

MINUTES

SPECIAL COMMITTEE ON ELECTIONS

August 17-18, 1977

Members Present

Senator Paul Burke, Chairperson
Representative Norman Justice, Vice-Chairperson
Senator Bill Mulieh
Senator Frank Smith
Representative Ward Ferguson
Representative James Gillmore
Representative Francis Gordon
Representative Glee Jones
Representative John Modrcin
Representative Belva Ott
Representative Richard Schmidt

Staff Present

Myrta Anderson, Legislative Research Department
Mary Ann Torrence, Revisor of Statute's Office

Conferees and Others Present

Marilyn Bradt, League of Women Voters, Lawrence
Gary Caruthers, Kansas Medical Society, Topeka
Debby Schmidt, Governor's Office, Topeka
Harold Ott, Wichita
Jack Swartz, Kansas Association of Commerce and Industry, Topeka
LaVina McDonald, Secretary of State's Office, Topeka
Brad Smoot, Department of Administration, Topeka
Barbara Neff, League of Women Voters, Overland Park
Harold Shoaf, Kansas Electrical Cooperatives, Topeka
Lynn Hellebust, Governmental Ethics Commission, Topeka
Greg Davis, Democratic State Committee, Topeka
Randy Myers, Kansas City Star, Topeka
Mary Ritter, Secretary of State's Office, Topeka

August 17, 1977

Proposal No. 15 - Governmental Ethics Commission

Senator Burke called the meeting to order at 10:00 a.m. He introduced Representative A. James Gillmore of Newton to the Committee. Representative Gillmore is from Newton and is replacing Representative Richard Walker in the Legislature and on the Special Elections Committee.

The first item of business was a final review of the Rules and Regulations of the Governmental Ethics Commission. Chairman Burke called on the staff of the Legislative Research Department to review the sections of the Rules and Regulations containing amounts to be considered by the Committee. Committee discussion followed.

- 19-21-5
p. 24 Representative Gordon moved that the amounts be changed in this section of the Rules and Regulations from \$100 or more within a calendar year to \$100 in the primary and \$100 in the general within an allocable election period as defined in K.S.A. 1976 Supp. 25-4109. The motion included the direction to have bills drafted to change any statute (K.S.A. 1976 Supp. 25-4110) to be in conformity with the rules and regulations. Representative Ott seconded the motion. Motion carried.
- 19-24-4
p. 30 Representative Ferguson moved that the amounts be changed in this section of the Rules and Regulations to \$100 during an allocable election period. The motion included the direction to have a bill drafted to amend any statute (K.S.A. 1976 Supp. 25-4102 (d)(2)(B)) to be in conformity with the changes in the Rules and Regulations. Senator Mulich seconded the motion. Motion carried.
- 19-24-6 (a)
and (b)
p. 31 Representative Ferguson moved that the amounts be changed to \$100 during the allocable election period. All succeeding motions include the direction to have a bill drafted to amend any statute to be in conformity with the proposed changes in the Rules and Regulations. Senator Mulich seconded the motion. Motion carried.
- 19-25-1(c)
p. 32 Senator Mulich moved that the amount be changed from \$10 to \$25 in this section of the Rules and Regulations. Representative Modrein seconded the motion.
- Representative Jones made a substitute motion to leave the amount at \$10. Senator Smith seconded the motion. Motion failed.
- The Committee then voted on the original motion. Motion carried. Senator Smith wished to be recorded as voting "no".
- 19-27-2(b)
p. 35 Representative Ferguson moved that the amount be changed in this section of the Rules and Regulations to \$5.00. Representative Jones seconded the motion. Motion carried. Senator Smith wished to be recorded as voting "no."
- 19-29-1
p. 39 Committee discussion. After Committee discussion it was decided to delay further consideration of changes of amounts in the Rules and Regulations until certain information could be checked with the Governmental Ethics Commission.

The Revisor of Statute's staff then reviewed draft legislation 7 RS 1591 (H.C.R. 5026) on Rules and Regulations. (See Attachment I).

The Secretary of State's Office called the Committee's attention to the language in line 11, page 18, and suggested that this be changed to "prescribed by the Governmental Ethics Commission." The Revisor's staff agreed to check into this matter and provide appropriate language.

Representative Jones then moved that 7 RS 1591 be accepted. Senator Mulich seconded the motion. Committee discussion followed. Motion carried. Senator Smith wished to be recorded as voting "no."

The Revisor's staff then reviewed draft legislation 7 RS 1597 (H.B. 2575) on state level conflict of interest legislation. Staff reported that the draft legislation had been divided into two bills - state level conflict of interest (7RS 1597) (see Attachment II) and local level conflict of interest (7 RS 1568) (see Attachment III.) Staff then reviewed the state level conflict of interest legislation 7 RS 1597.

The Committee accepted a language change by Representative Ferguson, line 18, page 3, "Except as otherwise provided by statute, no elected state officer shall receive during or within one (1) year after expiration of such officer's last term, any civil appointment to a state office which was created during such term. . .". Committee discussion followed. The Committee decided to delay decision on 7 RS 1597, state level conflict of interest, until the Governmental Ethics decision on the definition of expenditure was received.

The Revisor's staff then reviewed local level conflict of interest legislation (7 RS 1568) (see Attachment III).

After Committee discussion, Representative Jones moved to delete the words "or succeeding" in line 22, page 1. Representative Modrein seconded the motion. Motion carried.

The Secretary of State's Office made the suggestion in line 3, page 4, that the language read "the governmental ethics commission shall prescribe the manner and form for filing disclosure of substantial interest" and line 19, "A copy of any advisory opinion rendered by the commission shall be directed to the commission and any opinion so filed shall be open for public inspection. All requests for advisory opinions shall be directed to the governmental ethics commission."

Senator Smith moved that the suggested change be accepted. Representative Jones seconded the motion. Motion carried.

The Committee decided to delay final action on proposed legislation, 7 RS 1568, until Thursday.

Senator Smith moved that the minutes be corrected to indicate Representative "Ward" Ferguson instead of Representative "Wade" Ferguson, pages 1 and 4, and that they be accepted as corrected. Representative Modrein seconded the motion. Motion carried. The meeting then adjourned.

August 18, 1977

Proposal Nos. 15 and 16 - Governmental Ethics Commission
and Campaign Finance Act

As the first item of business, Chairman Burke called on Lynn Hellebust of the Governmental Ethics Commission to present a memorandum listing the recommended amendments to the Campaign Finance Act, approved by the Commission. (See Attachment IV). Mr. Hellebust reviewed the suggested amendments and Committee discussion followed.

- Item 1. K.S.A. 1976 Supp. 25-4108 (a) and (c). Representative Ott moved that the Commission's recommendations be accepted. Senator Smith seconded the motion. Motion carried.
- Item 2. K.S.A. 1976 Supp. 25-4108 (b) and (d). Representative Ferguson moved that the Commission's recommendations be accepted. Representative Jones seconded the motion. Motion carried.
- Item 3. K.S.A. 1976 Supp. 25-4133. Representative Ferguson moved that the Commission's recommendations be accepted. Representative Schmidt seconded the motion. Motion carried. Representative Ferguson moved that the penalty provisions be changed to indicate a Class B misdemeanor. (K.S.A. 1976 Supp. 25-4128, 25-4129, 25-4130, 25-4131 and 25-4141). Senator Mulich seconded the motion. Motion carried.
- Item 4. K.S.A. 1976 Supp. 25-4137 through 25-4140. Senator Smith moved that the Commission's recommendations be accepted with the amendment that the candidate or candidate's spouse not be subject to the contribution limit. Representative Jones seconded the motion. Motion carried. Representative Ott then moved Item 4 be accepted as amended. Senator Smith seconded the motion. Motion carried.
- Item 5. New Section. Amendments to Campaign Finance Act. Representative Jones moved to accept the Commission's recommendations. Senator Smith seconded the motion. Representative Ferguson suggested that this section be inserted in K.S.A. 1976 Supp. 25-4106 before (e). Committee discussion followed. Chairman Burke suggested the Revisor's staff insert the new section in the appropriate place. Representative Ferguson made a substitute motion that the word "one" be inserted in line 3 (b) following the word "any." Senator Smith seconded the motion. Motion carried.
- Item 6. New Section. Amendment to campaign Finance Act. Senator Smith moved that the Commission's recommendation be accepted with a conceptual motion that the language in line 2 include "procures or attempts to induce another to commit a violation." Representative Jones seconded the motion. Motion carried.
- Item 7. New Section. Amendment to Campaign Finance Act. Representative Jones made a conceptual motion to accept the commission's recommendation. Senator Smith seconded the motion. Committee discussion followed on the terms "grossly negligent" and on "gross and wanton neglect." Motion carried. Senator Smith then moved that the penalty be an unclassified misdemeanor. Representative Modrein seconded the motion. Committee discussion followed. Representative Gillmore then made a substitute motion that the fine be no more than \$250. Senator Mulich seconded the motion. Substitute motion carried. Representative Justice moved that in the event any of the Committee's action of August 18 is inconsistent with action of August 17 that the August 18 decisions prevail. Representative Ott seconded the motion. Motion carried.

Mr. Hellebust then reviewed proposed opinion No. 77 on the issue of whether costs associated with internal organizational communications of business, labor or professional organization. . . constitute "expenditures" for lobbying. (See Attachment V). Committee discussion followed. Mr. Hellebust stated that the Governmental Ethics Commission had not made a decision relative to this matter. Representative Schmidt moved that Alternative II be accepted, "stating that costs associated with communications of business, labor or professional organizations do not constitute 'expenditures' for lobbying under K.A.R. 19-60-3 (c)(1)(iv)." Senator Mulich seconded the motion. Motion carried.

The Chairman then directed discussion to the local level conflict of interest legislation, 7 RS 1568. Committee discussion followed on the arguments for and against local conflict of interest. Committee discussion indicated that candidates and office holders must file but not employees. When any public officer or employee is to pass on a conflict of interest, he then files. On the state level a ten-day period is granted an individual to file a conflict of interest statement. Senator Mulich then made a conceptual motion that attorneys be included in the definition of public employees to be consistent with the state law. Senator Smith seconded the motion. Motion carried. Committee discussion followed on whether or not persons who serve on appointive boards should come under the local conflict of interest legislation. Senator Smith then suggested that staff check with the Governmental Ethics Commission and present alternative policy recommendations to the Committee at the September meeting on 7 RS 1568, local conflict of interest.

Committee discussion then followed on whether the record keeping function should be kept with the Secretary of State or with the Governmental Ethics Commission. Mr. Hellebust explained that the Commission preferred to leave it as it now is with the Secretary of State. Senator Mulich then moved that any draft legislation being considered reflect this policy position. Representative Modrein seconded the motion. Motion carried.

Chairman Burke then directed the Committee's attention to 7 RS 1597 (H.B. 2575) state level conflict of interest.

- Section 1. Senator Mulich moved that this section be accepted. Representative Ott seconded the motion. Motion carried.
- Section 2. Senator Mulich moved that this section be accepted. Senator Smith seconded the motion. Motion carried.
- Section 3. Senator Mulich moved that this section be accepted. Senator Smith seconded the motion. Motion carried.
- Section 4. Representative Jones made a conceptual motion to strike the present language and include in this section appointments to boards that receive per diem expenses but not appointments to those positions considered to be full-time positions. Representative Ott seconded the motion. Motion carried.
- Section 5. Senator Mulich moved to accept Section 5. Senator Smith seconded the motion. Motion carried.
- Section 6. Senator Mulich moved to accept Section 6. Senator Smith seconded the motion. Motion carried.
- Section 7. Senator Mulich moved to accept Section 7. Representative Jones seconded the motion. Motion carried.
- Section 8. Senator Mulich moved to accept Section 8. Representative Ott seconded the motion. Motion carried.
- Section 9, 10 and 11. Filing forms, taken care of by previous motion.
- Section 12. Senator Mulich moved that Section 12 be accepted. Representative Modrein seconded the motion. Motion carried.
- Section 13. Senator Mulich moved that Section 13 be accepted. Senator Smith seconded the motion. Motion carried.
- Section 14. Senator Mulich moved that Section 14 be accepted. Senator Smith seconded the motion. Motion carried.
- Section 15. Senator Mulich moved that Section 15 be accepted. Representative Jones seconded the motion. Motion carried.
- Section 16. Senator Mulich moved that Section 16 be accepted. Representative Modrein seconded the motion. Motion carried.
- Section 17. Senator Mulich moved that Section 17 be accepted. Representative Ott seconded the motion. Motion carried.
- Section 18. Senator Mulich moved that Section 18 be accepted. Representative Modrein seconded the motion. Motion carried.

- Section 19. Senator Mulich moved that Section 19 be accepted. Senator Smith seconded the motion. Motion carried.
- Section 20. Senator Mulich moved that Section 20 be accepted. Senator Smith seconded the motion. Motion carried.
- New Section 21. Representative Ferguson moved to delete (a) (3) of Section 21 and to delete letter writing campaigns and similar transactions, line 21-22, Section 21. Representative Gordon seconded the motion. Motion carried. Senator Smith wished to be recorded as voting "no."
- New Section 22. Representative Ferguson moved that New Section 22 be accepted. Representative Jones seconded the motion. Motion carried.
- New Section 23. Representative Ott moved that New Section 23 be accepted. Senator Mulich seconded the motion. Motion carried.
- Section 24. Senator Mulich moved that Section 24 be accepted. Representative Jones seconded the motion. Motion carried.
- Section 25. Senator Mulich moved that Section 25 be accepted. Senator Smith seconded the motion. Motion carried.

Senator Mulich then moved that the state and local conflict of interest legislation (7 RS 1597) and (7 RS 1568) be included in one bill. Representative Ott seconded the motion. The vote on the motion was 5 "yes" and 5 "no". The chair passed. Motion failed.

Representative Ferguson then moved that the bill for state level conflict of interest and the bill for local conflict of interest be considered separately. Representative Gillmore seconded the motion. Motion carried. Senator Mulich wished to be recorded as voting "no."

The Chairman then returned to the consideration of amounts in the Rules and Regulations.

- 19-30-1 Leave as is.
p. 44
- 19-41-2 Leave as is.
p. 48
- 19-41-3 Leave as is.
p. 49
- 19-51-2 Leave as is.
p. 56
- 19-62-1 Representative Justice moved that the amount in this section of the Rules and Regulations be changed from \$100 to \$200. Representative Ferguson seconded the motion. Motion carried. Senator Smith wishes to be recorded as voting "no." The motion included the direction to have a bill drafted to change statutes to be in conformity with the Rules and Regulations.
- 19-63-1 Representative Justice moved that the amount in (a) (1) be changed from \$50 to \$100 and the amount in (a) (2) be changed from \$10 to \$25. Senator Mulich seconded the motion. Motion carried. Representative Jones, Senator Smith and Senator Burke wished to be recorded as voting "no." Representative Ott abstained.
- 19-63-3 Representative Justice moved that the amount in (c) be changed from \$10 to \$25. Senator Mulich seconded the motion. Motion carried. Representative Jones, Senator Smith and Senator Burke wished to be recorded as voting "no."

Chairman Burke reminded the members that the next meeting dates would be September 6 and 7. The agenda will include a review of proposed legislation on campaign finance, Proposal No. 16, draft legislation on Proposal Nos. 15 and 16, and hearings on Proposal No. 17, Presidential Preference Primaries. Because of a conflict in meeting dates for Senator Burke and Senator Smith on October 25 (Johnson County Area Legislative Matters) the meeting dates for October will be October 26-27 instead of October 25-26. The meeting adjourned.

Prepared by Myrta Anderson

Approved by Committee on:

9-7-77
Date

Not Proposed

*OK.
HCR 5026*

PROPOSED BILL NO. _____

By Special Committee on Elections

AN ACT amending Kansas administrative regulations 19-1-1, 19-1-10, 19-1-13, 19-4-1, 19-5-2, 19-5-5, 19-7-3, 19-7-8, 19-7-10, 19-7-16, 19-21-3, 19-23-1, 19-27-2, 19-27-4, 19-51-1, 19-60-3 and 19-61-1, relating to governmental ethics and campaign financing.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Kansas administrative regulation 19-1-1, as adopted by the governmental ethics commission is hereby amended to read as follows: 19-1-1. Definitions. Incorporated by reference are the definitions express or apparent in the relevant law. In addition, the following words mean:

(a) "Advisory opinion" means a formal opinion issued by the commission as provided by relevant law.

(b) "Chairman" means the chairman of the governmental ethics commission duly designated by the governor or, in the event of his absence, the vice-chairman or such other commissioner as may be designated by the remaining members of the commission.

(c) "Commission" means the governmental ethics commission created by relevant law, or as the context indicates, any lesser number of members.

(d) "Commissioner" means one of the duly appointed and qualified members of the commission.

(e) "Commission's attorney" means an attorney designated to assist the commission to carry out the provisions of relevant law.

(f) "Complainant" means any person filing a complaint alleging a violation of relevant law with the commission.

(g) "Complaint" means a written statement made under oath

Atch. I

and filed with the commission alleging any violation of relevant law.

(h) "Executive director" means the executive director employed by the commission.

(i) "Formal record" means all the filings and submittals in a matter or proceeding, any notice or agency order initiating the matter or proceeding, and if a hearing is held, the following: the designation of the presiding member, transcript of hearing if one is kept, all exhibits received in evidence, all exhibits offered but not received in evidence, offers of proof, motions, stipulations, subpoenas, proofs of service, and determinations made by the commission thereon, certifications to the commission, and anything else upon which action of the presiding member or commission may be based; but not including any proposed testimony or exhibits or the work product of the commission or its staff not offered or received in evidence.

(j) "Hearing commissioners" means the commissioners designated by the chairman to conduct a pre-hearing, hearing or rehearing, or to proceed with any matter before the commission.

(k) "Party" means the complainant, respondent, and any other person authorized by the commission to intervene in any proceeding.

(l) "Person" means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, group, or corporation, whether or not operated for profit, or a governmental agency unit, or subdivision.

~~(l)~~ (m) "Petitioner" means a person seeking relief, including advisory opinion, and not otherwise designated in this section.

~~(m)~~ (n) "Pleading" means any application, complaint, petition, answer, reply or other similar document filed with the commission.

~~(n)~~ (o) "Presiding member" means the chairman or any member of the commission, duly designated to preside at hearings or conferences or other proceedings.

(p) "Probable cause" means the presence of a reasonable ground for belief in the existence of the alleged facts of a violation of relevant law.

(q) "Relevant law" means K.S.A. ~~1975~~ 1977 Supp. 25-4101 et seq. and K.S.A. ~~1975~~ 1977 Supp. 46-215 et seq., including amendments and related supplemental legislation and rules and regulations relating thereto. In addition, in the context of requests for advisory opinions and related matters, "relevant law" shall include K.S.A. ~~1975~~ Supp. 75-4301 et seq., including amendments and related supplemental legislation and rules and regulations relating thereto.

(r) "Respondent" means any person against whom a complaint has been filed alleging an unlawful practice within the meaning of relevant law.

(s) "Treasurer" means an acting treasurer duly appointed under relevant law, and the treasurer of record at any particular point in time irrespective of whether the individual still serves as such. Only individuals, as opposed to non-natural persons, may serve as treasurers.

Sec. 2. Kansas administrative regulation 19-1-10, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-1-10. Representation. (a) Appearance in person or by attorney. An individual may appear in the individual's own behalf. A member of a partnership may represent the partnership, a bona fide officer of a corporation, trust or association may represent the corporation, trust or association in presenting any matter to the commission. A person may be represented by an attorney who is a resident of Kansas and regularly admitted to practice before the supreme court of Kansas or may be represented by an attorney from another state, subject to the provisions of K.S.A. 1977 Supp. 7-104, and any amendments thereto.

(b) Contemptuous conduct. Contemptuous conduct at any hearing shall be ground for exclusion from such hearing.

Sec. 3. Kansas administrative regulation 19-1-13, as

adopted by the governmental ethics commission, is hereby amended to read as follows: 19-1-13. Alternative procedures. Upon finding in a specific proceeding that the just and expeditious determination of a matter requires simplification, alteration, or non-application of any or all of K.A.R. 19-1 to K.A.R. 19-8, inclusive, or the adoption of supplemental rules, the hearing commissioners may utilize such alternative procedures as are reasonable and necessary and consistent with the relevant law and which do not jeopardize the rights of any party. Except when alternative procedures are adopted at a prehearing conference, hearing or rehearing with all parties or their representatives present, notice of the adoption of alternative procedures shall be served on the parties. Any person aggrieved by the use of alternate procedures may appeal therefrom to the district court pursuant to K.S.A. 60-2101.

Sec. 4. Kansas administrative regulation 19-4-1, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-4-1. Campaign finance receipts and expenditures reports. (a) Failure to file. The executive director shall as soon as practicable serve notice on any treasurer who has failed to file a Receipts and Expenditures Report on the date the report was required to be filed by K.S.A. ~~1975~~ 1977 Supp. 25-4108. A copy of the notice shall be promptly transferred to the office of the secretary of state for inclusion in the public record of the person whom the treasurer represents. Any treasurer shall within five (5) days of the date of service file the required report with the office of the secretary of state.

(b) Material errors or omissions. (1) Notice. The executive director shall as soon as practicable serve notice on any treasurer whose Receipts and Expenditures Report required by K.S.A. ~~1975~~ 1977 Supp. 25-4108 contains material errors or omissions. A copy of the notice shall be promptly transferred to the office of the secretary of state for inclusion in the public record of the person whom the treasurer represents. Any treasurer shall within thirty (30) days of the date of service

file an amended report correcting the material errors or omissions with the office of the secretary of state. The executive director may serve additional notices on any treasurer concerning such reports, or amendments thereto. The procedures set out herein for original notices shall control the process in regard to additional notices.

(2) Request for hearing. Upon service of such notice, the treasurer may contact the executive director for guidance or clarification concerning the material error or omission. If substantial issues remain unresolved after any such conference, the treasurer may within ten (10) days of the date of service request a hearing before the commission concerning the material errors or omissions. Any such hearing shall be conducted pursuant to K.A.R. 19-7 to the extent that section is applicable and within the thirty (30) day period for filing the amended report unless a continuance is granted by the hearing commissioners or presiding member. Notice of the date of hearing shall be served on the treasurer. ~~The determination of the hearing commissioners shall be final.~~ Failure to request such hearing or failure to attend the hearing without just cause shall constitute an admission of the validity of the determination of material errors or omissions.

(c) Compliance. The executive director may, upon the filing by a treasurer of a report as required by this article, notify the office of the secretary of state that the treasurer has complied with the requirements of any notice served upon the treasurer. Such notice shall be included in the public record of the person whom the treasurer represents. This notice shall not be construed as affecting any matter other than the matter to which it is addressed.

Sec. 5. Kansas administrative regulation 19-5-2, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-5-2. Forms, contents and time. The complaint shall be in writing on a form obtained at the commission office. The original complaint must be signed and verified before a

notary public or other person duly authorized by law to take acknowledgments. A complaint shall contain the full name and address of the complainant and the full name and address of the respondent. The complaint shall also contain simple and concise statements of the facts or information and belief on which the allegation of a violation is based, including where known the date and place of occurrences that are described and names of the participants and the section or sections of law which are alleged to have been violated. Except for complaints filed by any member or employee of the commission, a complaint must be filed within ~~two~~ one year after the date of occurrence of the alleged, unlawful action, unless the commission finds that for good cause an extension of time should be granted; complaints filed by any member employee of the commission must be filed within two years of such date unless the commission finds that for good cause an extension of time should be granted.

Sec. 6. Kansas administrative regulation 19-5-5, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-5-5. Respondent's review of evidence. After a verified complaint has been filed with the commission, the respondent shall be entitled to examine and make copies of all evidence in the possession of the commission relating to the complaint, including the transcript of the probable cause determination, if any ~~if any provided however, that these matters which do not constitute evidence, including the work product of the commission or its staff,~~ except that matters which are privileged under law need not be provided to the respondent.

Sec. 7. Kansas administrative regulation 19-7-3, as adopted by the governmental ethics commission is hereby amended to read as follows: 19-7-3. Pre-hearing conference. (a) General. In order to facilitate the hearing procedure, conferences may be held between the parties with the approval or at the direction of and before the presiding member as time and the nature of the proceeding permit. At any such conference, the following may be considered:

(1) The simplification of the issues.

(2) The exchange and acceptance of service of exhibits proposed to be offered into evidence.

(3) The obtaining of admission as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.

~~(4) The limitation of the number of witnesses.~~

~~(5)~~ (4) The discovery or production of evidence.

~~(6)~~ (5) Such other matters as may properly be dealt with to aid in expediting the orderly conduct and disposition of the proceeding.

Failure, without just cause, of a participant to attend such conference, after being served with due notice of the time and place thereof, shall constitute a waiver of all objections to the agreements reached, if any, and any order or ruling made at the pre-hearing conference.

(b) Authority of presiding member. The presiding member at any conference may dispose of by ruling, irrespective of the consent of the parties, any procedural matters which the presiding member is authorized to rule upon during the course of the proceeding, and which it appears may appropriately and usefully be disposed of at that stage. The rulings of the presiding member made at such conference shall control the subsequent course of the hearing, unless modified by the hearing commissioners.

(c) Refusal to make admissions or stipulate. If a party attending a conference convened pursuant to these rules refuses to admit or stipulate to the genuineness of any documents or the truth of any matters of fact and if the party requesting the admissions or stipulations thereafter proves the genuineness of any such document or the truth of any such matter of fact, he may apply to the commission for an order requiring the other party to pay the reasonable expenses incurred in making such proof, including reasonable attorney's fees. Unless the hearing commissioners find that there were good reasons for the refusal

to admit or stipulate or that the admissions or stipulations sought were not of substantial importance, the order shall be made.

Sec. 8. Kansas administrative regulation 19-7-8, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-7-8. Evidence. In any proceeding before the hearing commissioners or a presiding member, relevant and material evidence shall be admissible, but there shall be excluded such evidence as is unduly repetitious or cumulative, or such evidence as is not of any probative value. The presiding member shall rule on the admissibility of all evidence, and shall otherwise control the reception of evidence so as to confine it to the issues in the proceeding. The production of further evidence upon any issue may be ordered. Direct testimony of any witness may be offered as an exhibit, or as prepared written testimony to be copied into the transcript. Cross examination of the witness presenting such written testimony or exhibit shall proceed at the hearing at which such testimony or exhibit is authenticated. Whenever in the circumstances of a particular case it is deemed necessary or desirable, the hearing commissioners or the presiding member may direct that testimony to be given upon direct examination shall be reduced to exhibit form or to the form of prepared written testimony. Evidence not subject to cross-examination shall not be admissible.

Sec. 9. Kansas administrative regulation 19-7-10, as adopted by the governmental ethics commission, is hereby amended to read as follows: Recording and transcript. (a) Recording of proceedings. Public hearings and executive sessions shall be recorded as directed by the commission. Such record shall be the sole official record of the hearing. Such recording and any transcripts therefrom shall include a verbatim report of the hearings and nothing shall be omitted therefrom, ~~except as is directed by the presiding member or hearing commissioners or by the commission~~ that the commission may omit extraneous matters not relevant to the hearing.

(b) Copies. Parties desiring copies of a public portion of the record or such portion of the record from an executive session as the commission may specifically allow to a party relative to that party's participation in the executive session or consistent with K.A.R. 19-5-5, and consistent with the confidentiality requirement of relevant law, may obtain such copies from the official reporter upon payment of the reporter's fees or as allowed by the commission upon payment of the appropriate fee.

Sec. 10. Kansas administrative regulation 19-7-16, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-7-16. Rehearing. (a) General. Any party alleging any error in the original proceedings or report ~~shall~~ may request a rehearing. An application for rehearing shall be filed with the commission at its office within ten (10) days after service of a commission report. Such application shall be made by motion, stating specifically the grounds relied on. A copy of such application shall be served on all parties in conformity with the service provisions of these rules, by the party making such application. An application for rehearing shall contain: (1) the docket number of the case for which such application is being made; (2) the name of the party making such application; and (3) such application shall state concisely and specifically the alleged errors in the report or proceedings of the commission. If a report is sought to be vacated, reversed, or modified by reason of matters which have arisen since the hearing and decision, the matters relied upon shall be identified in the application.

(b) Granting an application for rehearing. If When the commission grants or denies an application for rehearing, it shall so notify the parties in writing. The date an application for rehearing is granted shall be the date on which the commission makes such decision. The rehearing shall follow the same procedural rules as a hearing, except to the extent otherwise directed by the commission or a presiding member.

(c) Effect of failure to allege specific error. Failure to request a rehearing on specific allegation of error and provide the reasons therefore shall constitute a waiver of all objection to any matters not specifically alleged as error.

Sec. 11. Kansas administrative regulation 19-21-3, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-21-3. Political committees. (a) General. A "political committee" is any combination of two or more individuals or any person other than an individual, a major purpose of which is to support or oppose the nomination or election of any candidate for state office, but not including any candidate committee or party committee. A major purpose of any such combination or person other than an individual is to support or oppose the nomination or election of any candidate for state office if any one of its purposes, or by cumulative effect more than one of its purposes, is considerable in degree and is directed at attaining that end. The following factors among others will be considered in determining whether such combination or person other than an individual constitutes a political committee:

- (1) The intent of the combination or person;
- (2) The amount of time devoted to the support or opposition of one or more candidates for state office;
- (3) The amount of time devoted to the support or opposition of any other political committee or party committee;
- (4) The amount of contributions (as that term is defined by the Act) made to any candidate, candidate committee, party committee or political committee;
- (5) The amount of expenditures (as that term is defined by the Act) made on behalf of any candidate, candidate committee, party committee or political committee; or
- (6) The importance to any candidate, candidate committee, party committee or political committee of the activities in which the combination or person engage.

(b) Structure and filing statement of organization. Each

political committee which anticipates receiving contributions or making expenditures must appoint one chairperson and one treasurer for the purposes of the Act. A political committee structured similar to a payroll deduction plan will be presumed not to be anticipating receiving contributions or making expenditures if it meets all of the following tests:

(1) The decision to make contributions to the fund by the individual employee is strictly voluntary;

(2) The employee alone determines to whom his or her portion of the fund shall be distributed;

(3) Any contribution made by the employee is made and transferred in his or her name only; and

(4) The recipient candidate or committee is not made aware by the employer or his agents that the contribution was made as a part of any such fund or employer related activity.

A political committee may appoint such other officers as it desires including co-chairpersons. The chairperson designated as such for the purpose of the Act shall make and file with the secretary of state on forms prescribed and provided by the commission a statement of organization not later than ten (10) days after establishment of such committee. In addition, any change in information previously reported in a statement of organization shall be reported on a supplemental statement of organization and filed not later than ten (10) days following the change.

(c) Contents of "statement of organization. (1) General.

The statement of organization shall include: (i) the name and address of the committee; (ii) the names and addresses of the chairperson and the treasurer of the committee; and (iii) the names and addresses of affiliated or connected organizations.

(2) Affiliated or connected organizations. An organization is affiliated or connected with a reporting political committee if it is: (i) an organization or group which founded or maintains the reporting committee with a major purpose of influencing the nomination or election of a candidate or

candidates to state offices; (ii) an organization or group which has as a major purpose the supporting of a reporting committee or committees; (iii) an organization or group whose membership is generally composed of the same individuals as the reporting committee where the reporting committee advances the political goals of the organization either directly or indirectly on behalf of the organization; or (iv) an organization or group, whether or not a reporting committee, which is substantially controlled directly or indirectly by a reporting committee or committees or the controlling persons thereof. In addition, an organization or group controlling an affiliated or connected organization is likewise an affiliated or connected organization of the group or organization which it controls.

(3) Exception. In the situation where a state-wide union or professional or trade association is considered to be an affiliated or connected organization of a particular political committee under any of the above tests, local units of such unions or associations shall be presumed not to be affiliated or connected organizations of the political committee so long as the state-wide entity is reported as such.

~~Example-1:--A-union-or-corporation-or-the-officers-thereof have--formed--a--political--action--committee.---The--union--or corporation--constitutes--an-affiliated-or-connected-organization and-must-be-listed-as-such.~~

~~Example-2:--A-group-of--individuals--have--formed--political committee--A.---The--same--persons--indirectly--control-political committee-B-by-means-of-employment-of-the-officers-thereof--in--a business--or--otherwise.---A--must--list--B--as--an-affiliated-or-connected-organization.---In--addition,--B--must--list--A--as--an affiliated-or-connected-organization.~~

Sec. 12, Kansas administrative regulation 19-23-1, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-23-1. Expenditures. (a) General. An "expenditure" is any purchase, payment, distribution, loan,

advance, deposit or gift of money or any other thing of value or contract therefore made for the purpose of influencing the nomination or election of any individual to state office. The carryover of funds or inventory by a candidate, candidate committee, party committee or political committee from one election period to another or the transfer thereof to a bona fide successor's committee or candidacy does not constitute an expenditure. In addition, expenditure does not include costs which are directly related to any communication by an incumbent elected state officer with one or more of the incumbent's constituents unless the primary purpose of such direct costs is to influence the nomination or election of the candidate. In addition, those indirect costs which facilitate such communications and are insubstantial in value per person are within the exclusion unless the primary purpose of such indirect costs is to influence the nomination or election of the candidate. Costs which relate to communications occurring, 45 days or more after adjournment sinē die of the legislature ⁱⁿ is an election year when the elected state officer is seeking office are presumed to be for the primary purpose of influencing the candidate's election. Costs related to a response by an incumbent official to inquiries from the public concerning any official matter before the incumbent do not fall within this presumption.

~~Example--A--Incumbent-legislator-A-holds-a-meeting-during-a legislative-session,--the-primary-purpose-of-which-is-to-report-to A's-constituents-on-the-progress-of-bills-of-interest--to--them. At--the--meeting--A--incurs--costs--of-producing-and-distributing written-material-concerning--the--issues--to--be--discussed.--In addition,--A-provides-coffee-at-the-meeting.--The-costs-associated with-producing-and-distributing-the-written-material--are--direct costs-which-are-excluded-from-the-definition-of-expenditure.--The provision-of-coffee-is-an-indirect-cost-which-is-insubstantial-in value--per-person-and-therefore-also-excluded-from-the-definition of-expenditure.~~

~~Example 2: Incumbent legislator B sends a newsletter to his or her constituents 60 days after adjournment sine die of the legislature in a year when B is seeking reelection. The costs associated with the newsletter are presumed to be expenditures under the Act.~~

(b) Transfer of funds. Except as provided in subsection (a), the transfer of funds between any two or more candidates, candidate committees, party committees or political committees constitutes an expenditure made by the transferor, provided however that a transfer from one candidate or candidate committee to another and different candidate or candidate committee, or political committee or party committee, does not constitute an expenditure by the transferor when the funds thus transferred are not used for the transferor's benefit.

~~Example: Candidate A directs his or her treasurer to transfer \$200 to candidate B. The funds thus transferred are to be used entirely for B's campaign. A's treasurer has not made an expenditure. B has, however, received a contribution. (See K.A.R. 19-22-1(b) on the contribution issue; also see K.A.R. 19-23-2 concerning the treatment of the transfer as an other disbursement.)~~

(c) Filing fees. The payment of a candidate's filing fee constitutes an expenditure.

(d) Meeting the requirements of the Act. Costs associated with attending informational meetings of the commission or otherwise obtaining information from the commission do not constitute expenditures. In addition, costs associated with defending actions brought pursuant to the Act do not constitute expenditures. Costs associated with employing accountants, attorneys or other persons for advice concerning the requirements of the Act or to keep accounts and records do, however, constitute expenditures.

(e) Treasurer's payment of certain costs. The payment by the treasurer of a candidate or a candidate committee of costs incurred for the personal meals, lodging and travel by personal

automobile of the candidate or the candidate's spouse does not constitute an expenditure.

~~Example:--Candidate A's treasurer pays from the campaign funds for the cost of A's campaign trip. The costs include those associated with the use by A of his or her personal automobile and meals and lodging. The treasurer's payments do not constitute expenditures. (See K.A.R. 19-23-2 for the treatment of such payments as other disbursements.)~~

(f) In-kind contributions. An in-kind contribution constitutes an expenditure. Those transactions which are excluded from the definitions of in-kind contributions are likewise excluded from the definition of expenditure. (See K.A.R. 19-24 for the definition of in-kind contribution.)

Sec. §13. Kansas administrative regulation 19-27-2, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-27-2. Contributions and other receipts.

(a) Detailed record of contributions. Each treasurer shall keep an account of all contributions, including in-kind contributions, by individual contributors in alphabetical order, and shall keep a record of:

(1) The full name of an individual making the contribution and the full address of his or her principal place of residence, unless the contribution comes under the provisions of K.S.A. 1975 1977 Supp. 25-4113;

(2) The full name and mailing address of a person, other than an individual;

(3) A description indicating whether the contribution was "cash" or "check" and whether it is a loan including information on the rate of interest and the guarantor and endorser, if any, or an in-kind contribution with a description thereof;

(4) The date received;

(5) The amount of the individual contribution; and

(6) The cumulative amount given by the individual contributor which is allocable to a particular primary election period or general election period as set out in K.A.R. 19-28.

(b) Detailed record of other receipts. Each treasurer shall keep an account of all other receipts, and, except in the case of receipts from the bona fide sale of political material, or the sale of tickets or admissions to fund raising events other than testimonial events in the amount of \$3 or less, shall keep a record of:

(1) The full name of an individual making the payment and the full address of his or her principal place of residence;

(2) The full name and mailing address of a person, other than an individual;

(3) A description of the receipt reflecting whether it is a rebate, refund, or other miscellaneous receipt with a description thereof;

(4) The date received; and

(5) The amount of the receipt.

~~(c) Photocopies of checks. Each treasurer shall photocopy each contribution (or "other receipt") check, money order, or similar instrument in an amount of \$25 or more and shall keep all deposit slips with the photocopies of the checks to which they relate. In the alternative, each treasurer shall, at the request of the commission, arrange with a depository or other person to provide the commission with such photocopies at the treasurer's expense. In addition, when necessary each treasurer shall arrange with his or her depository to permit the commission access to the depository's records of any contribution (or "other receipt") check, money order or similar instrument at the treasurer's expense.~~

~~(d)~~ (c) Receipts for cash and in-kind contributions. Cash contributions and other cash receipts in an amount of \$25 or more and all in-kind contributions shall be accounted for by written receipt, the original of which shall be kept by the treasurer. Such receipts shall include the full name and address as required in subsections (a) and (b) of this section of the person making the contribution or payment, the date and the amount. Each receipt shall be signed by the contributor or payer and the

treasurer or the treasurer's agent. If the contribution is an in-kind contribution, a complete description shall be attached to the receipt.

~~(e)~~ (d) Payroll and dues plans. All treasurers of committees that maintain a payroll deduction, dues checkoff or comparable system for political contributions shall keep sufficient supporting documentation to fully substantiate each contribution or transfer to the committee.

Sec. 14. Kansas administrative regulation 19-27-4, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-27-4. Maintenance, preservation and inspection. (a) Maintenance. All accounts and records shall be kept current within a reasonable time of the receipt of a contribution or other receipt or the making of an expenditure of other disbursement by the treasurer except that all accounts and records shall be current as of the end of a reporting period. In addition, upon written notice by the commission, all accounts and records shall be made current up to and including the date set out therein.

(b) Preservation. All accounts and records required to be made and kept by this article (and all other accounts and records as a treasurer makes in the course of his or her official duties as a treasurer) shall be preserved for a period of six (6) years from the date the account or record is first kept by the treasurer in the case of party committees, political committees and candidates for offices with four year terms and shall be preserved for a period of four (4) years from the date the account or record is first kept by the treasurer in the case of candidates for offices with two (2) year terms. An individual who vacates the position of treasurer by reason of removal or resignation shall verify the accuracy of his or her accounts and records to the succeeding treasurer on forms prescribed and provided by the commission. Upon the dissolution of a committee or the position of a candidate's treasurer, the last treasurer of record is responsible for the preservation of the required

accounts and records.

(c) Inspection. The commission may inspect a treasurer's accounts and records at any reasonable time and place.

Sec. 15. Kansas administrative regulation 19-51-1, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-51-1. Who must file; when and where. Except as provided in subsection (e), whenever any one of the following provisions is applicable, the public officer or employee or candidate therefore, shall file a disclosure of substantial interests statement by the time and at the place set out below on forms ^{CEC} provided prescribed by the secretary of state.

(a) Every candidate for elective public office, except candidates for state office as defined by K.S.A. 1975 1977 Supp. 25-2505, shall file this statement at the time and place of filing his or her declaration of candidacy or at the time of his or her appointment as a candidate.

(b) Every person appointed to fill a vacancy in any elected public office as described above shall file this statement within thirty (30) days after taking office in the office where his or her predecessor filed his or her declaration of candidacy.

(c) Every public officer or employee who has not filed this statement and who, while acting in such capacity, shall pass upon any matter which will affect any business in which he or she holds a substantial interest, shall file this statement or one of a similar nature before acting upon such matter. In such cases the statement is filed with the county clerk of the county in which all or the largest geographical part of the municipal or quasi-municipal entity on which he or she serves is located. Any person filing under this requirement need only disclose the nature of the particular substantial interest held in the business which will be affected by the contemplated official act and the manner in which it will or might be affected, but need not disclose unrelated substantial interests. Additionally, note that K.S.A. 1975--Supp. 1977 75-4304 prohibits participating in one's official capacity in the making of contracts with any

*check this
provided
by Com. on
State
Ethics
1977
1975*

business in which one holds a substantial interest or by which one is employed regardless of whether this statement is filed.

(d) Whenever any change shall occur in the substantial interest of any person required to file this form, a supplemental report disclosing such change must be filed within ten (10) days of the change in the same office as the initial filing.

(e) Exceptions. The following individuals are not required to file the disclosure of substantial interests statement required by this section:

(1) any individual who is a state officer or employee by definition of K.S.A. ~~1975~~ 1977 Supp. 46-221 and is not otherwise a public officer or public employee;

(2) any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch;

(3) any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch; or

(4) any appointed member of a state advisory council, commission or board who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. ~~1975-Supp.~~ 1977 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board.

Sec. 16. Kansas administrative regulation 19-60-3, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-60-3. Definitions. Incorporated herein by reference are the definitions express or apparent contained in the Act. In addition, the following words and phrases mean: (a) Bona fide personal or business entertaining or gifts. "Bona fide personal or business entertaining or gifts" means entertainment or gifts provided to state officers or employees or their spouses which are based solely on a business or personal relationship

totally unrelated to the state officer or employee's duties as such. The following factors, among others, will be taken into consideration in determining whether a specific entertainment or gift falls within this definition:

- (1) The intent of the parties.
- (2) The length of time a business or personal relationship has existed.
- (3) The topics of discussion.
- (4) The setting.
- (5) The persons attending.
- (6) Whether the person providing the entertainment or gift is reimbursed by an organization which engages in lobbying.
- (7) Whether the person providing the entertainment or gift, or his or her principal, deducts or could deduct the expenditures as lobbying expenditures.

Example 1: Individual A is a member of a special interest association. A takes state officer B to dinner and is reimbursed by the special interest association. Even if A and B are long-time personal friends, the provision of dinner in this manner does not constitute bona fide personal or business entertaining.

Example 2: Individual A is a member of a special interest association and has been a lifetime friend of state officer B. A and B and their families have exchanged birthday gifts of minimal value for several years. A purchases a gift from A's own funds and transfers the gift to B at a birthday party held by the two families. A's gift constitutes a bona fide personal gift.

Example 3: Individual A is a member of a special interest association and owns business B. State officer C owns business D which contracts with business B in the ordinary course of business. A sends C a small gift which is the same type of gift given to all of business B's customers. A's gift constitutes a bona fide business gift.

(b) Employer. "Employer" means a person who employs another person in considerable degree for lobbying, or who

formally appoints a person as the primary representative of an organization or other persons to lobby in person on state-owned or leased property, or on whose behalf a person otherwise registers or is required to register as a lobbyist. If a lobbyist has more than one employer those provisions of K.A.R. 19-60 to 19-63, inclusive, which relate to employers shall apply independently to each of the lobbyist's employers.

(c) Expenditure. (1) Defined. "Expenditure" means the payment or contract therefore (i) for the provision of hospitality in the form of food and beverage to any state officer and employee or spouse, except bona fide personal or business entertaining; (ii) for the giving of any gift, honoraria or payment to any state officer or employee or spouse, except bona fide personal or business gifts, honoraria or payments; (iii) ~~directly related to the production and communication of lobbying information to any state officer or employee by any person other than an individual; or~~ (iv) directly related to the production and communication of mass media communications, ~~letter writing campaigns and similar transactions~~ which explicitly promote or oppose a clearly identified legislative matter, rule and regulation or case and urges or requests the recipient to communicate directly with state officers or employees in regard thereto.

(2) Allocation. A person makes an expenditure if the person does so directly or if another person does so on the person's behalf. In addition, in the case of membership organizations, associations, or similar entities, the entity is deemed to make any "expenditure" associated with membership events when the entity plays an integral role in initiating, planning, or operating such membership events.

(3) Exceptions. "Expenditure" does not include a payment or contract therefore (i) for the preparation of proposals, position papers and similar documents, (ii) to employ another to lobby on one's behalf, (iii) for personal travel and subsistence of an individual engaged in lobbying, (iv) which is reported in

compliance with the campaign finance act, (v) associated with any news story, commentary, or editorial distributed in the ordinary course of business by a broadcasting station, newspaper or other periodical publication, or (vi) of contributions to membership organizations, associations or similar entities where the funds are used to make expenditures attributable to the entity or its representatives.

Example 1: Lobbyist A and his spouse take state officer B and his or her spouse to dinner as part of A's lobbying program. Only that portion of the total bill for the food and beverage which is associated with the meals of B and his or her spouse constitute expenditures. In other words, the costs of A's meal and that of A's spouse do not constitute expenditures.

Example 2: Members of a special interest association hold a banquet and invite selected state officers and employees to attend as guests. Each member pays for his or her own meal as well as a state officer or employee for whom they are serving as host. The association initiates the planning for the event, sets the date the event is to be held and its authorized agents attend the event. The "expenditures" associated with the event are deemed to be made by the special interest association and are not attributable to each member.

Example 3: An organization wishing to convey its views on a legislative matter to legislators incurs several costs for research, compilation of data, and drafting of a legislative proposal. These costs do not constitute "expenditures" since they involve the preparation of proposals. When the preparation is completed the organization incurs the costs for mass production and distribution of the proposal. These costs do constitute "expenditures".

(d) Gift. (1) Defined. "Gift" means the transfer of money or anything of value unless legal consideration of a reasonably equal or greater value is received in return. The value of a gift shall be the fair market value or a reasonable estimate thereof. Where a transfer is made for less than reasonable

consideration, the amount by which the value of the transfer exceeds the value of the consideration shall be deemed a gift.

(2) Exceptions. "Gift" does not include (i) the provision of hospitality in the form of food and beverage, (ii) any bona fide personal or business gift or entertainment, or (iii) any contribution reported in compliance with the campaign finance act.

Example 1: Lobbyist A, as part of A's employer's lobbying program, takes state officer B to dinner and to a football game. The value of the ticket to the football game constitutes a gift. The value of the food and beverage does not constitute a gift. (See, however, K.A.R. 19-60-3(c) for the inclusion of the costs of the state officer or employee's meals as an expenditure.)

Example 2: Lobbyist A, as part of A's employer's lobbying program, provides state officer B with hotel accommodations and travel to a seminar held by the employer. B does not provide a bona fide service at the seminar. A has made a gift in the value of the accommodations and travel.

(e) Hospitality. "Hospitality in the form of food and beverage" means the provision and consummation of food and beverage in the company of the donor or the donor's authorized agent. The provision of food and beverage in any other manner constitutes a gift. In addition, the provision of food and beverage which is conditioned on a course of official action constitutes a gift for the purposes of these rules and regulations.

Sec. 17. Kansas administrative regulation 19-61-1, as adopted by the governmental ethics commission, is hereby amended to read as follows: 19-61-1. Legislative matters. (a) General. Promoting or opposing in any manner action or non-action by the legislature on any legislative matter constitutes lobbying. Legislative matters include any bills, resolutions, nominations, or other issues or proposals pending before the legislature or any committee, subcommittee, or council thereof. An issue or proposal is pending before any such body if it is being directly

considered by such body, if it has been communicated to such body or a member thereof even if not directly considered by it, or if it is an issue subject to continuing review by any such body. ~~Any communication which is intended to advocate action or non-action by the legislature on a legislative matter, including communications with other persons with the intent that such persons communicate with legislators in regard thereto constitutes lobbying.~~ The provision of entertainment or gifts to any state officer or employee involved in the action or non-action by the legislature on any legislative matter, except those provided as bona fide personal or business entertainment or gifts, constitutes lobbying. (The fact that a particular activity constitutes "lobbying" does not necessarily mean that an individual must register as a lobbyist. See K.A.R. 19-62 on the issue of registration.)

Example 1: Individual A represents a special interest association which is concerned with maintaining in their present form certain laws which relate to the association. The laws are subject to continuing review by a committee of the legislature, although the committee is not currently considering the laws of interest to the association. Individual A communicates to a legislator on the committee the association's concern that the laws in question remain unchanged. A has engaged in lobbying.

Example 2: Individual A is employed by a special interest association and wishes to make the association's viewpoint known to the legislature in regard to a bill pending before the legislature. In the form of a newsletter, A sends to several private citizens the association's views and requests the recipients to contact their legislators to express those views. A has engaged in lobbying.

(b) Exceptions. The communication of factual material which is not intended to promote or oppose action or non-action on a legislative matter and which is not accompanied by active advocacy does not constitute lobbying. In addition, the preparation of legislative proposals or recommendations or merely

monitoring the legislative process does not constitute lobbying.

Example 1: Individual A is an expert in a technical field which is being studied by a legislative committee. A is asked by the committee to provide it technical information and A provides the information not intending to promote or oppose any particular view. A has not engaged in lobbying.

Example 2: A special interest association has one of its employees monitor the activities of a legislative committee. The employee merely takes notes and reports back to the employer. Neither the employer or employee have engaged in lobbying.

Sec. 18. Kansas administrative regulations 19-1-1, 19-1-10, 19-1-13, 19-4-1, 19-5-2, 19-5-5, 19-7-3, 19-7-8, 19-7-10, 19-7-16, 19-21-3, 19-23-1, 19-27-2, 19-27-4, 19-51-1, 19-60-3 and 19-61-1 are hereby revoked.

Sec. 19. This act shall take effect and be in force from and after its publication in the statute book.

H B 2572 9/17/77

Wait until
Commission
decision is published

PROPOSED BILL NO. _____

By Special Committee on Elections

AN ACT concerning ethical conduct of certain persons in relation to state government; amending K.S.A. 1977 Supp. 46-221, 46-230, 46-233, 46-239, 46-240, 46-247, 46-248, 46-250, 46-252, 46-254, 46-259, 46-265, 46-266, 46-268, 46-269, 46-270, 46-272, 46-273 and 46-275 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1977 Supp. 46-221 is hereby amended to read as follows: 46-221. (a) "State officer or employee" means (1) any individual who is an elected or appointed state officer, (2) any individual who is in the classified service, unclassified service or classified exempt service of the Kansas civil service act, (3) all officers and employees of the legislative branch and of the governor's office, irrespective of how compensated or period of employment, and (4) any individual who receives monthly or semimonthly compensation for services from the state or any state agency, and (5) any attorney who serves as counsel for any state agency. State officer or employee does not include any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch. Also, state officer or employee does not include any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 1975 75-3223 and amendments thereto.

ALC h. II

when such member is engaged in performing a function or duty for such council, commission or board.

(b) "Candidate for state office" means a candidate for nomination or election to any state office as defined in K.S.A. 1975 1977 Supp. 25-2505 and amendments thereto, except [district] judges of the district courts.

Sec. 2. K.S.A. 1977 Supp. 46-230 is hereby amended to read as follows: 46-230. "Business" means:

(a) Any corporation, association, partnership, proprietorship, trust, joint venture, ~~and every~~ or other business interest, including ownership or use of land for income; or

(b) the state or any political subdivision of the state, or any agency or authority thereof.

Sec. 3. K.S.A. 1977 Supp. 46-233 is hereby amended to read as follows: 46-233. (a) No state officer or employee shall in

his or her capacity as such officer or employee participate in the making of a contract with any person or business by which such officer or employee is employed or in whose business such officer or employee has a substantial interest and no such person or business shall enter into any contract where any state officer or employee, acting in such capacity, is a signatory to or a participant in the making of such contract and is employed by or has a substantial interest in such person or business.

Whenever any individual has, within the preceding two (2) years participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business for one (1) year following termination of employment as a state officer or employee.

~~(b) No individual shall, while a legislator or within one (1) year after the expiration of a term as legislator, be interested pecuniarily, either directly or indirectly, in any contract with the state, which contract is funded in whole or in part by any appropriation or is authorized by any law passed during such term, except that the prohibition of this subsection~~

~~(b) shall not apply to any contract interest in relation to which a disclosure statement is filed as provided by K.S.A. 1975 Supp. 46-239.~~

~~(e)~~ (b) No individual, while a legislator or within one (1) year after the expiration of a term as a legislator, shall as a litigant or by representing any person in a court proceeding attack any legislative action taken or enactment made during any term such individual served as a legislator as being unconstitutional because of error in the legislative process with respect to such action or enactment.

~~(d)~~ (c) ~~Subsections~~ Subsection (a) and ~~(b)~~ shall not apply to the following:

(1) Contracts let after competitive bidding has been advertised for by published notice; and

(2) Contracts for property or services for which the price or rate is fixed by law.

Sec. 4. K.S.A. 1977 Supp. 46-234 is hereby amended to read as follows: 46-234. ^{Except as otherwise provided by statute} (a) No elected state officer shall receive ^{during} within one (1) year after the expiration of his such officer's last term receive any civil appointment to a state office which was created by law ^{during} ~~the last~~ such term ~~for which such person had been elected, and all such appointments and for which compensation, other than amounts for expense allowances or reimbursement of expenses as provided in subsection (a) of K.S.A. 75-3223 and amendments thereto, is provided.~~ Any such appointment shall be void.

(b) Upon resignation by an elected state officer, such person may be appointed to any elective state office to fill a vacancy.

Sec. 5. K.S.A. 1977 Supp. 46-239 is hereby amended to read as follows: 46-239. (a) Except for representation of a client involving a claim pursuant to the workmen's compensation act or employment security law by an attorney other than an employee of the department of human resources, no state officer or employee shall accept employment in any representation case, unless such

officer or employee has properly filed the disclosure statement prescribed by this section.

(b) Any state officer or employee who is employed in any representation case for which a disclosure statement is required to be filed pursuant to subsection (a) shall file, not later than ten (10) days after the acceptance of employment for such case or on the first appearance before the state agency involved (whichever occurs first), ~~file~~ on a form prescribed and provided by the commission, a disclosure statement as provided in this section. Any individual, while a legislator or within one (1) year after the expiration of a term as a legislator, who ~~contracts to perform any service for a state agency other than the legislature~~ is interested pecuniarily, either directly or indirectly, in any contract with the state, shall file not later than ten (10) days after ~~the acceptance of such contract, file~~ formal negotiations for such contract commence, a disclosure statement as provided in this section.

(c) The disclosure statement required by this section shall be filed with the ~~secretary of state~~ ^{secretary of state} commission in all cases. Any individual who files a statement may file an amended statement ~~for, if permitted by the~~ ^{secretary of state} ~~secretary of state~~ commission, amend the original filing at any time after the statement is originally filed. Copies of each such statement shall forthwith upon filing be transmitted by the ~~secretary of state~~ commission to (1) in the case of members of the house of representatives, the chief clerk of the house of representatives, or (2) in the case of senators, the secretary of the senate. In addition to the foregoing, a copy of every disclosure statement shall be transmitted by the ~~secretary of state~~ commission to the state agency involved, if the state agency is other than a part of the legislative branch.

(d) The commission shall furnish to the secretary of state a copy of each disclosure statement filed pursuant to this section, and any statement so furnished shall be open to public inspection at all reasonable times.

~~(d)~~ (e) The disclosure statement provided for by this

section shall be signed by the person making the same and shall state (1) the name of the employer, (2) the purpose of the employment and (3) the method of determining and computing the compensation for the employment in the representation case.

~~(e)~~ (f) Any person who is employed in a representation case and who is required to file a disclosure statement pursuant to this section may file, upon termination of such person's employment in such representation case, a termination statement with the ~~secretary-of-state~~ commission. Such statement shall be on a form prescribed and provided by the commission and shall state (1) the name of the employer, (2) the state agency involved in the case, and (3) the date of the termination of employment. The ~~secretary-of-state~~ commission shall transmit a copy of such statement to the state agency involved.

~~(f)~~ (g) Failure to file a true disclosure statement is intentionally (1) failing to file a disclosure statement when and where required by this section, or

(2) filing a disclosure statement under this section which contains any material misrepresentation or false or fraudulent statement.

Failure to file a true disclosure statement is a class B misdemeanor.

Sec. 6. K.S.A. 1977 Supp. 46-240 is hereby amended to read as follows: 46-240. Except for cases involving claims pursuant to the workmen's compensation act or employment security law, no state officer or employee shall accept or agree to accept any compensation, ~~or any part thereof,~~ for employment in a any representation case ~~of any kind,~~ before a state agency, ~~except workmen's compensation cases,~~ which is contingent upon the result ~~achieved or attained.~~

Sec. 7. K.S.A. 1977 Supp. 46-247 is hereby amended to read as follows: 46-247. The following individuals shall file written statements of substantial interests, as provided in ~~sections 34 to 38~~ K.S.A. 1977 Supp. 46-248 to 46-252, inclusive, and amendments thereto:

(a) Legislators and candidates for nomination or election to the legislature;

(b) individuals holding an elected office in the executive branch of this state, and candidates for nomination or election to any such office;

(c) state officers and employees receiving compensation from the state of fifteen thousand dollars (\$15,000) per year or more, except that this ~~section~~ subsection shall not apply to ~~unclassified~~ state officers and employees ~~of institutions under the state board of regents~~ whose principal duties are teaching;

(d) individuals whose appointment to office is subject to confirmation by the senate; except that this subsection shall not apply to members of advisory councils, commissions or boards who serve without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 75-3223 and amendments thereto.

Sec. 8. K.S.A. 1977 Supp. 46-248 is hereby amended to read as follows: 46-248. The statement of substantial interests required by K.S.A. ~~1975~~ 1977 Supp. 46-247 to 46-252, inclusive, and amendments thereto, shall include the substantial interests of the individual making the statement as provided in this section. Campaign contributions reported in compliance with the campaign finance act shall not be included in this statement.

(a) The following shall be disclosed by all individuals required to file:

(1) The name, address and type of business of any corporation or the name, address and type of practice of any professional organization or individual professional practice in which the individual making the statement was an officer, director, associate, partner or proprietor at the time of filing.

(2) Each substantial interest of the individual making the statement in such detail and form as is required by the commission.

(b) The statements required by this section to be filed shall be filed at the following times:

(1) For individuals who are state officers or employees, annually on January 31, so long as the act applies to the individual.

(2) For individuals who become candidates, on the date of filing declaration to become a candidate, or if the individual becomes a candidate by another means, then within ten (10) days of becoming a candidate, unless within such period the candidacy is officially declined or rejected.

(3) For individuals to which paragraphs (1), (2) and (4) of this subsection (b) do not apply, at the time of appointment to state office or employment and annually thereafter commencing on the next succeeding January 31, so long as this act applies to such individual.

(4) For individuals whose appointment to state office or employment is subject to confirmation by the senate, ~~on the date when the appointment is submitted to the senate~~ within thirty (30) days after appointment and annually thereafter commencing on the next succeeding January 31, so long as this act applies to such individual.

(c) The statements required by this section to be filed shall be filed with the ~~secretary of state~~ commission in all cases. The ~~secretary of state~~ commission shall promptly transmit copies of all filings by legislators, candidates for the legislature and individuals subject to confirmation by the senate to the secretary of the senate and the chief clerk of the house of representatives.

Sec. 9. K.S.A. 1977 Supp. 46-250 is hereby amended to read as follows: 46-250. The commission shall prescribe and provide the forms provided for by K.S.A. ~~1975~~ 1977 Supp. 46-249. Any person required to file a statement of substantial interests, may file an amended statement of substantial interests ~~for~~ if permitted by the ~~secretary of state~~ commission, amend the statement originally filed at any time after the date when such statement is required to be filed.

Sec. 10. K.S.A. 1977 Supp. 46-252 is hereby amended to read

as follows: 46-252. ~~All-statements~~ The commission shall furnish to the secretary of state a copy of every statement of substantial interests filed under this act, and any statement so furnished shall be available for examination and copying by the public at all reasonable times. Each individual examining a statement must first fill out a form or sign a register prepared and publicly maintained by the secretary of state identifying the examiner by name, occupation, address and telephone number, and listing the date of examination.

Sec. 11. K.S.A. 1977 Supp. 46-254 is hereby amended to read as follows: 46-254. The commission upon its own initiative may, and upon the request of any individual to which this act applies shall, render an opinion in writing on questions concerning the interpretation of this act. Any person who acts in accordance with the provisions of such an opinion, shall be presumed to have complied with the provisions of this act. A copy of every opinion rendered by the commission shall be filed with the secretary of state, and any opinion so filed shall be open to public inspection. ~~The secretary-of-state~~ commission shall publish all opinions rendered under this section monthly and each such publication shall be cumulative. Copies of each opinion shall be filed with the secretary of the senate and the chief clerk of the house on the same date as the same are filed with the secretary of state. The secretary of state shall cause adequate copies of all filings under this section to be supplied to the state library.

Sec. 12. K.S.A. 1977 Supp. 46-259 is hereby amended to read as follows: 46-259. The commission shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the commission, and all records and transcripts of any investigations, inquiries or hearings of the commission under this act shall be confidential and shall not be open to inspection by any individual other than a member of the commission, an employee of the commission, or a state officer or

employee designated to assist the commission, except as otherwise specifically provided in this act. The commission may authorize, by adoption of a resolution, ~~authorize~~ the release to the attorney general ~~or to~~ the county or district attorney of the appropriate county or the appropriate state or federal enforcement agency of any information, records, complaints, documents, reports, and transcripts in its possession ~~material to any matter pending before the attorney general or any county or district attorney~~ pertaining to the violation of this act or of any other state or federal law. All matters presented at a public hearing of the commission and all reports of the commission stating a final finding of fact pursuant to K.S.A. ~~1975~~ 1977 Supp. 46-262 shall be public records and open to public inspection.

Violation of any provision of this section or the confidentiality provision of K.S.A. ~~1975~~ 1977 Supp. 46-256 is a class B misdemeanor.

Sec. 13. K.S.A. 1977 Supp. 46-265 is hereby amended to read as follows: 46-265. (a) Every lobbyist shall register with the ~~secretary of state~~ commission by completing a registration form prescribed and provided by the commission and by signing and verifying the same. Such registration shall show the name and address of the lobbyist, the name and address of the person compensating whom the lobbyist for lobbying represents, the purpose of the employment representation and, when the lobbyist receives compensation for lobbying, the method of determining and computing the such compensation of the lobbyist. If the lobbyist is compensated or to be compensated represents more than one person for lobbying by more than one employer or is to be engaged in more than one employment, the relevant facts listed above shall be separately stated for each employer and each employment person represented, but only one registration fee each year shall be required of one lobbyist. Whenever any new lobbying employment or lobbying position representation is accepted by a lobbyist already registered hereunder, he or she shall report the same on

forms prescribed and provided by the commission before engaging in any lobbying activity related to such new employment or position representation, and such report shall be filed, when made, with the secretary--of--state commission. Whenever the lobbying of a lobbyist concerns a legislative matter, the secretary--of--state commission shall promptly transmit copies of each registration and each report filed under this act to the secretary of the senate and the chief clerk of the house of representatives.

(b) Any person may register as a lobbyist under this section. Such registration shall expire annually on December 31. In any calendar year, before engaging in lobbying, persons to whom this section applies shall register or renew their registration hereunder. Every person registering or renewing his or her registration shall pay to the secretary--of--state commission a fee of ten dollars (\$10). The secretary--of--state commission shall remit all moneys received under this section to the state treasurer, and the state treasurer shall deposit the same in the state treasury to the credit of the state general fund.

(c) Any person who has registered as a lobbyist pursuant to this act may file, upon termination of such person's lobbying activities, a statement terminating such person's registration as a lobbyist. Such statement shall be on a form prescribed by the commission and shall state the name and address of the lobbyist, the name and address of the person compensating the lobbyist for lobbying and the date of the termination of the lobbyist's lobbying activities.

Sec. 14. K.S.A. 1977 Supp. 46-266 is hereby amended to read as follows: 46-266. (a) The commission shall furnish to the secretary of state a copy of every registration and report filed with the commission pursuant to K.S.A. 1977 Supp. 46-265, as amended.

(b) The secretary of state shall maintain alphabetical listings of all lobbyists showing their employers and appointing

authorities and the purpose of their employment or position. Such listing shall be supplemented by indices showing employers and the appointing authorities and relevant information as to each. All registration papers and reports made under ~~section 5+~~ K.S.A. 1977 Supp. 46-265, as amended, and furnished to the secretary of state hereunder shall be open to public inspection at all reasonable times. The listings and supplemental indices provided for by this section shall be maintained current at all times and from time to time each year shall be printed, published and distributed by the secretary of state.

Sec. 15. K.S.A. 1977 Supp. 46-268 is hereby amended to read as follows: 46-268. (a) Except as provided in subsection (b), every lobbyist shall file with the secretary-of-state commission a verified report of employment lobbying representation and expenditures on a form prescribed and provided by the commission. Such reports shall be filed for each of the months of January, February, March and April and for each of the periods from May 1 to June 30, inclusive, from July 1 to September 30, inclusive, and from October 1 to December 31, inclusive. Such reports shall be filed by the tenth--(10th) twentieth (20th) of the month immediately following the reporting period. Reports-shall-only-be required-for-reporting-periods-during-which-expenditures-are-made or-gifts,-payments-or-honoraria-are-given-which-are--required--to be-reported-under-K.S.A.-1975-Supp.-46-269.

(b) Whenever more than one lobbyist represents a person, one such lobbyist shall be designated as the reporting lobbyist, who shall report all reportable expenditures, gifts, honoraria or payments made by or on behalf of the person represented. The amount or value of expenditures, gifts, honoraria or payments made by or on behalf of the person represented shall be cumulated for the purpose of any reporting requirements. Each lobbyist for a person represented by more than one lobbyist and the person so represented shall report to the reporting lobbyist designated by such person all expenditures, gifts, honoraria and payments made by or on behalf of the person represented prior to the date of

the report to which such transactions are allocated. Every lobbyist for a person represented by more than one lobbyist, other than the reporting lobbyist designated by such person, shall file, upon registering as required by K.S.A. 1977 Supp. 46-265 and amendments thereto, an affidavit of that fact with the commission and shall not be required to file the reports required by subsection (a) of this section.

(c) The commission shall furnish to the secretary of state a copy of every report and affidavit filed with the commission pursuant to this section, and all reports and affidavits so furnished shall be open to public inspection at all reasonable times.

Sec. 16. K.S.A. 1977 Supp. 46-269 is hereby amended to read as follows: 46-269. (a) Each report under K.S.A. ~~1975~~ 1977 Supp. 46-268, as amended, shall disclose the following: ~~(a)~~ (1) The full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying represented by the lobbyist.

~~(b)~~ (2) the aggregate amount or value of all expenditures made (except for expenses of general office overhead) and individual expenditures of less than one dollar (\$1) by the lobbyist or by his or her employer for or in direct relation to lobbying by or on behalf of the person represented during the reporting period, if such expenditures to any one vendor exceed fifty dollars (\$50). Individual expenditures of less than one dollar ~~(b)~~ shall not be required to be reported under this subsection ~~(b)~~. Such expenditures shall be reported according to the categories of expenditures established by rules and regulations of the governmental ethics commission contained in the definition of "expenditure" in section 21. With regard to expenditures for entertainment or hospitality which is primarily food and beverages, only amounts expended on a state officer or employee or on such officer or employee's spouse shall be considered to be for or in direct relation to lobbying. Notwithstanding the requirements of this ~~subsection~~ paragraph (2)

and subsection ~~(e)~~ paragraph (2), no lobbyist shall be responsible to report any expenditure by his or her employer of which he or she has no knowledge. i

~~(e)~~ (3) all gifts, honoraria or payments, if made by the lobbyist or by or on behalf of the person represented, to an individual state officer or employee, or to the spouse of such officer or employee, in an aggregate amount or value in excess of ten dollars (\$10) by the lobbyist to any state officer or employee during the reporting period, including the type of gift or purpose of the honoraria or payment and the amount or value thereof.

~~Whenever more than one lobbyist is employed by a single employer, the reports required by this section relating to such employer shall be made by only one such lobbyist and that lobbyist shall be the lobbyist who is most directly connected with the particular expenditure or gift, honoraria or payment. No expenditure or gift, honoraria or payment required to be reported by this section shall be reported by more than one lobbyist.~~

(b) Expenditures required to be reported hereunder shall be allocated (1) to the reporting period when the debt is incurred if the amount is then known or ascertainable or (2) to the reporting period when the amount becomes known or ascertainable if the amount is not initially known or ascertainable, whichever occurs first.

(c) Gifts, honoraria and payments required to be reported hereunder shall be allocated to the reporting period when accepted by the state officer or employee. When a gift, honoraria or payment is composed of separate transfers deferred over more than one reporting period, the total value thereof shall be allocated to the reporting period in which the state officer or employee accepts the initial transfer.

(d) For the purposes of this section, "gift" includes hospitality in the form of food and beverages to any state officer or employee in an aggregate amount or value in excess of fifty dollars (\$50) during the reporting period.

Sec. 17. K.S.A. 1977 Supp. 46-270 is hereby amended to read as follows: 46-270. The ~~secretary-of-state~~ commission shall obtain suitable name tags in two colors, of a size not smaller than two inches by three inches, to be fastened on the outside of the wearer's garment with lettering adequate in size and clarity to be readable at a distance of three feet by individuals of normal vision, bearing the name of the lobbyist, the names of the persons compensating or appointing the lobbyist and the year. The ~~secretary-of-state~~ commission shall present to each individual registering under ~~sections-50-and-51~~ K.S.A. 1977 Supp. 46-264 and 46-265, and amendments thereto, one such tag, and such tag shall be worn by the lobbyist when lobbying in the state capitol building.

Sec. 18. K.S.A. 1977 Supp. 46-272 is hereby amended to read as follows: 46-272. No ~~lobbyist~~ person having a special interest, and no person on behalf of such a person, shall pay or offer or agree to pay to any state officer or employee, candidate for state office or an ~~association~~ associated person thereof a price, fee, compensation or other consideration for the sale or lease of any property or the furnishing of services which is substantially in excess of that which other persons in the same business or profession would charge in the ordinary course of business.

Sec. 19. K.S.A. 1977 Supp. 46-273 is hereby amended to read as follows: 46-273. (a) No ~~lobbyist~~ person having a special interest, and no person on behalf of such a person, shall offer employment or employ any state officer or employee or associated person thereof for a representation case, with intent to obtain improper influence over a state agency.

(b) No ~~lobbyist~~ person having a special interest, and no person on behalf of such a person, shall offer employment or employ any state officer or employee or associated person to use or attempt to use threat or promise of official action in an attempt to influence a state agency in any representation case.

Sec. 20. K.S.A. 1977 Supp. 46-275 is hereby amended to read

as follows: 46-275. Giving false lobbying information is knowingly and intentionally (1) making a false or incomplete statement on any registration paper under K.S.A. 1975 1977 Supp. 46-265, or

(2) making or causing to be made a false or incomplete report under K.S.A. 1975 1977 Supp. 46-268 and 46-269.

Giving false lobbying information is a class B misdemeanor.

New Sec. 21. (a) "Expenditure" means the payment or contract for payment:

(1) For the provision of hospitality in the form of food and beverage to any state officer or employee or his or her spouse, except bona fide personal or business entertaining;

(2) for the giving of any gift, honoraria or payment to any state officer or employee or his or her spouse, except bona fide personal or business gifts, honoraria or payments;

(3) directly related to the production and communication of lobbying information to any state officer or employee by any person other than an individual;

(4) directly related to the production and communication of mass media communications, (letter writing campaigns and similar transactions) which explicitly promote or oppose a clearly identified legislative matter, rule and regulation or representation case and urges or requests the recipient to communicate directly with state officers or employees in regard thereto.

(b) "Expenditure" does not include the payment or contract for payment:

(1) For the preparation of proposals, position papers and similar documents;

(2) to employ another to lobby on one's behalf;

(3) for personal travel and subsistence of an individual engaged in lobbying;

(4) which is reported in compliance with the campaign finance act.

(5) associated with any news story, commentary, or

editorial distributed in the ordinary course of business by a broadcasting station, newspaper or other periodical publication; or

(6) of contributions to membership organizations, associations or similar entities where the funds are used to make expenditures attributable to the entity or its representatives.

New Sec. 22. (a) "Gift" means the transfer of money or anything of value unless legal consideration of a reasonably equal or greater value is received in return.

(b) "Gift" does not mean:

(1) The provision of hospitality in the form of food and beverage;

(2) any bona fide personal or business gift or entertainment; or

(3) any contribution reported in compliance with the campaign finance act.

New Sec. 23. (a) The commission may require any person to file a report or statement for any period for which such person has failed to file a report or statement required to be filed by such person pursuant to this act. Such report or statement shall be filed within ten (10) days after receipt of notice from the commission, and a copy of the notice of the failure to file shall be part of the public record.

(b) The commission may require any person to file an amended report or statement for any period for which the report or statement filed by such person pursuant to this act contains material errors or omissions. Such amended report or statement shall be filed within thirty (30) days after receipt of notice from the commission, and a copy of the notice of the errors and omissions shall be part of the public record.

Sec. 24. K.S.A. 1977 Supp. 46-221, 46-230, 46-233, 46-239, 46-240, 46-247, 46-248, 46-250, 46-252, 46-254, 46-259, 46-265, 46-266, 46-268, 46-269, 46-270, 46-272, 46-273 and 46-275 are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the statute book.

8/17/77

PROPOSED BILL NO. _____

By Special Committee on Elections

AN ACT concerning conflicts of interests of certain public officers and employees; amending K.S.A. 75-4301, 75-4302, 75-4303a, 75-4304, 75-4305 and 75-4306 and repealing the existing sections; also repealing K.S.A. 1977 Supp. 46-279.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 75-4301 is hereby amended to read as follows: 75-4301. The following words and terms, when used in this act and the acts of which this act is amendatory, shall have the meanings respectively ascribed to them herein:

Substantial interest. The ownership by an individual or his such individual's spouse, either individually or collectively of a legal or equitable interest exceeding five thousand dollars (\$5,000) or five percent (5%) of any business, whichever is less, and also including the receipt by an individual or his such individual's spouse directly or indirectly of any salary, gratuity, other compensation or remuneration or a contract for or promise or expectation of any such salary, gratuity, other compensation or remuneration having a dollar value of one thousand dollars (\$1,000) or more in the current or immediately preceding (or succeeding) calendar year from any business or combination of businesses, and also including the holding of the position of officer or director of any business, irrespective of the amount of compensation or remuneration received by the person holding any such position. If a person's salary, compensation or other remuneration is a portion or percentage of a fee paid to a business or combination of businesses, a person shall have a substantial interest in any client who pays a fee to such business or combination of businesses from which fee such person receives one thousand dollars (\$1,000) or more in the current or

delete

Atch. III

immediately preceding calendar year.

Business. Any corporation, association, partnership, proprietorship, trust, joint venture, ~~and every~~ or any other business interest, including ownership or use of land for income or any municipal or quasi-municipal corporation.

Local public office. ~~A position of public trust or agency, created by the Kansas constitution, by statute, by executive decree or by an ordinance or resolution of a municipal or quasi-municipal corporation passed in pursuance of legislative authority. Any office of any municipal or quasimunicipal corporation, or any office created by ordinance or resolution thereof.~~

Local public officer. ~~Any person who holds public office in the state of Kansas, except that an attorney at law, acting only in his professional capacity, who holds no other public office shall not be construed to be a public officer for the purposes of this act, nor shall such term include any notary public or any person who holds an office in any political party and who holds no other public office~~ who holds a local public office.

Local public employee. ~~Any employee of the state of Kansas or any municipal or quasi-municipal corporation, except that an attorney at law, acting only in his professional capacity, who holds no other public employment shall not be construed to be a public employee for the purposes of this act.~~

Municipal corporation. Any city incorporated under the laws of the state of Kansas.

Quasi-municipal corporation. Any county, township, school district, drainage district, or any other governmental subdivision in the state of Kansas having authority to receive expend or hold public moneys or funds.

Contracts. Agreements including but not limited to sales and conveyances of real and personal property and agreements for the performance of services.

Acts. The exercise of power or authority or performance of any duty incident to local public office or employment.

Sec. 2. K.S.A. 75-4302 is hereby amended to read as follows: 75-4302. (a) Every candidate for elective local public office, at the time and place of filing his such candidate's declaration of candidacy or at the time of his such candidate's appointment as a candidate, shall file a written report disclosing all of his such candidate's substantial interests. ~~On or before July 1, 1970, every candidate for elective public office who filed his declaration of candidacy prior to the effective date of this act, and every elected public officer who has not filed a disclosure of substantial interests shall file in the office of the election officer with whom such officer is required to file his declaration of candidacy for public office, a written report disclosing all of his substantial interests.~~ Within thirty (30) days after he takes taking office, any person who is appointed to fill a vacancy in an a local elective public office shall file, in the office where his such person's predecessor filed his or her declaration of candidacy, a written report disclosing all of his such person's substantial interests.

~~(b) At the time of his taking office, every public officer or employee appointed or employed to serve as a board member of, or the head or executive officer of, any state agency, department, board, bureau, office, institution, council or commission in the executive, legislative or judicial branch of state government and every public officer or employee exercising supervisory authority over a primary division or subdivision thereof shall file in the office of the secretary of state a written report disclosing all of his substantial interests.~~

~~(c) On or before July 1, 1970, every appointive public officer or employee required to file a disclosure of interests at the time of his appointment, who has not filed such disclosure, shall file a written report disclosing his substantial interests in the manner prescribed by law.~~

~~(d)~~ (b) Whenever any change shall occur in the substantial interests of any person candidate required by law this section to file a disclosure of such interests, he such candidate shall file

Walt

a supplemental report disclosing ~~this~~ the change within ten (10) days thereof.

(c) ^{Governmental ethics commission} The secretary of state shall prescribe, by rules ~~or~~ and regulations, prescribe the manner and form for filing the disclosures of substantial interests required by ~~law~~ this section.

Sec. 3. K.S.A. 75-4303a is hereby amended to read as follows: 75-4303a. The governmental ethics commission shall render advisory opinions on the interpretation or application of ~~the general conflict of interests law, as contained in K.S.A. 1973 Supp. 75-4301 to 75-4306, inclusive, and amendments thereto~~ provisions of this act. Such opinions shall be rendered after receipt of a written request therefor by a local public officer or employee or by any person who has filed as a candidate for local elective public office. Any person who requests and receives such advisory opinion, and who acts in accordance with the provisions thereof, shall be presumed to have complied with the provisions of ~~the general conflict of interests law~~ this act.

X A copy of any advisory opinion rendered by the commission shall be ^{submitted to the Commission} filed by it in the office of the secretary of state, and any opinion so filed shall be open to public inspection. All requests for advisory opinions shall be directed to the ^{GEC} secretary of state (who shall notify the commission thereof.) The governmental ethics commission shall administer ~~the act of which this section is a part~~ this act and may adopt rules and regulations therefor. The committee on governmental ethics is hereby abolished on the effective date of this act and the powers and duties of said committee are hereby on said date transferred to and conferred upon said commission. Opinions of said committee issued prior to the effective date of this act shall continue to be effective until withdrawn or overruled by the commission ~~to the extent that such opinions are not in conflict with 1974 Senate bills 656 and 689.~~

Sec. 4. K.S.A. 75-4304 is hereby amended to read as follows: 75-4304. (a) No local public officer or employee

~~shall, acting~~ in his ~~such~~ capacity ~~as such officer or employee,~~ shall make or participate in the making of a contract with any person or business by which he such officer or employee is employed or in whose business he such officer or employee has a substantial interest, and no such person or business shall enter into any contract where any local public officer or employee, acting in such capacity, is a signatory to or a participant in the making of such contract and is employed by or has a substantial interest in such person or business.

(b) A local public officer or employee does not make or participate in the making of a contract if he such officer abstains from any action in regard to the contract.

(c) This section shall not apply to ~~the following:~~

~~(1)~~ contracts let after competitive bidding has been advertised for by published notice; ~~and~~

~~(2)~~ or contracts for property or services for which the price or rate is fixed by law.

~~(b)~~ (d) Any public officer or employee who is convicted of violating this section shall forfeit his or her office or employment.

Sec. 5. K.S.A. 75-4305 is hereby amended to read as follows: 75-4305. (a) Any local public officer or employee who has not filed a disclosure of substantial interests and who, while acting in his or her official capacity, shall pass upon any matter which will affect any business in which such officer or employee ~~shall hold~~ holds a substantial interest, shall, before he such officer or employee acts upon such matter, file a written report of the nature of said interest with the office of the ~~secretary of state, if such person is a state officer or employee, or if such person is an officer or employee of a municipal or quasi-municipal corporation,~~ with the county clerk of the county in which all or the largest geographical part of ~~such~~ the municipal or quasi-municipal corporation of which such officer or employee is an officer or employee is located.

(b) A local public officer or employee does not pass or act

upon any matter if he such officer or employee abstains from any action in regard to the matter.

Sec. 6. K.S.A. 75-4306 is hereby amended to read as follows: 75-4306. (a) Any person who knowingly and intentionally violates any provision of ~~section 3 or 4 of this act, and any person K.S.A. 75-4304 or 75-4305, and amendments thereto,~~ or who knowingly and intentionally fails to make file any disclosure of substantial interest required by law K.S.A. 75-4302, and amendments thereto, shall be guilty of a class A B misdemeanor.

(b) If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section.

Sec. 7. K.S.A. 75-4301, 75-4302, 75-4303a, 75-4304, 75-4305 and 75-4306 and K.S.A. 1977 Supp. 46-279 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.



GOVERNMENTAL ETHICS COMMISSION

109 W. NINTH
TOPEKA, KANSAS 66612
PHONE: (913) 296-4219

M E M O R A N D U M

DATE: August 17, 1977

SUBJECT: Recommended Amendments in the Campaign Finance Act Approved by the Governmental Ethics Commission

1. K.S.A. 1976 Supp. 25-4108(a) and (c). Amend as follows: 172

(a) Every treasurer shall file a report prescribed by this section in the office of the secretary of state so that it is received by such office on or before each of the following days: (1) The seventh day preceding the primary election, which report shall be for the period beginning on ~~December~~ January 1 of the preceding year and ending on the tenth day preceding the primary election, inclusive; (2) the tenth day following the primary election, which report shall be for the period beginning nine (9) days before the primary election and ending the date of the primary election, inclusive; (3) the seventh day preceding a general election, which report shall be for the period beginning the day after the primary election and ending ten (10) days before the general election, inclusive; (4) ~~December 3 of an election year~~ the tenth day following the general election, which report shall be for the period beginning nine (9) days before the general election and ending on the date of the general election, inclusive; and (5) January 10 of the year following an election year, which report shall be for the period beginning the day after the general election and ending on ~~November 30~~ December 31, inclusive, ~~each such period to be reported separately on the same date~~; and (56) January 10 of an election year ~~December 3 of a year when no election is held~~, which report shall be for the period beginning on ~~December~~ January 1 of the preceding year and ending on ~~November 30~~ December 31 of the same year in which it is filed.

(c) Every report required to be filed on the tenth day following a primary election shall show and identify all receipts and expenditures allocated or required to be allocated to the primary election. Every report required to be filed on the tenth day ~~December 3~~ immediately following a general election shall show and identify all receipts and expenditures allocated to the general election.

Comment. From time to time we have heard comments that the non-calendar year structure of the reporting periods causes problems, particularly for party committees and political committees. The suggested amendment or something similar would reduce the confusion and relieve some of the reporting burden.

Atch. IV

2. K.S.A. 1976 Supp. 25-4108(b) and (d). Amend as follows: *yo*

(b) Each report required by this section shall state: (1) Cash on hand on the first day of the reporting period; (2) ~~except as provided in subsection (d);~~ the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of twenty-five dollars (\$25) during a calendar year together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan; (3) the aggregate of all contributions not otherwise reported under this section, but treasurers shall be required to maintain, in their own records, the information required by paragraph (2) of subsection (b) for each such contribution; (34) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners, and literature; (45) the aggregate amount of contributions for which the name and address of the contributor is not known; (56) each contribution, rebate, refund, or other receipt not otherwise listed; (67) the total of all receipts; (78) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of twenty-five dollars (\$25), with the amount, date, and purpose of each and the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each; (89) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate or to or for any candidate committee, party committee or political committee in excess of twenty-five dollars (\$25) and which is not otherwise reported under paragraph (78), including the amount, date and purpose thereof; (910) the aggregate of all expenditures not otherwise reported under this section; and (1011) the total of expenditures.

~~(d) Party committees and political committees shall be required to itemize, as provided in paragraph (2) of subsection (b), only contributions received from any person who contributed an aggregate amount or value in excess of ten dollars (\$10) during the calendar year. All other contributions shall be reported in an aggregate amount, but such committees shall be required to maintain, in their own records, the information required by paragraph (2) of subsection (b) for each such contribution.~~

Comment. Such an amendment would not lessen the recordkeeping requirements, but it would greatly reduce the detail of what is required to be reported.

3. K.S.A. 1976 Supp. 25-4133. Amend as follows: *yo is amended*

Intentional violation of any provision of K.S.A. 1976 Supp. 25-4103, 25-4104, 25-4105, 25-4106, 25-4107, 25-4111, 25-4113, or 25-4126, and amendments thereto, or the confidentiality provision of K.S.A. 1976 Supp. 25-4122 is a class A misdemeanor.

Comment. Presently the violation of this section is not subject to the criminal penalties of the Campaign Finance Act. This amendment would include the section in the general penalty section of the Act.

4. K.S.A. 1976 Supp. 25-4137 through 25-4140. Amend as follows:

no as amended

25-4137. For any calendar year during which a Every candidate for state office who intends to expend or have expended in his or her behalf an aggregate amount or value of less than five hundred dollars (\$500) and who intends to receive or have received in his or her behalf contributions in an aggregate amount or value of less than five hundred dollars (\$500) and during which such candidate intends to receive or have received in his or her behalf contributions in excess of fifty dollars (\$50) from any one contributor, the candidate shall file an affidavit of such intent within twenty (20) days of the deadline for filing for office in each the primary and general election shall, upon filing for office, file an affidavit of such intent with the secretary of state. No report required by K.S.A. 1976 Supp. 25-4108, shall be required to be filed by or for such candidate.

25-4138. Any candidate who has signed an affidavit pursuant to K.S.A. 1976 Supp. 25-4137 and who, in the year for which such affidavit is filed makes or has made expenditures or receives or has received contributions in an aggregate amount or value in excess of five hundred dollars (\$500) or receives contributions from any one contributor in excess of fifty dollars (\$50) shall, within three (3) days of the date when expenditures or contributions exceed such amount five hundred dollars (\$500), file all past due reports and shall be required to file all future reports on the dates required by K.S.A. 1976 Supp. 25-4108.

25-4139. For any calendar year during which a political committee or party committee intends to expend an aggregate amount or value of less than five hundred dollars (\$500) and intends to receive contributions in an aggregate amount or value of less than five hundred dollars (\$500) and during which such political committee intends to receive no contributions in excess of fifty ten dollars (\$1050) from any one contributor, the treasurer of such political committee or party committee shall file an affidavit of such intent with the secretary of state. Such treasurer shall not be required to file the reports required by K.S.A. 1976 Supp. 25-4108, for the year for which such affidavit is filed. Such affidavit may be filed at any time prior to the date that the first report for such year is required to be filed by K.S.A. 1976 Supp. 25-4108.

25-4140. The treasurer or any political committee or party committee for which an affidavit has been filed pursuant to K.S.A. 1976 Supp. 25-4139 and which, in the year for which such affidavit is filed, makes expenditures or receives contributions in an aggregate amount or value in excess of five hundred dollars (\$500) or receives contributions from any one contributor in excess of ten fifty dollars (\$1050) shall, within three (3) days of the date when such expenditures or contributions exceed such amount, file all past due reports and shall be required to file all future reports on the dates required by K.S.A. 1976 Supp. 25-4108.

Comment. Presently the provisions relating to exemption from reporting requirements are inconsistent and somewhat awkward. There is no exemption whatsoever for party committees, but there is an exemption for candidates

contingent upon not raising or spending more than \$500 in each the primary and general election period. And in addition, political committees qualify for the exemption if they do not raise or spend more than \$500 during a calendar year, nor receive more than \$10 in contributions from any one contributor. This recommendation would extend the exemption to party committees and standardize its applications to all three groups covered by the Campaign Finance Act.

5. New Section. Amend Campaign Finance Act to provide: *new*

(a) The treasurer of each candidate, candidate committee, party committee or political committee which anticipates spending five hundred dollars (\$500) or more in a calendar year shall designate one or more national or State banks as campaign depositories of such candidate or committee, and shall maintain a checking account for the candidate or committee at each such depository. All receipts received by such candidate or committee shall be deposited in such accounts. No expenditure may be made by such candidate or committee except by check drawn on such accounts, other than petty cash expenditures as provided in subsection (b).

(b) A candidate, candidate committee, party committee or political committee may maintain a petty cash fund out of which it may make expenditures not in excess of \$50 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Commission, and such statements and reports thereof shall be furnished to the Commission as it may require.

Comment. This language provides that all treasurers who anticipate spending five hundred dollars (\$500) or more in a calendar year shall designate a depository which shall be a separate segregated account and shall deposit all receipts in and make all expenditures from that account. Not only would such a requirement facilitate recordkeeping for candidates and committees, it would ease the burden of filing reports by organizing and documenting all transactions and reports.

6. New Section. Amend Campaign Finance Act to provide: *new attempts to enforce*

The provisions of this act shall apply to any person who intentionally aids, abets, hires, counsels, or procures another to commit a violation of this act and the commission shall have jurisdiction to hear and determine any complaints filed pursuant to this section. *new attempt to come back*

Comment. In Opinion No. 77-151, the Attorney General concluded that the Governmental Ethics Commission has no jurisdiction to entertain a complaint against any person other than a person to whom the Campaign Finance Act specifically applies. In other words, a complaint may not be brought against an individual who aids or abets a treasurer, with or without the treasurer's knowledge, violating the Act. The proposed language would incorporate the principals of criminal responsibility and allow complaints to be brought against such persons.

7. New Section. Amend Campaign Finance Act to provide:

Amend the Campaign Finance Act to provide that the Commission may levy or impose fines and other civil remedies for those situations in which the Campaign Finance Act is violated without the requisite intent to be criminally liable.

Comment. Aside from criminal penalties, there are no sanctions that can be levied by the Commission on those who perform their duties in a grossly negligent fashion, whereas the addition of civil remedies including fines would provide an alternative for the Commission if it concludes an individual violated the Campaign Finance Act, but not intentionally. However, under the present wording, either house of the Legislature may be able to impose censure or disqualification on a member or initiate an impeachment proceeding where appropriate.



GOVERNMENTAL ETHICS COMMISSION

109 W. NINTH
TOPEKA, KANSAS 66612
PHONE: (913) 296-4219

Opinion No. 77-

TO ALL INTERESTED PERSONS:

Pursuant to K.S.A. 1976 Supp. 46-254, the Governmental Ethics Commission takes this opportunity to render its opinion on the issue of whether costs associated with internal organizational communications of business, labor or professional organizations which in whole or in part explicitly promote or oppose a clearly identified legislative matter, and urges the members of the organization to communicate directly with state officers or employees in regard to the issue, constitute "expenditures" for lobbying under K.S.A. 1976 Supp. 46-215 et seq.

ALTERNATIVE I

K.S.A. 1976 Supp. 46-225 defines "lobbying" in pertinent part to mean, "(a) promoting or opposing in any manner (1) action or non-action by the legislature on any legislative matter. . ." (Emphasis added) It is clear from a review of this language and specifically the phrase "in any manner", that the Legislature intended a broad definition of those activities which constitute "lobbying". The Commission has on several occasions faced questions concerning the breadth of this statutory definition. Due to the very breadth of the definition, the Commission has adopted the view that the legislative mandate is generally intended to extend to the full extent of constitutionally permissible regulation in this area of legislation.

With this rule of construction in mind, the Commission adopted K.A.R. 19-60-3(c)(1)(iv). That section defines "expenditure" to mean the payment or contract therefore "directly related to the production and communication of mass media communications, letter writing campaigns and similar transactions which explicitly promote or oppose a clearly identified legislative matter, rule and regulation or case and urges or requests the recipient to communicate directly with state officers or employees in regard thereto." This language was taken in part from United States v. Harriss 347 U.S. 612, 74 S. Ct. 808 (1954) which involved constitutional determinations concerning a federal lobbying statute containing broad language defining lobbying. There lobbying was defined by statute to include in part "to influence directly or indirectly the passage or defeat of any legislation by the Congress of the United States." 2 U.S.C. Sec. 307. The Court held in this case, although this language was

Atch. V

unconstitutionally broad in some areas, that it did apply to and was constitutionally permissible for it to apply to "artificially stimulated letter campaigns" 347 U.S. 620, 74 S. Ct. 813. There, "artificially stimulated letter campaigns" consisted of campaigns to induce various interested groups and individuals to communicate by letter with members of Congress on certain legislation. 347 U.S. 615, 74 S. Ct. 811.

While the Commission recognizes that there may be some difficulties for organizations in computing the dollar value involved, especially in the case of newsletters which only in part constitute "expenditures", we nonetheless believe, since it may be argued that such communications are more likely to obtain the desired results than external communications, that costs associated with internal organizational communications which otherwise meet the definition of "expenditure" do constitute "expenditures" under K.A.R. 19-60-3(c)(1)(10). In the case of newsletters which are devoted only in part to lobbying expenditures, it is our opinion that a reasonable estimate of that portion which relates to lobbying may be made by taking the entire cost of production and distribution of the newsletter and multiplying that figure by the percent of space in the entire newsletter devoted to lobbying expenditures.

ALTERNATIVE II

yes
K.S.A. 1976 Supp. 46-255 defines "lobbying" in pertinent part to mean, "(a) promoting or opposing in any manner (1) action or non-action by the legislature on any legislative matter. . . ."

The above statutory language when taken in context of the entire Act has lead to several interpretative problems including the one raised above. To deal with problems of a similar nature, the Commission adopted K.A.R. 19-60-3(c)(1)(iv) which defines lobbying "expenditure" to mean, "directly related to the production and communication of mass media communications, letter writing campaigns and similar transactions which explicitly promote or oppose a clearly identified legislative matter, rule and regulation or case and urges or requests the recipient to communicate directly with state officers or employees in regard thereto."

The issue raised here is whether internal organizational communications of the type described above are "similar transactions" within the meaning of the above rule.

We first note that a somewhat analogous question was raised under the Campaign Finance Act in Opinion No. 74-57. There we determined that internal organizational communications of business, labor and professional organizations which endorsed candidates did not constitute in-kind contributions to the candidate. The unannounced rationale for this determination was that the primary goal of the Act was to determine the amount of actual cash or goods and services given to a

candidate and beyond a certain point those matters which aid a candidate become too remote to trigger the reporting requirements, especially when the amounts involved require intricate subjective prorations of amounts which may be immaterial in the first place.

We believe a similar analysis is applicable here. The primary purposes of the lobbying law as applied to this situation are to make sure that those persons who expend certain sums of money are registered as lobbyists and once registered, that they report expenditures which might otherwise be hidden from public scrutiny. Here, the overwhelming majority of organizations covered by this factual situation will already have a registered lobbyist and the expenditures are not hidden but rather are readily apparent. In addition, we are dealing with dollar amounts requiring intricate subjective prorations which generally would not trigger a reporting requirement anyway.

It is, therefore, our opinion that costs associated with internal organizational communications of business, labor or professional organizations of the nature described above do not constitute "expenditures" for lobbying under K.A.R. 19-60-3(c)(1)(iv).

Sincerely,