenditures; recordkeeping and deposits of campaign contributions and public financing warrants; and timely, accurate reporting and amending of filed reports. Minn. Stat. Secs. 10A.13, subd 1 (misdemeanor); 10A.15, subd. 3 (misdemeanor); 10A.20, subd. 12 (misdemeanor); 10A.22, subd. 6 (misdemeanor); and 10A.23 (gross misdemeanor).

Finding #9. The ultimate responsibility for maintenance of ethical practices in the election process lies with the body in which a legislator serves. While the Board administers the campaign finance disclosure process, it is the legislative body which must judge the standards of its membership.

B. Board Findings Adopted in Part

Finding #4. Representative Staten failed to deposit in the committee depository a $700 check, which included a contribution of $350 and a loan of $350. Although the contribution was received just before the 1984 general election, no timely notice of the receipt was received by the Board, as required by law. Minn. Stat. Sec. 10A.15, subd. 5.

Representative Staten supplied evidence to the committee contradicting the first sentence of Finding No. 4, which is not adopted by the Committee. The committee adopts the second sentence of Finding No. 4.

Finding #8. Board members, its staff, and counsel have exhausted the remedies available to them to secure compliance by Representative Staten with the requirements of Minn. Stat. Ch. 10A. The Board has collected each late filing fee owed, with the exception of $250 for which payment was promised by Representative Staten in writing. The Board has deposited the fees in the general fund of the state. Minn. Stat. Secs. 10A.20, subd 12; 10A.34, subd. 1a.

The committee adopts Finding No. 8, except for the reference to the unpaid $250 filing fee. When the Findings were referred to the House Rules Committee, the fee had not been paid. As of January 31, 1986 it was paid in full.
II. CRIMINAL CHARGES

With respect to the case of Staté v. Staten (D.C. 89-406; C.A. 85-2600), the select committee makes the following findings of fact:

1. On November 8, 1985, a criminal complaint was filed in Hennepin County District Court by the Hennepin County Attorney's office alleging that Representative Staten had violated Minnesota Statutes, section 609.52, subdivisions 2(3)(a) and 3 by committing theft in an amount over $2,500. This offense is a felony and carries a maximum penalty of ten years imprisonment and/or a $20,000 fine.

2. On January 17, 1986, pursuant to a plea agreement with the Hennepin County Attorney's office, Representative Staten entered a plea of guilty to a reduced charge of theft in an amount over $250. Representative Staten's guilty plea was accepted by the Court. This offense is a felony and carries a maximum penalty of five years imprisonment and/or a $10,000 fine.

3. On February 10, 1986, Representative Staten appeared before District Judge Walter Mann for sentencing. Judge Mann ordered that Representative Staten be sentenced to 90 days in the Hennepin County Workhouse, that execution of the sentence be stayed, and that Representative Staten be placed on one year's probation under certain conditions.

4. Under Minnesota Statutes, section 609.13, because the sentence imposed on Representative Staten was within the limits placed by law on misdemeanor offenses, Representative Staten's conviction for a felony pursuant to his guilty plea is deemed to be a conviction for a misdemeanor.

5. Because of the nature of the sentence imposed, Representative Staten did not suffer a loss of his civil rights as a result of his conviction, and therefore remains a qualified voter of this state as required by Article VII, Section 1 of the Minnesota Constitution and eligible to serve in the Minnesota House of Representatives pursuant to Article IV, Section 6.

6. The fact that Representative Staten was sentenced
within the misdemeanor limits and, therefore, deemed to have
been convicted of a misdemeanor rather than felony, does not
change the nature of the conduct engaged in and admitted to by
Representative Staten; that is, the intentional theft of
property or services in an amount over $250 by writing checks
which Representative Staten knew would not be paid by the bank
on which they were drawn.

RECOMMENDATIONS

We, the undersigned, upon the foregoing findings of fact,
recommend that:

1. The House of Representatives find that Representative
Staten's conduct with respect to the requirements of Chapter
10A, the Ethics in Government Act, from January 31, 1985 to
January 31, 1986 and his plea of guilty to felony theft reflect
a pattern of willful neglect and willful and deliberate conduct
in disregard of state law, and fail to meet the standard of
conduct for members of the House of Representatives.

2. The House of Representatives expel Representative
Staten pursuant to the Minnesota Constitution, Art. IV, Sec. 7.

3. Upon Representative Staten's expulsion, the existence
of a vacancy in the office of Representative from Legislative
District 57B, Hennepin County, be certified to the Honorable
Rudy Perpich, Governor of Minnesota.

Terry M. Dempsey, Chair
John E. Brandl
Sidney Pauly
Sidney Pauly
Kathleen Vellenga
The Select Committee finds that the following sequence occurred in Representative Staten's filing of incomplete and untimely reports with the Ethical Practices Board from 1981 through January 31, 1986.

1981

February 2, 1981: A 1980 year end report of receipts and expenditures was due but not filed.

February 6, 24, and March 11, 1981: Rep. Staten's treasurer was sent notices that the report was late and a late fee would be imposed.


March 12, 1981: Rep. Staten requested a waiver of the $45 late fee because the delay was due to his campaign manager's being out of town and another staff person's losing necessary materials.

April 17, 1981: By letter, staff informed Rep. Staten that on April 10 the Board reviewed and denied the waiver. Staff requested payment by May 14, 1981.

May 14, 1981: A staff memo was sent to Rep. Staten requesting a response to the Board regarding his failure to submit the late filing fee.

May 15, 1981: The Board received a check for the late fee from Rep. Staten.

1982

February 1, 1982: The 1981 year end report was due but not filed.

February 18, 1982: The 1981 year end report was filed and a $10 late fee was paid.

September 7, 1982: The pre-primary report was due but not received.

September 16, 1982: The pre-primary report was received, subject to a $50 per business day late fee ($150 total).
September 17, October 1, and October 8, 1982: Notices of the late filing fee were sent.

October 12, 1982: The late filing fee of $150 was paid.

October 25, 1982: The pre-election report was due but not filed.

November 4, 1982: The pre-election report was received subject to a $50 per business day late fee ($200 total).

November 4, November 15, and November 24, 1982: Notices of the late fee were sent to Rep. Staten.


1983

February 4, 1983: Notice by certified mail was sent to the Staten Volunteer Committee treasurer that a report of receipts and expenditures for October 19 -- December 31, 1982 was not filed by January 31, 1983, as required.

February 22, 1983: The notice was returned unclaimed, then deposited in first class mail and deemed received five days later on March 1, 1983. A late filing fee began to accrue March 9 and reached its $100 maximum April 15, 1983.

March 3, 1983: Rep. Staten filed a report of committee receipts and expenditures containing only zeros for the period October 19 -- December 31, 1982. The report (1) did not carry forward required information from the 1982 pre-primary and pre-general election periods and (2) did not disclose receipt of two public financing warrants cashed on December 16, 1982. Rep. Staten noted on the report that he would amend his last three reports March 7, 1983.

March 18, 1983: A Board executive session determined that no required amendments to the three prior reports had been made. The Board noted that in March, 1981 an "all zeros" report was filed and the Board had imposed a $45 late filing fee and notified Rep. Staten that there was a penalty for omitting information on a report certified to be true.

March 25, 1983: By letter this date the Board requested Rep. Staten to appear in executive session May 6, 1983 and provide information about the March 3 filing and the failure to
amend 1982 election committee reports.

April 21, 1983: Since no response was received to the March 23 letter, a copy of it and a reminder were hand delivered to Rep. Staten. By letter received later that day, Rep. Staten informed the Board that he would meet with staff on April 26, 1983 to file the amendments. Rep. Staten cancelled this appointment. Several other appointments with staff were made and cancelled by Rep. Staten, but no amendments were filed before the May 6 Board meeting.

May 6, 1983: Rep. Staten appeared before the Board in executive session, apologized for past negligence, stated that he had acted on advice that it was more important to file on time than to file accurately, and promised to file amendments by May 9, 1983.


June 23, 1983: The Board again discussed the Staten matter in executive session.

July 5, 1983: The Board issued findings as follows.

Finding #1. There is no probable cause to believe a violation of Minn. Stat. Sec. 10A.23 (1982) occurred. [i.e., no willful failure to report a material change or correction in a report]

Finding #2. The Board did not accept the statement Representative Staten filed on March 3, 1983, as a report, because it did not contain the information required by Minn. Stat. Sec. 10A.20 [i.e. specifics about assets, contributions, etc.]

Finding #3. The Board accepted the report covering the period October 19 through December 31, 1982, which was filed by Representative Staten on May 9, 1983, together with amendments to two 1982 reports which were filed on May 9, 1983. The Board's action in accepting the referenced report and amendments did not alter the fact that the committee failed to provide timely disclosure and amendments to filed reports in accordance with the Ethics in Government Act.

Finding #4. The Board concluded that the March 3, 1983, statement resulted from Representative Staten's reliance upon faulty advice and that the statement was not a willful attempt to deny to the public the disclosure of campaign finance information.

Finding #5. Representative Staten paid the $100 late
filing fee on June 30, 1983.

The matter is concluded and entered into the public record under Minn. Stat. Sec. 10A.02, subd. 11.

September 4, 1984: The pre-primary report Rep. Staten filed was incomplete. It omitted occupations and/or addresses for 20 contributors.

September 17, October 1, October 16, 1984: Rep. Staten was sent Board staff notices requesting an amended report.

October 10, 1984: Rep. Staten presented a public finance warrant for $3,115.36 and other checks to his committee depository but deposited only $1,874.36 of the total in the committee account.

October 18, 1984: Rep. Staten filed an amended report. One contributor was changed from Pilot City Special Fund to Jim Mosley between the September 4 report and the October 18 report.

October 29, 1984: A report was due, but not filed.

November 5, 1984: A late report was filed with blank receipt and expenditure summary pages. Rep. Staten wrote on it: "I will need to submit an amended report to summarize enclosed information and submit additional details of expenditures and receipts."

December 26, 1984: After three notices, Rep. Staten paid the $50 fee for late filing of the October 29 report.

January 31, 1985: The year-end 1984 report was not filed when due.

March 14, 1985: After three notices, Rep. Staten filed the report due January 31, 1985 with blank receipt and expenditure summary pages and blank schedules for notes, loans and unpaid bills. He also filed an incomplete amendment to the October 29, 1984 report just before the Board meeting. The Board voted to subpoena committee records and invite Rep. Staten to appear at its next executive session to discuss apparent problems with filing proper reports.

April 2, 1985: Subpoena issued to Rep. Staten for the
delivery of committee records by April 12, 1985; date extended
to April 16, 1985.

April 16, 1985: Records were delivered with a letter
stating that additional records would be furnished in about two
weeks (April 30, 1985). Rep. Staten paid $60 late filing fee
for January 31, 1985 report after three staff notices dated
March 15, March 29 and April 12, 1985.

April 18, 1985: Rep. Staten was sent a letter setting the
time for his appearance at the May 16, 1985 Board meeting.

May 3, 1985: Rep. Staten was sent a letter changing the
time for his appearance at the May 16 meeting, with a reminder
that additional records had not been received.

May 6, 1985: A staff memo to the Board summarized problems
noted with committee records supplied April 16, 1985.

May 7, 1985: Rep. Staten called the office and stated that
due to end-of-legislative-session matters he would be unable to
appear at the May 16th meeting. The Board chairman authorized
extending the matter until the next Board meeting; staff
notified Rep. Staten by telephone.

May 16, 1985: In executive session the Board reviewed
subpoened committee records and found them inconsistent with
filed reports.

was received by the Board, regarding a delay by the bank in
supplying records.

May 24, 1985: Staff responded to Rep. Staten's letter by
sending him a copy of the May 6, 1985 memo they had provided the
Board.

June 12, 1985: Rep. Staten called the Board about the date
of the next Board meeting.

June 24, 1985: The Board sent Rep. Staten a letter setting
the date and time of his Board appearance with a reminder that
additional records had not been received.

July 15, 1985: Letter sent Rep. Staten confirming time of
appointment on August 9th and place of meeting.

August 6, 1985: Due to his father's death, Rep. Staten
cancelled the August 9 Board appointment.

August 9, 1985: In executive session the Board decided to subpoena committee bank records to review potential problems with the deposit of public finance warrants.

August 16, 1985: A letter was sent to Rep. Staten from the Board's attorney demanding complete and accurate 1984 reports and an explanation of his apparent failure to deposit public finance warrants by August 26, 1985.

August 26, 1985: The Board received Rep. Staten's letter stating he would file the reports by 4:30 pm, August 27, 1985, and was attempting to provide records and answers from other sources.

August 27, 1985: No reports were filed, but Rep. Staten made an appointment with Board staff for August 28, 1985 and promised he would file the reports August 28, 1985.


August 29, 1985: No report was filed; Board staff left telephone messages at Rep. Staten's office.

August 30, 1985: No report was filed; Board staff left a telephone message, which Rep. Staten returned after staff left.

September 3, 1985: Rep. Staten made an appointment with Board staff for September 4, 1985 stating his report was 95% completed.


September 5, 1985: Partially completed reports for the pre-1984 general election period and the 1984 year-end period were filed with a promise that the remainder of the reports would be submitted on September 6, 1985.


September 23, 1985: Notice was sent to Rep. Staten that a late filing fee was due for failure to timely report a large contribution received just before the 1984 election.

September 30, 1985: Rep. Staten was asked by letter to
appear before the Board on October 24 to conclude the Board's inquiry into his repeated failure to file timely reports. A second notice of the 1984 report late filing fee was also sent.

October 8, 1985: Rep. Staten was sent a third notice of the 1984 report late filing fee.

October 23, 1985: Rep. Staten came to the Board office with additional amendments to 1984 reports and a letter stating he would pay the late filing fee by November 1. He stated he would not appear at the October 24 Board meeting.

October 24, 1985: In executive session the Board discussed the matter and made findings.

November 8, 1985: Rep. Staten was sent a letter noting errors in the report amendments filed October 23. Findings were sent from the Ethical Practices Board to the House Rules Committee as follows:

FINDINGS

Finding #1. As treasurer of his principal campaign committee, Representative Staten failed to timely file two of the three reports covering the 1984 election year. In two instances, certified letters and other official communications were sent. Reports as filed and subsequent amendments were incomplete and inconsistent with subpoenaed committee and bank records. Minn. Stat. Secs. 10A.20, subds. 2, 3, and 12.

Finding #2. Representative Staten stated on several filed reports or amendments that the contents were incomplete as filed and would need subsequent amendments. Amendments were not filed within the ten days required by law. Minn. Stat. Sec. 10A.23.

Finding #3. Although a public financing warrant for $3,115.36 was presented to the committee depository for payment, $2,040 in cash was paid at the same time and only $1,074.36 of public financing was deposited in the committee depository. Minn. Stat. Sec. 10A.15, subd. 3.

Finding #4. Representative Staten failed to deposit in the committee depository a $700 check, which included a contribution of $350 and a loan of $350. Although the contribution was received just before the 1984 general election, no timely notice of the receipt was received by the Board, as required by law. Minn. Stat. Secs. 10A.15, subd. 3; 10A.20, subd. 5.

Finding #5. Representative Staten has failed to maintain committee records as required by law, due to the event of a fire at his home in January, 1985. However, he has failed to demonstrate good faith efforts to reconstruct his records. Minn. Stat. Sec. 10A.22, subd. 6.

Finding #6. The pattern observed by the Board in its 1983 investigation of a second "all zeros" filing by Representative Staten on behalf of his committee has continued into 1984 and 1985, despite Representative Staten's declaration in 1983 that any problem encountered in the past would not occur in the future. Board Findings, July 5, 1983.
Finding #7. Representative Staten has repeatedly failed to comply with the requirements imposed by Minn. Stat. Ch. 10A for timely, accurate disclosure of campaign contributions, campaign expenditures; recordkeeping and deposits of campaign contributions and public financing warrants; and timely, accurate reporting and amending of filed reports. Minn. Stat. Secs. 10A.13, 10A.15, 10A.20, 10A.22, 10A.23.

Finding #8. Board members, its staff, and counsel have exhausted the remedies available to them to secure compliance by Representative Staten with the requirements of Minn. Stat. Ch. 10A. The Board has collected each late filing fee owed, with the exception of $250 for which payment was promised by Representative Staten in writing. The board has deposited the fees in the general fund of the state. Minn. Stat. Secs. 10A.20, subd. 12; 10A.34, subd. 1a.

Finding #9. The ultimate responsibility for maintenance of ethical practices in the election process lies with the body in which a legislator serves. While the Board administers the campaign finance disclosure process, it is the legislative body which must judge the standards of its membership.

The findings in the matter of Representative Staten's failure to comply with certain provisions of Minn. Stat. Ch. 10A, together with findings in the 1983 matter, shall be forwarded to the Chairman of the Rules Committee, Minnesota House of Representatives, and to the Speaker of the House of Representatives. The Board respectfully requests that the Rules Committee advise the Board what action is taken in regard to these findings.

The matter is concluded and entered into the public record under Minn. Stat. Sec. 10A.02, subd. 11.

December 3, 1985: $150 of the $250 late fee Rep. Staten promised to pay November 1, 1985 was paid and the balance was promised on January 2, 1986.

1986

January 2, 1986: The balance of the filing fee was not received, so the Board went to conciliation court.

January 31, 1986: The remaining $100 of the late filing fee Rep. Staten promised to pay November 1, 1985 was paid. Rep. Staten also filed a committee report for the period January 1 to December 31, 1985 showing a negative committee depository balance and no change since the last report.