

M I N U T E S

SPECIAL COMMITTEE ON ELECTIONS

September 6-7, 1977Members Present

Senator Paul Burke, Chairperson
Representative Norman Justice, Vice-Chairperson
Senator Bill Mulich
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

Debby Schmidt, Governor's Office, Topeka
Gary Caruthers, Kansas Medical Society, Topeka
Mary Ritter, Secretary of State's Office, Topeka
Dean Mordy, Common Cause, Fairway
Mike Hrynewich, Kansas Savings and Loan League, Topeka
Roger Myers, Topeka Daily Capital
Roger N. Wilson, WIBW, TV, Topeka
Neil Shortlidge, League of Kansas Municipalities, Topeka
Ralph McGee, Kansas AFL-CIO, Topeka
Lynn Hellebust, Governmental Ethics Commission, Topeka
Deb Harrison, Associated Students of Kansas
Randy Myers, Kansas City Star, Topeka

Proposal No. 16 - Campaign Finance Act

Senator Burke called the Special Committee on Elections to order at 10:00 a.m. He called on the Legislative Research staff to give a summary and review of bills which were introduced in the 1977 Legislative Session relating to Campaign Finance. (See Attachment I.) The following bills were considered: H.B. 2318, H.B. 2337, H.B. 2344, H.B. 2500, H.B. 2573, H.B. 2623.

1. H.B. 2318 - Following Committee discussion, Representative Gordon moved that H.B. 2318 be reported adversely. Representative Modrcin seconded the motion. Motion carried.
2. H.B. 2337 - Chairman Burke stated that action on H.B. 2337 would be delayed until the October meeting when Representative Bunten could be heard on the bill.
3. H.B. 2344 - Following Committee discussion, Representative Jones moved that H.B. 2344 be reported adversely. Representative Schmidt seconded the motion. Motion carried.
4. H.B. 2500 - Committee discussion followed. Representative Jones spoke in behalf of the bill. She said that H.B. 2500 is similar to recent legislation enacted by the State of Ohio. Mr. Hellebust stated the

H.B. 2500 (cont'd.)

Governmental Ethics Commission had not taken a stand on this legislation. Examples were given of action that might be considered campaign fraud. Representative Jones then moved to report H.B. 2500 favorably. Representative Schmidt seconded the motion. Motion carried.

5. H.B. 2573 - Section 1. Committee discussion on whether or not to include constitutional issues under public disclosure provisions of the Campaign Finance Act. Senator Smith made a conceptual motion to include constitutional issues in the Campaign Finance Act. Representative Ott seconded the motion. Motion carried.

Sections 2 and 3. Committee already has made a decision with respect to filing of reports and records. The decision was made to have filings of reports and records with Secretary of State.

Section 4. Following Committee discussion, Senator Smith moved to accept the changes in Section 4. Representative Ferguson seconded the motion. Motion carried.

Section 5. K.S.A. 25-4108(b)(2)(C), page 7, lines 233-236. The decision was made to pass over this change at the present time.

K.S.A. 25-4108(h), page 9, lines 304-308, Representative Jones made a motion to accept the changes in subsection (h). Senator Smith seconded the motion. Motion carried.

Sections 6, 7, 8 and 9. Decision has already been made pertaining to these sections by previous Committee action.

Section 10, page 12, K.S.A. 1976 Supp. 25-4119a (b), lines 418-423. Senator Mulich moved to accept the changes in this subsection. Representative Ott seconded the motion. Motion carried.

Senator Smith made a conceptual motion to amend any of the three bills, state and local conflict of interest and campaign finance, when necessary to reflect language changes such as "chairperson" instead of "chairman", etc. Senator Mulich seconded the motion. Motion carried.

Sections 11, 12 and 13. Decisions already made relative to these sections in previous Committee action.

Sections 14 and 15. Senator Smith moved to accept the changes in Sections 14 and 15. Representative Ott seconded the motion. Motion carried.

Sections 16 through 20. Changes in these sections already dealt with by previous Committee action.

Sections 21 and 22. Committee discussion followed on sections 21 and 22. Mr. Hellebust stated that the Governmental Ethics Commission had suggested the change in Section 21 two years ago. If section 21 is accepted only individuals, candidates, party committees and political committees could make campaign contributions. The section would prohibit contributions from corporations, partnerships and union general funds to help nominate or select a candidate. Representative Ott moved that the changes in Section 21 and 22 be included in separate draft legislation. Representative Jones seconded the motion. Motion carried.

New Section 23, Sections 24 and 25. Representative Gordon moved that the changes in these sections be accepted, as amended, and that all other sections not acted upon be reported adversely. Representative Schmidt seconded the motion. Motion carried. Senator Smith wished to be recorded as voting "no."

6. H.B. 2623 - After Committee discussion, Senator Smith moved that H.B. 2623 be reported adversely. Senator Mulich seconded the motion. Motion carried.

Senator Mulich then moved that the minutes of the August 17-18 meeting be accepted. Representative Ott seconded the motion. Motion carried. The Committee then adjourned for lunch.

Proposal No. 15 - Local Conflict of Interest

Following lunch, the Legislative Research Department staff then presented a review of the policy questions on local level conflict of interest legislation, including questions of financial disclosure, standards of conduct and penalties. (See Attachment II.)

Committee discussion followed on who should file under local conflict of interest provisions. Some members questioned including officials, such as directors of water board districts, under conflict of interest legislation, stating that it was difficult to get people to file for local offices and this action would discourage them from participating.

Mr. Mordy of Common Cause suggesting using the definition of public employee found in the NCSL Model Bill. (See Attachment III.)

Committee discussion followed on whether city managers and department heads should be included, but exclude officials of water districts, fair districts, etc.

Representative Ferguson then moved that all local public officials and candidates included under K.S.A. 25-2502, those elected at primary and general elections, be included under local conflict of interest financial disclosure. Representative Jones seconded the motion. Senator Mulich then made a substitute motion that all local public officials and candidates included under K.S.A. 25-2502, including those officials and employees of Boards of Public Utilities, be included under the local conflict of interest financial disclosure. Representative Justice seconded the motion. Motion carried.

Representative Ferguson then made a conceptual motion to include department heads under the definition of local public officers to come under financial disclosure provisions. (See language in Section 2(b), page 3, 7 RS 1568.) Senator Mulich seconded the motion. Motion carried (4-3).

Representative Gillmore then suggested that a permissive statute be drafted which would leave it up to local units of government to determine who should file financial disclosure statements. Committee discussion followed.

Representative Ferguson then moved that the same provisions for local level candidates, officers and employees be accepted as is required at the state level for what is disclosed. (See Financial Disclosure B. What: (1) Ownership of 5 percent or \$5,000, whichever is less; (2) Compensation of \$1,000 or more; (3) Gifts of \$500; (4) Fees or commissions of \$1,000 or more; and (5) Officer or board member of business.) Representative Ott seconded the motion. Motion carried.

Representative Ott moved a conceptual motion to amend the state conflict of interest law to conform with the local conflict of interest provision (K.S.A. 1976 Supp. 75-4302(d)) concerning filing changes of substantial interest (disclose change within 10 days). Senator Mulich seconded the motion. Committee discussion followed.

Representative Ferguson then made a substitute motion to delete the 10-day requirement on page 3, 7 RS 1568, to make the local and state level conflict of interest conform, and include any changes made in ownership in stock. Representative Schmidt seconded the motion. Committee discussion followed. The vote was four "yes" and four "no" on the substitute motion. Motion failed. The vote was then taken on the original motion to amend the state conflict of interest law to conform with the local conflict of interest provision (K.S.A. 1976 Supp. 75-4302(d)) concerning filing changes of substantial interest (disclosure change within 10 days). Motion carried (5-4).

Committee discussion followed on when disclosures should be filed and standards of conduct.

Senator Burke then stated that the schedule for discussion for the September 7 meeting would be hearings and discussion of Proposal No. 17, Presidential Preferential Primary and then the Committee would return to the discussion of policy issues on local conflict of interest. The meeting was then adjourned.

September 7, 1977

Proposal No. 17 - Presidential Preferential Primary

Chairman Burke called on the Legislative Research Department staff to give a summary and review of H.B. 2144, which provides for a presidential preference primary to be held on the first Tuesday in June in years when candidates for office of President of the United States are to be nominated and elected. (See supplemental information on H.B. 2144 and fiscal note on H.B. 2144 in notebooks.)

Senator Burke then stated that Representative Richard Harper, one of the sponsors of H.B. 2144, was unable to be present to give a statement on H.B. 2144 so Representative Glee Jones, another sponsor of the bill, would present a statement in support of H.B. 2144. Representative Jones then presented a statement summarizing H.B. 2144 and indicating support of the legislation. (See Attachment IV.) Committee discussion followed.

Senator Burke then distributed a statement from the Kansas Farm Bureau giving background information on the presidential preference primary and presenting arguments for and against the presidential preference primary. (See Attachment V.)

A statement by Richard Loss, Political Science Department, Kansas State University, presenting an alternative to the presidential primary was presented to the Committee. (See Attachment VI.) Committee discussion followed.

Representative Jones said she especially supported the following three arguments in support of the presidential primary:

1. If representative government is to be democratic government, there must be the broadest possible popular participation in selecting elected officials.
2. Candidates would have to direct their campaigns to the population as a whole, rather than to special interest groups that would be represented in delegates selected through the state convention process.
3. It would seem to be political wisdom to give special attention in turbulent times to the feelings of those that believe that the process of electing the President is not sufficiently reflective of the masses.

Committee discussion followed. Representative Jones said that she would recommend the Committee report H.B. 2144 favorably. Representative Ferguson moved that the Committee accept H.B. 2144 but pass it without recommendation to the 1978 Legislature. Senator Smith seconded the motion. Motion carried. Representative Jones wished to be reported as voting "no."

Proposal No. 15 - Local Conflict of Interest

Senator Burke called on Lynn Hellebust, Governmental Ethics Commission to continue the review of policy questions on conflict of interest legislation. Mr. Hellebust distributed a pamphlet to the Committee entitled, "Ethics is Everybody's Business" giving a summary of the Governmental Ethics Commission's duties and responsibilities with respect to the Campaign Finance Law and conflict of interest legislation (see Attachment VII).

Committee discussion then returned to policy questions relating to financial disclosure, who must file and standards of conduct (see Attachment II).

Representative Ferguson moved that municipal judges be included in the list of local candidates, officers and employees to file financial disclosure and to be included in standards of conduct. Representative Schmidt seconded the motion. Motion carried.

Senator Mulich then moved that the statutes reflect clarifying language to include employees of the court in addition to local candidates and officers of the judiciary. Representative Ott seconded the motion. Motion carried.

Representative Ott then moved that items under Standards of Conduct, B. Use of Position

1. Officers and employees cannot:
 - a. Engage in lobbying his or her own state agency for pay;
 - b. Accept compensation for performance of official duties, other than that to which he or she is entitled for such performance;
 - c. Accept from any person with a special interest compensation for property or services in excess of that charged in the ordinary course of business.

be included in the draft legislation for local candidates, officers and employees as they are for state level candidates officers and employees. Senator Mulich seconded the motion. Motion carried.

Committee discussion followed on K.S.A. 1976 Supp. 75-4305. Representative Ferguson moved to insert the word "materially" before affect, line 7, K.S.A. 1976 Supp. 75-4305, so that the language reads, "Any public officer or employee who has not filed a disclosure of substantial interests and who, while acting in his official capacity, shall pass upon any matter which will materially affect . . ." Representative Ott then moved that K.S.A. 1976 Supp. 75-4305 be included in the draft legislation for standards of conduct, local conflict of interest. Representative Gillmore seconded the motion. Motion carried. Representatives Gordon and Jones wished to be recorded as voting "no."

Senator Mulich moved that the language in K.S.A. 1976 Supp. 46-233 and K.S.A. 1976 Supp. 46-234 be included in the draft legislation for standards of conduct, restrictions on past employment, local conflict of interest. Senator Mulich seconded the motion. Motion carried.

Committee discussion followed on whether or not to include the language in K.S.A. 1976 Supp. 46-236 and 46-237 the draft legislation for standards of conduct, receipt or solicitation, local conflict of interest. The decision was made to delay the decision on this matter until the next meeting when information could be presented on what other states have done with respect to the issue.

Senator Mulich moved that the language concerning representation cases used in the state conflict of interest legislation (K.S.A. 1976 Supp. 46-240, 46-242a, 46-242b) be applied to the local level, as they apply (Workmen's Compensation cases would not). Representative Modrcin seconded the motion. Motion carried.

Committee discussion followed on standards of conduct, H. Restrictions on outside employment, I. Personal interest in proposed legislation. No action was taken on these items by the Committee. Committee adjourned for lunch.

Committee discussion followed on including the judiciary in the state level conflict of interest legislation. Representative Ferguson moved to include the judiciary under state level conflict of interest disclosure provisions. Representative Gillmore seconded the motion. Motion carried.

Discussion followed on definition of public employee. Mr. Mordy of Common Cause suggested using the definition of public employee as found in the NCSL Model Conflict of Interest legislation (see Attachment III). Representative Schmidt moved that the definition of "public employee" as used in the NCSL Model Bill be implemented in the state level conflict of interest legislation. Representative Ferguson seconded the motion. Motion failed.

Representative Gillmore moved to include the judiciary (including district court judges) under state level conflict of interest, standards of conduct provisions. Representative Modrcin seconded the motion. Representative Gillmore moved to amend the motion to include judiciary and employees under state level conflict of interest, standards of conduct provisions. Representative Modrcin seconded the motion. Motion carried.

Committee discussion followed on penalties, local conflict of interest provisions. Representative Ferguson moved to adopt Section 6 of 7 RS 1568, draft legislation on local conflict of interest. Representative Jones seconded the motion. Motion carried.

Committee discussion followed on K.S.A. 1976 Supp. 25-4141, failure to file an affidavit of intent. Representative Gillmore moved that the language be clarified in K.S.A. 1976 Supp. 25-4141 to provide for certain exceptions. Representative Jones seconded the motion. Motion carried.

Senator Burke then stated that the agenda for the October 26-27 meeting would include a review of all draft legislation relating to state and local conflict of interest, draft legislation of Rules and Regulations of the Governmental Ethics Commission, and all draft legislation relating to amendments to the Campaign Finance Act. Consideration of Proposal No. 18, Voter Registration would be scheduled for the November 14 and 15 meeting. The meeting adjourned.

Prepared by Myrta Anderson

Approved by Committee on:

Oct. 26, 1977
Date

Attachment I
9-6-77

MEMORANDUM

August 26, 1977

TO: Special Committee on Elections
FROM: Kansas Legislative Research Department
RE: Proposed Legislation, Proposal No. 16 — Campaign Finance Act

The following information contains summaries of the various bills which were introduced in the 1977 Session of the Legislature relating to Campaign Finance and also includes the final action taken on the proposed bills.

Proposal No. 16 — Campaign Finance

1. House Bill No. 2318 repeals K.S.A. 1976 Supp. 25-4137 to 25-4141. From and after December 1, 1977 it will no longer be possible for any candidate to file an affidavit of intent to expend or receive less than \$500 in the primary and the general elections. Every candidate will be required to report to the Secretary of State all receipts and expenditures as authorized by K.S.A. 1976 Supp. 25-4108. The bill was recommended for passage by the House Elections Committee, then withdrawn from the calendar and rereferred to the House Elections Committee.
2. House Bill No. 2337 amends K.S.A. 1976 Supp. 25-4112, 25-4113 and 25-4136 to provide that the aggregate amount contributed for the pair of offices of Governor and Lieutenant Governor and for other state officers elected from the state as a whole shall not exceed \$500 for each primary election and an equal amount for each general election, for the office of State Senator, member of the House of Representatives, district judge, associate district judge, district magistrate judge, district attorney or member of the State Board of Education, \$100 for each primary and an equal amount for each general election.

New Section (1) (b) provides that a person other than an individual or party committee may make contributions to a candidate or candidate committee as an agent of individuals who have made contributions to such person, and a candidate or candidate committee may accept such contributions, except that no such contribution shall be lawful unless: (1) each individual who makes a contribution designates in writing the candidate who is the intended recipient; (2) the contribution is identified in writing as to the individual contributor; and (3) the records thereof are maintained available for audit.

House Bill No. 2337 was referred to the House Elections Committee and hearings were held. The bill remained in the House Elections Committee at the end of the session.

3. House Bill No. 2344 provides that any person failing to file any report or statement required to be filed by the Campaign Finance Act within the time period prescribed shall pay a late filing fee of \$10 for each day that such report or statement remains unfiled, except that no fine shall exceed \$300. In addition, the bill provides that the Governmental Ethics Commission may waive for good cause, payment of any fine imposed. The Commission is to remit promptly all moneys received from fines imposed and upon receipt the State Treasurer is to deposit such moneys in the State Treasury to the credit of the State General Fund.

Attch. I

The bill was referred to the House Elections Committee and hearings were held. The bill remained in the House Elections Committee at the end of the session.

4. House Bill No. 2500, as amended, supplements the Campaign Finance Act by defining and classifying the crimes of unfair campaign practices and campaign fraud.

As amended, the bill specifies certain intentional acts to be unfair campaign practices and provides a penalty of six months imprisonment, a \$1,000 fine or both (Class B misdemeanor) for any violation. Several other enumerated acts are defined in H.B. 2500, as amended, to be campaign fraud and subject to the penalties contained in a Class B misdemeanor.

The amendment to the bill changed the penalty sections from a Class A misdemeanor to a Class B misdemeanor.

H.B. 2500 was referred to the House Elections Committee. It was passed out of Committee with a favorable recommendation and placed on the House calendar. It was then withdrawn from the calendar and referred to the Calendar and Printing Committee. It was passed out of the Calendar and Printing Committee, as amended, with a favorable recommendation and placed on the calendar. H.B. 2500 was then withdrawn from the calendar and rereferred to the House Elections Committee.

5. House Bill No. 2573 amends several sections of the Campaign Finance Act and was recommended by the Governmental Ethics Commission. H.B. 2573 amends K.S.A. 1976 Supp. 25-4102, 25-4103, 25-4104, 25-4105, 25-4108, 25-4110, 25-4113, 25-4117, 25-4118, 25-4119a, 25-4120, 25-4126, 25-4133, 25-4135, 25-4137, 25-4138, 25-4139, and 25-4140 and repeals the existing sections. H.B. 2573 also repeals 1976 Supp. 25-4201.

H.B. 2573 was introduced by the Committee on Calendar and Printing and was referred to the House Elections Committee. Hearings were held on the bill but the bill remained in Committee at the end of the 1977 Legislative Session.

6. House Bill No. 2623 amends K.S.A. 1976 Supp. 25-4108, 25-4113 and 25-4136 and repeals the existing sections. H.B. 2623 requires that party committees and political committees shall be required to itemize only contributions received from any person who contributed an aggregate amount or value in excess of \$25.00 during the calendar year.

H.B. 2623 was introduced by the Committee on Elections, referred to the Elections Committee. The bill was reported favorable for passage out of the Elections Committee and then withdrawn from the calendar. The bill was then rereferred to the Elections Committee.

Attachment

9-6-77

SUMMARY OF KANSAS CONFLICT OF INTEREST LAW
AND MAJOR POLICY QUESTIONS TO BE EVALUATED
WHEN CONSIDERING POSSIBLE STATUTORY
CHANGES

KANSAS LAW	POLICY QUESTIONS
<p>I. Financial Disclosure</p> <p>A. Who:</p> <ol style="list-style-type: none"> 1. <u>State</u> officers and employees must file if in the following categories: <ol style="list-style-type: none"> a. Candidates b. Office holders c. Gubernatorial appointees subject to confirmation d. Employee earning \$15,000 or more per year e. Exceptions: <ol style="list-style-type: none"> (1) Teachers under the Board of Regents (2) All justices, judges and employees of the judicial branch 2. Elected <u>local</u> officials and candidates for such offices must file <p><i>Add Judiciary</i></p>	<p>I. Financial Disclosure</p> <p>A. Who must file?</p> <ol style="list-style-type: none"> 1. All <u>state</u> candidates, officers and employees? <ol style="list-style-type: none"> a. Legislative? <ol style="list-style-type: none"> (1) Elected? (2) Officers and employees? Just certain ones, or all over \$x? b. Executive? <ol style="list-style-type: none"> (1) Elected? (2) Officers and employees? Just certain ones, or all over \$x? c. Judicial? <ol style="list-style-type: none"> (1) Justices, judges and commissioners? (2) Employees? Just certain ones, or all over \$x? 2. All <u>local</u> candidates, officers and employees? <ol style="list-style-type: none"> a. Cities? <ol style="list-style-type: none"> (1) Elected officials? (2) Officers and employees? Just certain ones, or all over \$x? b. Counties? <ol style="list-style-type: none"> (1) Elected officials? (2) Officers and employees? Just certain ones, or all over \$x? c. School districts? <ol style="list-style-type: none"> (1) Elected officials? (2) Officers and employees? Just certain ones, or all over \$x? d. Other?

Attch. II

KANSAS LAW

POLICY QUESTIONS

B. What:

1. Ownership of 5% or \$5000, whichever is less
2. Compensation of \$1000 or more
3. Gifts of \$500
4. Fees or commissions of \$1000 or more
5. Officer or board member of business

C. When:

1. State candidates, officers and employees:
 - a. Candidates - when filing for office
 - b. Gubernatorial appointees - initially when names submitted to Senate and annually on January 31 thereafter
 - c. Office holders and employees - initially when employed and annually on January 31 thereafter
2. Local candidates, officers and employees:
 - a. Candidates - when filing for office and within 10 days of any change thereafter
 - b. Any person appointed to fill a vacancy in elected office - within 30 days of appointment and within 10 days of any change thereafter
 - c. Any local officer or employee not required to file under "a" or "b" above when about to pass upon a matter which will affect any business in which he or she holds an interest

B. What is to be disclosed? Self? Immediate family?

1. Ownership? What dollar level?
2. Income?
 - a. What amount?
 - b. Report amount?
3. Gifts?
4. Fees or commissions?
5. Positions as officers or directors of businesses?

C. When?

1. Annually?
2. Amend if changes during year?

KANSAS LAW

POLICY QUESTIONS

II. Standards of Conduct

- A. Who is covered?
 - 1. State officers and employees:
 - a. Legislative
 - (1) Candidates
 - (2) Members
 - (3) Employees
 - b. Executive
 - (1) Candidates
 - (2) Office holders
 - (3) Employees, except for any appointed member of an advisory council, commission or board who serves without compensation other than amounts for expenses as provided in K.S.A. 1976 Supp. 75-3223(e)
 - c. Judiciary - none
 - 2. Local officers and employees - all, but limited coverage. See only B(2) and D(2) below.

- B. Use of position:
 - 1. State officers and employees cannot:
 - a. Engage in lobbying his or her own state agency for pay 46-232
 - b. Accept compensation for performance of official duties, other than that to which he or she is entitled for such performance 46-235
 - c. Accept from any person with a special interest compensation for property or services in excess of that charged in the ordinary course of business 46-239

II. Standards of Conduct

- A. Are all state and local employees to be covered?
 - 1. State candidates, officers and employees?
 - a. Legislative?
 - (1) Candidates?
 - (2) Members?
 - (3) Employees?
 - b. Executive?
 - (1) Candidates?
 - (2) Office holders?
 - (3) Employees?
 - c. Judiciary?
 - (1) Justices, judges and commissioners?
 - (2) Employees?
 - 2. Local candidates, officers and employees?
 - a. Cities?
 - (1) Candidates?
 - (2) Elected officials?
 - (3) Employees?
 - b. Counties?
 - (1) Candidates?
 - (2) Elected officials?
 - (3) Employees?
 - c. School District?
 - (1) Candidates?
 - (2) Elected officials?
 - (3) Employees?
 - d. Other?

- B. Use of position to gain benefits
 - 1. Extend to local government?
 - 2. Add other provisions?

KANSAS LAW

POLICY QUESTIONS

2. Local officers and employees who have not filed a Disclosure of Substantial Interests Statement, and who, while acting in his or her official capacity, shall pass upon any matter which will affect any business in which he or she holds a substantial economic interest shall, before acting, file a written statement of the nature of said interest with the county clerk. In the alternative, the local officer or employee may abstain from any action.

75-4303

C. Confidential information - state officers and employees cannot use confidential information acquired in the course of official duties in order to further his or her own economic interest or that of another.

46-241

D. Leases or contracts:
 1. State officers and employees cannot participate, with certain statutory exceptions, in the making of a contract with anyone by whom he or she is employed or in whose business he or she has a substantial economic interest.
 2. Local officers and employees cannot participate, with certain statutory exceptions, in the making of a contract with anyone by whom he or she is employed or in whose business he or she has a substantial economic interest. This provision does not apply to zoning decisions and other legislative-type matters.

46-233

75-4304

C. Use of confidential information
 1. Extend to local government?

D. Entering into a lease or contract

KANSAS LAW

POLICY QUESTIONS

E. Restrictions on post employment:

- 1. State officers and employees cannot accept employment with any person for one year following termination of employment with the state if, while employed by the state, he or she participated in the making of a contract with that person during the two years preceding termination.
- 2. Elected state officers cannot within one year of the expiration date of his or her last term of office receive any civil appointment to a position created during the last term for which such person had been elected.

46-233

46-234

F. Receipt or solicitation - state officers and employees cannot:

- 1. Solicit anything of value from a person with a special interest if he or she knows or should know the purpose of the donor could be to influence him or her
- 2. Accept during a calendar year anything of value aggregating more than \$100, with the exception of hospitality in the form of food and beverage from a person with a special interest if he or she knows or should know the purpose of the donor is to influence him or her.

46-236

46-231

G. Representation cases - state officers and employees cannot:

- 1. Represent any person or entity in certain matters before a state agency for compensation, without first filing a Representation Case Disclosure Statement indicating the name of the person being represented and the purpose of the representation

E. Restrictions on post employment

- 1. More comprehensive prohibitions?
- 2. Extend to local government?

F. Receipt or solicitation of gifts

- 1. Extend prohibitions to local government?
- 2. Prohibit all gifts over \$x from certain sources? (At a minimum, language needs to be clarified. See Annual Report and Recommendations of the Governmental Ethics Commission, December 1, 1976, pages 23-24.)

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G. Representation of clients before governmental agencies

- 1. Prohibit certain representations entirely?
- 2. Extend to local government?

KANSAS LAW

POLICY QUESTIONS

- 46-240
- 46-242a
- 46-242b
2. Accept compensation for a representation case contingent upon result achieved except for workmen's compensation cases.
 3. Accept a representation case where he or she knows that it is without merit and being offered with the intent to obtain influence over a state agency
 4. Use threat in an attempt to influence a state agency in any representation case

H. Restrictions on outside employment - none

I. Personal interest in proposed legislation - none

- H. Restrictions on outside employment
1. Wish to restrict such employment for officers or employees? State? Local?

I. Personal interest in proposed legislation

III. Penalties

A. Directly by the Governmental Ethics Commission - none

- B. By the courts
1. Incarceration up to six months for intentional violation
 2. Fine up to \$1000 for intentional violation

C. By other agencies

1. Forfeiture of office or employment

III. Penalties

- A. Directly by boards or commissions?
1. Fines?
 2. Forfeiture of office or employment?
 3. Cease and desist orders?
 4. Other?

- B. By the courts?
1. Incarceration?
 2. Fines?
 3. Cease and desist orders?
 4. Forfeiture of office or employment?
 5. Other?

C. By other agencies?

1. Fines?
2. Forfeiture of office or employment?
3. Cease and desist orders?
4. Other?

CONFLICT OF INTEREST ACT
As Approved by Committee on Suggested State Legislation

Suggested Legislation

(Title, enacting clause, etc.)

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Section 1. [Short Title.] This act may be cited as the [State] Conflict of Interest Act.

Section 2. [Definitions.] As used in this act:

(1) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit.

(2) "Business with which he is associated" means any business in which the person or a member of the person's immediate family is a director, officer, owner, or employee.

(3) "Candidate for public office" means any person who has filed a declaration of candidacy or a petition to appear on the ballot for election as a public official and any person who has been nominated by a public official or governmental body for appointment to serve as a public employee.

(4) "Commission" means the state ethics commission.

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received.

(6) "Governmental body" means any department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the executive or legislative branch of the State or political subdivision thereof.

(7) "Immediate family" means a spouse residing in the person's household and dependent children.

(8) "Income" means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof.

(9) "Ministerial action" means an action that a person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, the person's own judgment upon the propriety of the action being taken.

(10) "Person" means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.

(11) "Public employee" means any individual who receives compensation at an annual rate of \$[] or more from the State or any political subdivision thereof or who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

(i) contracting or procurement;

(ii) administering or monitoring grants or subsidies;

(iii) planning or zoning;

(iv) inspecting, licensing, regulating, or auditing any person; or

(v) any other activity where the official action has an economic impact of greater than a de minimus nature on the interests of any person.

Attch. III

1 (12) "Public official" means an elected official in the executive,
2 legislative, or judicial branch of the State or any political subdivision
3 thereof, provided that it shall not include members of advisory boards that
4 have no authority to expend public funds other than reimbursement for personal
5 expense, or to otherwise exercise the power of the State or any political sub-
6 division thereof.
7

8 Section 3. [Statement of Financial Interest Required to be Filed.]

9 (a) Each public official and public employee shall file a statement of
10 financial interests for the preceding calendar year with the commission on or
11 before [] of each year that he holds such a position.

12 (b) Each candidate for elective public office shall file a statement of
13 financial interests for the preceding calendar year with the commission within
14 10 days of filing his legal declaration of candidacy or petition to appear on
15 the ballot for election as a public official; provided that this subsection
16 shall not apply to a person who has filed a statement pursuant to subsection
17 (a). A declaration of candidacy or petition to appear on the ballot shall not
18 be considered legal unless a statement of financial interests is timely filed
19 in proper form, and the name shall not appear on the ballot.

20 (c) If the candidate files his legal declaration of candidacy or petition
21 to appear on the ballot for election prior to January 1 of the year in which
22 the election is held, the candidate shall also file a statement for the year
23 preceding the year in which the election is held.

24 (d) Each candidate for public office nominated by a public official or
25 governmental body and subject to confirmation by a public official or govern-
26 mental body shall file a statement of financial interests for the preceding
27 calendar year with the commission and with the official or body that is vested
28 with the power of confirmation at least 10 days before the official or body
29 shall approve or reject the nomination.

30 (e) No public employee shall be allowed to take the oath of office or en-
31 ter or continue upon his duties unless he has filed a statement of financial
32 interests with the commission as required by this act. Any public official,
33 public employee, or candidate for public office who fails to file or falsely
34 files a statement is guilty of a misdemeanor.

35 (f) Any public official filing a statement with the commission pursuant
36 to this act shall file a copy of that statement with the clerk of the court in
37 the local jurisdiction in which he retains his primary residence. The clerks
38 of the court shall make such statements available for public inspection and
39 copying during regular office hours and make copying facilities available free
40 of charge or at a cost not to exceed actual cost.

41 (g) The statement of financial interests shall be filed on a form pre-
42 scribed by the commission and shall be signed under penalty of perjury by the
43 person required to file the statement.

44 (h) The statement shall include the following information for the preced-
45 ing calendar year in regard to the person required to file the statement and
46 the members of his immediate family:

47 (1) The names of all businesses with which he is associated.

48 (2) The category or type and amount of all sources of income in
49 excess of \$1,000. It shall be sufficient to report whether the amount is:
50 less than \$2,500; \$2,500 - \$5,000; \$5,000 - \$10,000; \$10,000 - \$25,000; more
51 than \$25,000.

52 (3) The name and the amount of stock in excess of \$1,000 at fair
53 market value held in a business by the person.

1 (4) The legal description of all real property in the State, ex-
2 cluding the person's primary residence, the fair market value of which exceeds
3 \$2,500, in which a financial interest was held, and a statement of the amount
4 and nature of the consideration received or paid in exchange for such interest,
5 and the name and address of the person furnishing or receiving such considera-
6 tion.

7 (5) The name, address, and type of security given of each creditor
8 to whom the value of \$5,000 or more was owed and still outstanding; provided
9 that debts arising out of consumer credit transactions need not be included.

10
11 Section 4. [Restricted Activities.]

12 (a) No public official, or public employee, shall represent a person
13 other than the State or political subdivision thereof for compensation before
14 any governmental body where the matter before the governmental body is of a
15 non-ministerial nature. This section shall not be construed to prohibit the
16 performance of ministerial functions including, but not limited to, the filing
17 or amendment of tax returns, applications for permits and licenses, incorpora-
18 tion papers, and other documents.

19 Comment: States may wish to allow public officials to represent clients before
20 bodies such as Workmens' Compensation Commissions or other similar bodies whose
21 proceedings are adversary in nature and before agencies at other levels of
22 government. States may wish to insert a specific list of such boards, agencies
23 or commissions.

24 (b) No person shall offer or give to a public official or public employee
25 or a member of his immediate family and no public official or public employee
26 shall solicit a gift to influence him in his official duties.

27 (c) No public official or public employee shall accept any benefit or
28 compensation in addition to that received in his official capacity for having
29 exercised his official powers or performed his official duties.

30 (d) No public official or public employee shall use or disclose confi-
31 dential information gained in the course of or by reason of his official posi-
32 tion or activities to further his own financial interests or those of anyone
33 else.

34 (e) Any public official who has a substantial personal financial interest
35 distinct from that of the general public in any governmental decision shall
36 disqualify himself from voting on that decision.

37 Comment: In States where constitutional majorities are required, this provisio
38 may be troublesome. Such States may wish to change this clause to a statement
39 of intent or to exempt it from the penalty provisions in Section 8.

40 (f) The majority of the members of a non-elective governmental body, or
41 of a standing committee of a governmental body shall not have a substantial
42 financial interest, distinct from that of the general public, in matters sub-
43 ject to the jurisdiction of the body or committee.

44
45 Section 5. [State Ethics Commission.]

46 (a) There is created a state ethics commission consisting of []
47 members and including public officials, public employees, and other citizens.
48 Appointments to the commission shall be made by []. No more than []
49 of the members of the commission shall be members of the same political party.
50 Any vacancy occurring on the commission shall be filled within 30 days in the
51 manner in which that position was originally filled.

52 (b) Members of the commission shall serve for [] year-staggered
53 terms.

1 (c) The commission shall elect a chairman and vice chairman; in the ab-
2 sence of the chairman or in the event of a vacancy in that position, the vice
3 chairman shall serve as chairman.

4 (d) The commission shall have the authority to appoint an executive direc-
5 tor and such additional personnel as it requires to perform its duties. The
6 executive director shall serve at the pleasure of the commission.

7 (e) Any action by the commission shall require the affirmative vote of
8 [] of its members and [] members shall constitute a quorum.

9 (f) The chairman or any [] members of the commission may call a
10 meeting provided that adequate advance notice of the meeting is given.

11 (g) Members of the commission shall be compensated at a rate of \$[]
12 per day and shall receive reimbursement for their actual and necessary expenses.
13

14 Section 6. [Duties of the Commission.] The commission shall:

15 (1) Prescribe and publish after notice and opportunity for public
16 comment, rules, and regulations to carry out the provisions of this act.

17 (2) Prescribe forms for statements required by this act, and furnish
18 such forms to persons required to file such statements.

19 (3) Prepare and publish a manual or guidelines setting forth recom-
20 mended uniform methods of reporting for use by persons required to file under
21 this act.

22 (4) Accept and file any information voluntarily supplied that ex-
23 ceeds the requirements of this act.

24 (5) Preserve the statements filed with it for six years from the
25 date of receipt.

26 (6) Make statements and reports filed with the commission available
27 for public inspection and copying for a reasonable cost during regular office
28 hours.

29 (7) Compile and maintain a current list and summary of all statements
30 filed.

31 (8) Prepare and publish reports as it may deem appropriate.

32 (9) Audit statements and reports filed with the commission.

33 (10) On its own initiative or upon request, issue and publish advisory
34 opinions on the requirements of this act for those who wish to use the opinion
35 to guide their own conduct.

36 (11) Prepare an annual report to the Legislature, the Governor and
37 the public summarizing the activities of the commission and recommending any
38 changes in the act.
39

40 Section 7. [Investigations by the Commission.]

41 (a) Upon a complaint signed under penalty of perjury by any person or
42 upon its own motion, the commission shall investigate any alleged violation of
43 this act. All commission proceedings and records relating to an investigation
44 shall be confidential until a final determination is made by the commission.
45 The executive director shall notify any person under investigation by the com-
46 mission of the investigation and of the nature of the alleged violation and
47 shall continue to provide information to the complainant and the person under
48 investigation concerning action taken by the commission together with the rea-
49 sons for such action or non-action.

50 (b) If after investigation, the commission finds that probable cause
51 exists for believing the allegations of the complaint, after adequate notice
52 to the accused, it shall conduct a hearing on the matter. Such hearings shall
53 be at closed session unless the accused petitions for a public hearing.

1 (c) The commission shall have the same power to compel the attendance
2 of witnesses and to issue subpoenas as is granted legislative committees.

3 (d) Any person whose activities are under investigation shall be entitled
4 to be represented by counsel of his own choosing and shall have an opportunity
5 to examine all records to be used at the hearing.

6 (e) The commission shall keep a record of its investigations, inquiries,
7 and proceedings; all records and transcripts of any investigations or inquiries
8 under this section shall be confidential until a final determination is made
9 by the commission.

10 (f) The commission shall report any finding of misconduct along with
11 such information and documents as it deems appropriate to the appropriate law
12 enforcement authorities.

13
14 Section 8. [Penalties.]

15 (a) Any person who violates the provisions of this act is guilty of a
16 misdemeanor and shall be fined not more than \$[] or imprisoned for not
17 more than [] or both.

18 (b) The penalties prescribed in this act do not limit the power of either
19 house of the Legislature to discipline its own members, and do not limit the
20 power of agencies or commissions to discipline officials or employees.

21
22 Section 9. [Severability.] [Insert severability clause.]

23
24 Section 10. [Repeal.] [Insert repealer clause.]

25
26 Section 11. [Effective Date.] [Insert effective date.]

Attachment IV
9-7-77

Mr. Chairman and Members of the Committee: I am Rep. Richard H. [unclear] from the 11th District and I am speaking in support of HB 2144.

House Bill 2144 establishes a Presidential Preference Primary for the state of Kansas. The bill is sponsored by 45 Representatives of both political parties, pointing out the strong interest behind the bill.

In 1976, 29 states, plus the District of Columbia held primaries. Three-quarters of the two major parties' national convention delegates were selected through primaries. A list of states holding primary elections in 1976 is attached.

Following is a section by section analysis of what HB 2144 will do.

New Section 1. This lays the groundwork for a Presidential Preference Primary which would allow every elector of a political party who is eligible to participate in a primary election, to have the opportunity to register his preferences for a presidential candidate. An elector may choose to vote, "for none of the names shown," registering for an uncommitted delegation.

A candidate for President of the United States name will appear on the ballot if that candidate files with the Secretary of State a declaration of intent and pays a fee of \$100, or if the candidate files with the office of Secretary of State a nominating petition signed by 1,000 registered electors affiliated with the candidate's political party.

New Section 2. This section simply deals with the printing of the candidates names on the ballots.

New Section 3. A candidate must file with the Secretary of State a list of names and addresses of persons proposed by that candidate

Atch. IV

to be delegates to the national convention of the party of that candidate. The number of names submitted shall be equal to the number of delegates and alternates to the national party convention as are allotted to Kansas for that year by the national committee of that party. To be eligible to be a delegate a person must be 18 years of age, a citizen of the U.S., a qualified elector of the state of Kansas, and shall have resided in the state of Kansas for at least one year prior to the filing of the list. This list must be submitted to the Secretary of the State no later than 10 days prior to the primary election.

New Section 4. This section deals with the allocation of delegates following the primary election. Delegates will be awarded on a percentage of the vote in the primary. Delegates and alternates will be bound only during the first ballot and after this will be free to vote for any candidate.

Section 5. This section moves the primary from the first Tuesday in August to the first Tuesday in June.

Section 7. This section moves the filing deadline for candidates for all offices from June 20, to April 12.

Other Sections. Other sections of the bill contain clean-up language. For example, "nominating papers" is changed to "nominating petitions" throughout the bill.

Summary. This bill was introduced so that the people of Kansas would all be able to take part in the selection of their party's candidate for president. Under our present law the selection process

is limited to a small percentage of the voters. It is the purpose of this bill to get more people involved in the selection process.

1976 Presidential Primary Information

Abbreviations for presidential candidate ballot access:

- I - Involuntary; nationally recognized candidates placed on ballot by state officials.
 V - Voluntary; candidate gains place on ballot by own initiative.

State	Pres. Cand. Ballot Access	Primary Date	Filing Deadlines			Pres. Cand. Withdrawal	Write-ins Permitted	Convention Votes	
			Pres. Cand.	Del. Cand.	Dem.			Rep.	
N.H.	V	Feb. 24	Dec. 26	Jan. 12	May withdraw within 10 days of notification by sec. of state	Yes	17	21	
Mass.	I	March 2	Jan. 2	— ¹	Jan. 9	Yes	104	43	
Vt.	V	March 2	Feb. 10	— ¹	May withdraw within 10 days of notification by sec. of state	Yes	12	18	
Fla.	I	March 9	Feb. 10	— ¹	Feb. 15 ²	No	81	66	
Ill.	V	March 16	Dec. 29	Jan. 14	No provision	Yes	169	101	
N.C.	V	March 23	Feb. 3	— ¹	Failure to give consent = with- drawal	No	61	54	
N.Y.	—	April 6	—	Feb. 19	—	Yes	274	154	
Wis.	I	April 6	March 2	— ¹	Feb. 29 ²	Yes	68	45	
Pa.	V	April 27	Feb. 17	Feb. 17	Feb. 24	Yes	178	103	
Texas	V	May 1	Feb. 2	March 1	April 10	No	130	100	
Ala.	—	May 4	—	March 1	—	Yes	35	37	
D.C.	V	May 4	March 5	March 5	No provision	No	17	14	
Ga.	I	May 4	Feb. 10	March 13 ³	Feb. 20 ²	No	50	48	
Ind.	V	May 4	March 15	— ¹	March 15	No	75	54	
Tenn. ⁴	I	May 6	March 4	— ¹	— ²	Yes	46	43	
Neb.	I	May 11	March 12	March 12	March 12 ²	Yes	23	25	
W.Va.	V	May 11	Feb. 7	Feb. 7	No provision	No	33	28	
Md.	I	May 18	March 25	March 9	April 2 ²	No	53	43	
Mich.	I	May 18	March 19	— ¹	March 19	Yes	133	84	
Ark.	V	May 25	April 6	— ¹	No provision	Yes	26	27	
Idaho	I	May 25	April 25	— ¹	No provision	Yes	16	21	
Ky.	V	May 25	April 9	— ¹	Failure to pay filing fee = withdrawal	No	46	37	
Nev.	I	May 25	April 25	— ¹	No provision	No	11	18	
Ore.	I	May 25	March 16	— ¹	No provision	Yes	34	30	
Mont.	V	June 1	March 23	— ¹	April 22	Yes	17	20	
R.I.	I	June 1	Feb. 27	April 12	May 2	No	22	19	
S.D.	V	June 1	April 16	April 16	April 16	No	17	20	
Calif.	I	June 8	March 25	D: April 16 R: May 9	April 4 ²	Yes ⁵	280	167	
N.J.	V	June 8	April 29	April 29	May 4	Yes	108	67	
Ohio	V	June 8	—	March 25	April 3 ⁶	Yes	152	97	

1. Delegates chosen outside primary by caucus methods. Ballot filing deadline for national convention delegates does not apply.

2. Individual must state he is not a presidential candidate and does not intend to become one. (in California, individual only declares non-candidacy.)

3. Democrats only. Republicans use caucus method.

4. Tennessee primary subject to alteration by state legislature.

5. Write-in campaign must be endorsed by candidate.

6. Withdrawal deadline for delegate candidates.

- (3) A minority President is unlikely, since direct vote is used.
- (4) This plan strongly supports one-man, one-vote.
- (5) It preserves the two-party system since a splinter party would lack funds to go nationwide.
- (6) This plan was favored by small states in the 1969 Congress.
- (7) It is supported by the American Bar Association.
- (8) It takes a minimum of 25 states to win as opposed to 12 states under the present system.

Cons

- (1) Campaigning in heavily populated areas would continue.
- (2) It does not preserve the Federal System which would result in the smaller states becoming less influential.

PRESIDENTIAL PRIMARIES

At the present time 29 states, including the District of Columbia, have Presidential Primaries. There are basically two types of primaries. The first is the delegate election. This operates very similar to the Electoral College. In this primary registered Republicans or Democrats select delegates on the basis of which Presidential candidate they support. If the delegate is undecided, he may be chosen on this basis. The number of delegates selected is determined by the party each election year. The number varies and is based on population. In 1972, in Kansas, the Democrats had 35, in 1976 there were 34. The Republicans had 20 delegates in 1972 and 34 in 1976.

Once a delegate is selected he goes to the national convention. The delegate is bound only on the first ballot to vote for the candidate he supported. This means that if a candidate does not receive a majority on the first ballot the delegate may vote as he sees fit.

The second type is the preference primary. Members of the respective parties vote their preference of the Presidential candidates. Candidates then receive delegates on the winner-take-all basis, or the delegates are divided proportionally according to the party vote. The method varies in each state and may change each election year. The governing authority over

the method to be used is the national party. As in the delegate election the delegates are bound only on their first vote.

As can be seen by the methods used, the political party has a leading role in selecting candidates. This is called the organizational form of politics. Decisions are made in the upper level of the party organization. Party activists are influential in delegate selection or are nominated themselves. Party platforms are written primarily by the activists.

Participatory politics on the other hand favors a broad base in party decisions. Members of the party are given a larger role in determining platforms and candidates, even if they are not politically active. For this reason participatory politics is said to be more representative. At present, our national political party system contains values of both forms.

Primaries as a whole tend to reduce the role of the party and increase popular participation. It might also be noted that in 1970 eighteen states held primaries. Today thirty have primaries, an increase of twelve in seven

General Arguments for a Presidential Primary

The case for the presidential primary rests upon these propositions:

- (1) If representative government is to be democratic government, there must be the broadest possible popular participation in selecting elected officials. ✓
- (2) Under the present system of nominating our presidential candidates, party organization members, not the people as a whole, choose the candidates.
- (3) Presidential primaries bring issues and candidates before the people of the state at a time when they are interested and informed and when there is a mechanism available for expression.
- (4) Candidates would have to direct their campaigns to the population as a whole, rather than to special interest groups that would be represented in delegates selected through the state convention process. ✓
- (5) It has been stated by a Professor, that it "would seem to be political wisdom in these turbulent times to give special attention to the feelings of those that believe that the process of electing the President is not sufficiently reflective of the masses." ✓

General Arguments Against a Presidential Primary

The major arguments presented in opposition to the presidential primary are:

- (1) Strong political party organizations are essential to democratic political systems, and their strength is dissipated by nominating primaries. If they no longer play a vital role in nominating the president, they will forfeit a significant amount of their strength.
- (2) A contested primary between national political aspirants is more likely to intensify factionalism within the state party organization.
- (3) Many candidates choose not to enter a particular primary, and consequently, the election does not provide an adequate measure of the electorate's preference.
- (4) The timing of the presidential primary election provides a problem in that, if the primary is not held right before the national convention it creates a dilemma for would-be delegates since they do not know whether they are backing a viable candidate.
- (5) The presence of thirty presidential primaries compressed into a roughly three-month time span, does not permit candidates to engage in a bona fide campaign, either in terms of time available for campaigning or in the allocation of their financial resources.

STUDENT VOTING

The adoption of the 26th Amendment, which allows 18-year olds to vote, brought with it not only the relief expressed by the 18-21 year olds but also the question of where do students vote, back home or on campus. The conflict centers on two claims:

- (1) Students claim they are really residents of their college communities. If forced to register or vote elsewhere, they would be treated differently than any other class of voters. This they claim is discrimination, thus depriving them of their constitutional rights.
- (2) Those opposed to on-campus voting fear the effect of the Parthenian Warrior. This is one who fires an arrow at the enemy then runs away.



KANSAS STATE UNIVERSITY

Attachment VI
9-7-77

Department of Political Science
Kedzie Hall
Manhattan, Kansas 66506
Phone: 913 532-6842

September 2, 1977

Ms. Myrta J. Anderson, Research Assistant
Kansas Legislative Research Department
Room 545-N Statehouse
Topeka, Kansas 66612

Dear Ms. Anderson:

Thank you for your letter of August 31, 1977, which was given to me for reply because I teach the American Presidency. The closeness of the hearings on September 7th necessarily limits me to a general statement on the desirability of Proposal 17, establishing a presidential preference primary in Kansas.

The alternative to Proposal 17 is delegate selection by Republican and Democratic Conventions, as outlined in Durbin, Reimer, Ripy, Nomination and Election of the President. . . (U.S.G.P.O., March, 1976), p. 246. The most dramatic way to state the opposition would be party, which sets up the rules of the conventions, vs. detailed state regulation and the people: the "sponsors explained that the bill would allow the people of Kansas a voice in the selection of their party's candidate for president." (Brief of Bill) A less dramatic but perhaps more accurate view is that the opposition is between a filter, supplied now by the parties, vs. direct reference to the voters who may instruct their party's delegation. As you know, the Electoral College has no requirement in law that Electors vote the expectations of the voters. This ultimate discretion, rarely exercised but conceivably useful in dire emergencies, parallels in a way the discretion that should rest with convention delegates. Important adverse facts, which the delegates should weigh and deliberate at the presidential nominating convention, may well surface after the presidential preference primaries won by a particular candidate. A convention without adequate deliberation is not, in my opinion, a formula for political bliss. Hence, I believe that instruction should be avoided as an option for primary voters.

I do not believe that our liberal democracy, the United States Constitution or even the American Presidency are necessarily in jeopardy if the party regulars and professionals make the delegate selection in conventions. If rights in politics derive from obligations, including service and experience, then the party regulars and professionals outpoint the voters, who are the guests, but not necessarily the dieticians or cooks, of the political feast. What role could be more demanding and responsible than the voters having the last word, in a presidential election, about the quality of the political feast?

Thank you for your attention. I am sorry that my academic duties require me to be in Manhattan on the 7th.

Best wishes.

Sincerely,
Richard Loss
Richard Loss

Attch. VI

Attachment VII
9-9-77

STATE OF KANSAS
GOVERNMENTAL ETHICS COMMISSION
109 WEST NINTH
TOPEKA, KANSAS 66612

ETHICS IS
EVERY-
BODY'S
BUSINESS
B0Z1MEZ22
B0DΛ.2
EΛEBΛ-
ETHIC2 12

Atch. VII

*"The strongest safeguard . . .
an informed and active public."*

WHAT IS THE KANSAS GOVERNMENTAL ETHICS COMMISSION?

In 1974, the Kansas Legislature created the Governmental Ethics Commission. The Commission is charged with enforcing state laws which require disclosure of:

- Campaign finance information.
- Lobbying expenditures.
- Personal financial interests of candidates, office holders and certain governmental employees.

In addition, the Legislature prohibited certain kinds of conduct. It established procedures for anyone to file complaints and initiate investigations against public officials, candidates and employees.

These provisions of the law are not only a recognition that the people have rights and responsibilities, but that the strongest safeguard against unethical conduct by public officials and employees is an informed and active public.

CAMPAIGN FINANCE

Who registers? All candidates for *state* office (including the Legislature) must register with the Secretary of State and must appoint a treasurer or candidate committee. Political parties and other political committees must also register when they are created. Each must update the information when organizational changes are made.

What must be disclosed? It is the responsibility of the treasurer of a candidate, political party or other political committee to keep detailed records of all transactions and to file campaign finance reports. Such reports of contributions and expenditures must be filed in the office of the Secretary of State *and are available to the public in that office*. However, some minor candidates and committees are exempt from reporting requirements.

When filed? Campaign finance reports are filed:

- Seven days before each primary.
- Ten days after each primary.
- Seven days before each general election.
- December 3 of each year.

Are there any limits? Except for bona fide political parties, no individual, organization or committee may contribute more than \$2500 per election to a candidate for state-wide office or \$500 per election to a candidate for any other state office, including the Legislature. The limits apply separately to each primary and each general election. Candidates and their spouses are *not* subject to these limitations with regard to the use of their own funds.

While individuals and organizations are limited as to what they may directly or indirectly contribute to a candidate, they are not limited as to what they *independently* spend on behalf of a candidate without the candidate or the candidate's treasurer participating in any manner. However, an individual or organization making an *independent* expenditure in excess of \$100 during a calendar year must file a campaign finance report disclosing the expenditure and the source of the funds.

The law does *not* limit the total amount that may be spent for a candidate's campaign.

What are the penalties? The intentional violation of the Campaign Finance Act is subject to a maximum criminal penalty of one year in jail and a \$2500 fine. Violation also subjects an elected official to possible censure or removal from office.

LOBBYING

What is lobbying? With a few exceptions, "lobbying" is promoting or opposing in any manner action or nonaction on any legislative matter or the adoption or nonadoption of any rule or regulation by any state agency.

Who must register as a lobbyist? Generally, any person to whom any one of the following applies *must* register as a lobbyist:

- Any person employed to lobby.
- Any person formally appointed to a specific position as the primary representative of an organization to lobby in person on state property.
- Any person who spends more than \$100 in a year for lobbying, exclusive of personal travel and subsistence expenses.

Lobbyists must register annually with the Secretary of State, and a list of those registered is available in that office.

Must expenditures be reported? Some. Registered lobbyists must file expenditure reports at seven times during the year if a reportable expenditure was made during the preceding period. These reports are filed with the Secretary of State and copies of these reports are available in that office.

What kinds of expenditures are reported? The law does not require all lobbying expenditures to be reported. For the most part, expenditures for food and beverage, gifts, and certain communication costs comprise the bulk of reportable expenditures.

What are the penalties? Intentional violation of the lobbying provisions is subject to a maximum criminal penalty of six months in jail and a \$1000 fine.

CONFLICT OF INTEREST

What types of conduct are prohibited? Among other things, the laws provide that state officers or employees (not including the judicial branch) cannot:

- Engage in lobbying his or her own state agency for pay.
- Participate, with certain exceptions, in the making of a contract with anyone by whom he or she is employed or in whose business he or she has a substantial interest.
- Solicit anything of value from a person with a special interest if he or she knows or should know that the purpose of the donor could be to influence him or her.

- Accept during a calendar year anything of value aggregating more than \$100 from a person with a special interest if the person knows or should know that the purpose of the donor could be to influence him or her. Hospitality in the form of food and beverage is excepted from this provision.

- Use confidential information acquired in the course of official duties in order to further his or her own economic interests or that of another.

Who must disclose their financial interests? Candidates for state office, state office holders and certain state employees must disclose their major financial interests.

Statements of Substantial Interest, which are filed annually with the Secretary of State, identify investments or ownership with a fair market value of more than \$5000 or 5% of the business, whichever is less; most income sources of over \$1000; gifts or honoraria of \$500 or more; and businesses in which an individual holds a position of officer or director. These statements are available to the public in the office of the Secretary of State.

What about local officials? A similar disclosure statement must be filed by all individuals holding elected local office and candidates for such office. Such statements are filed with the appropriate county election officer.

What are the penalties? Intentional violation of the provisions applying to state officers and employees is subject to a maximum criminal penalty of six months in jail and a \$1000 fine. Violation also subjects an officer or employee to possible censure or removal

from office or position of employment. Violation of the provisions governing local government officers and employees is subject to a maximum criminal penalty of one year in jail and a \$2500 fine.

HOW IS THE LAW ENFORCED?

The legislature established procedures for people to file complaints and thus initiate investigations of public officers and employees. *Anyone can file a complaint.* In addition, the Commission may initiate an investigation on its own and does conduct audits and investigations on a regular basis.

Complaints remain confidential during the Commission's investigation and become public when the Commission concludes that there is probable cause to believe that a violation occurred. When this decision has been made, a full public hearing is conducted.

If, following its investigation, the Commission concludes that there is insufficient evidence to believe a violation occurred, the complaint is dismissed. By law, such findings remain confidential.

When the Commission concludes there is sufficient evidence to believe a violation occurred, a full public hearing is conducted. Following a hearing, if the Commission decides the facts in the complaint are true, the findings are reported to the appropriate law enforcement agency for prosecution in the courts.

IS MORE INFORMATION AVAILABLE?

Copies of the laws, regulations, forms and additional explanatory information are available from the Governmental Ethics Commission without charge. In addition, anyone may, by notifying the Commission, have his or her name placed on a mailing list and receive notices and agendas of all Commission meetings and hearings. Finally, representatives of the Commission are available to speak to any community group about any or all aspects of the Commission's responsibilities.

To contact the Commission, call or write:

*Governmental Ethics Commission
109 W. Ninth
Topeka, Kansas 66612
(913)296-4219*

This brochure is only a simplified guide and is not intended to be a full statement of the law applicable to all factual situations. For a full statement of the law, consult K.S.A. 1976 Supp. 25-4101 *et seq.*, 46-215 *et seq.* and 75-4301 *et seq.*

Preliminary Minutes

Special Committee on Elections

September 6-7, 1977

Members Present

Senator Paul Burke, Chairperson
Representative Norman Justice, Vice-Chairperson
Senator Bill Mulich
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

Debby Schmidt, Governor's Office, Topeka
Gary Caruthers, Kansas Medical Society, Topeka
Mary Ritter, Secretary of State's Office, Topeka
Dean Mordy, Common Cause, Fairway
Mike Hrynewich, Kansas Savings and Loan League, Topeka
Roger Myers, Topeka Daily Capital
Roger N. Wilson, WIBW, TV, Topeka
Neil Shortlidge, League of Kansas Municipalities, Topeka
Ralph McGee, Kansas AFL-CIO, Topeka
Lynn Hellebust, Governmental Ethics Commission, Topeka
Deb Harrison, Associated Students of Kansas
Randy Myers, Kansas City Star, Topeka

Special RD 16 - Campaign Finance Act

Senator Burke called the Special Committee on Elections to order at 10:00 A.M. He called on the Legislative Research staff to give a summary and review of bills which were introduced in the 1977 Legislative Session relating to Campaign Finance. (See Attachment I.) The following bills were considered: H.B. 2318, H.B. 2337, H.B. 2344, H.B. 2500, H.B. 2573, H.B. 2623.

1. H.B. 2318 - Following Committee discussion, Representative Gordon moved that H.B. 2318 be reported adversely. Rep. Modrcin seconded the motion. Motion carried.
2. H.B. 2337 - Chairman Burke stated that action on H.B. 2337 would be delayed until the October meeting when Rep. Buntin could be heard on the bill.
3. H.B. 2344 - Following Committee discussion, Rep. Jones moved that H.B. 2344 be reported adversely. Rep. Schmidt seconded the motion. Motion carried.
4. H.B. 2500 - Committee discussion followed. Rep. Jones spoke in behalf of the bill. She said that H.B. 2500 is similar to recent legislation enacted by the State of Ohio. Mr. Hellebust stated the Governmental Ethics Commission had not taken a stand on this legislation. Examples were given of action that might be considered campaign fraud. Rep. Jones then moved to report H.B. 2500 favorably. Rep. Schmidt seconded the motion. Motion carried.
5. H.B. 2573. Section 1. Committee discussion on whether or not to include constitutional issues under public disclosure provisions of the Campaign Finance Act. Senator Smith made a conceptual motion to include constitutional issues in the Campaign Finance Act. Rep. Ott seconded the motion. Motion carried.

5. H.B. 2573. Sections 2 and 3. Committee already has made a decision with respect to filing of reports and records. The decision was made to have filings of reports and records with Sec. of State.

Section 4. Following Committee discussion, Senator Smith moved to accept the changes in Section 4. Rep. Ferguson seconded the motion. Motion carried.

Section 5. K.S.A. 25-4108 (b) (2) (C), page 7, lines 233-236. The decision was made to pass over this change at the present time.

K.S.A. 25-4108 (h), page 9, lines 304-308, Representative Jones made a motion to accept the changes in subsection (h). Senator Smith seconded the motion. Motion carried.

Sections 6, 7, 8 and 9. Decision have already been made pertaining to these sections by previous Committee action.

Section 10. page 12, K.S.A. 1976 Supp. 25-4119 a (b), page 12, lines 418-423. Senator Mulich moved to accept the changes in this subsection. Rep. Ott seconded the motion. Motion carried.

Senator Smith made a conceptual motion to amend any of the three bills, state and local conflict of interest and campaign finance, when necessary to reflect languages changes such as "chairperson" instead of "chairman", etc. Senator Mulich seconded the motion. Motion carried.

5. H.B. 2573. Sections 11, 12 and 13. Decisions already made relative to these sections in previous Committee action.

Sections 14 and 15. Senator Smith moved to accept the changes in Sections 14 and 15. Rep. Ott seconded the motion. Motion carried.

Sections 16 through 20. Changes in these sections already dealt with by previous Committee action.

Sections 21 and 22. Committee discussion followed on sections 21 and 22. Mr. Hellebust stated that the Governmental Ethics Commission had suggested the change in Section 21 two years ago. If section 21 is accepted only individuals, candidates, party committees and political committees could make campaign contributions. The section would prohibit contributions from corporations, partnerships and union general funds to help nominate or select a candidate. Rep. Ott moved that the changes in Section 21 and 22 be included in separate draft legislation. Rep. Jones seconded the motion. Motion carried.

New Sections 23, Section 24 and 25. Rep. Gordon moved that the changes in these sections be accepted, as amended, and that all other sections not acted upon be reported adversely. Rep. Schmidt seconded the motion. Motion carried. Senator Smith wished to be recorded as voting "no".

6. H.B. 2623. After Committee discussion, Senator Smith moved that H.B. 2623 be reported adversely. Senator Mulich seconded the motion. Motion carried.

Senator Mulich then moved that the minutes of the August 17-18 meeting be accepted. Rep. Ott seconded the motion. Motion carried. The Committee then adjourned for lunch.

Proposal No. 15 - Local Conflict of Interest

Following lunch, the Legislative Research Department staff then presented a review of the policy questions on local level conflict of interest legislation, including questions of financial disclosure, standards of conduct and penalties. (See Attachment II)

Committee discussion followed on who should file under local conflict of interest provisions. Some members questioned including officials, such as directors of water board districts, under conflict of interest legislation, stating that it was difficult to get people to file for local offices and this action would discourage them from participating.

Mr. Mordy of Common Cause suggesting using the definition of public employee found in the NCSL Model Bill. (See Attachment III)

Committee discussion followed on whether city managers and department heads should be included, but exclude officials of water districts, fair districts, etc.

Rep. Ferguson then moved that all local public officials and candidates included under K.S.A. 25-2502, those elected at primary and general elections, be included under local conflict of interest financial disclosure. Rep. Jones seconded the motion. Senator Mulich then made a substitute motion that all local public officials and candidates included under K.S.A. 25-2502, including those officials and employees of Boards of Public Utilities, be included under the local conflict of interest financial disclosure. Rep. Justice seconded the motion. Motion carried.

Rep. Ferguson then made a conceptual motion to include department heads under the definition of local public officers to come under financial disclosure provisions. (See language in Section 2 (b), page 3, 7 RS 1568) Senator Mulich seconded the motion. Motion carried. (4-3)

Rep. Gillmore then suggested that a permissive statute be drafted which would leave it up to local units of government to determine who should file financial disclosure statements. Committee discussion followed.

Rep. Ferguson then moved that the same provisions for local level candidates, officers and employees be accepted as is required at the state level for what is disclosed. (See Financial Disclosure B. What:

1. Ownership of 5% or \$5,000, whichever is less
2. Compensation of \$1000 or more
3. Gifts of \$500
4. Fees or commissions of \$1000 or more
5. Officer or board member of business)

Rep. Ott seconded the motion. Motion carried.

Rep. Ott moved a conceptual motion to amend the state conflict of interest law to conform with the local conflict of interest provision (K.S.A. 1976 Supp. 75-4302 (d)) concerning filing changes of substantial interest. (disclose change within 10 days.) Senator Mulich seconded the motion. Committee discussion followed.

Rep. Ferguson then made a substitute motion to delete the 10-day requirement on page 3, 7 RS 1568, to make the local and state level conflict of interest conform, and include any changes made in ownership in stock. Rep. Schmidt seconded the motion. Committee discussion followed. The vote was 4 "yes" and 4 "no" on the substitute motion. Motion failed. The vote was then taken on the original motion to amend the state conflict of interest law to conform with the local conflict of interest provision (K.S.A. 1976 Supp. 75-4302 (d)) concerning filing changes of substantial interest. (disclosure change within 10 days) Motion carried. (5-4)

Committee discussion followed on when disclosures should be filed and standards of conduct.

Senator Burke then stated that the schedule for discussion for the September 7 meeting would be hearings and discussion of Proposal No. 17, Presidential Preferential Primary and then the Committee would return to the discussion of policy issues on local conflict of interest. The meeting was then adjourned.

September 7, 1977

Proposal No. 17 - Presidential Preferential Primary

Chairman Burke called on the Legislative Research Department staff to give a summary and review of H.B. 2144, which provides for a presidential preference primary to be held on the first Tuesday in June in years when candidates for office of President of the United States are to be nominated and elected. (See supplemental information on H.B. 2144 and fiscal note on H.B. 2144 in notebooks.)

Senator Burke then stated that Rep. Richard Harper, one of the sponsors of H.B. 2144, was unable to be present to give a statement on H.B. 2144 so Representative Glee Jones, another sponsor of the bill, would present a statement in support of H.B. 2144. Rep. Jones then presented a statement summarizing H.B. 2144 and indicating support of the legislation. (See Attachment III) Committee discussion followed.

Senator Burke then distributed a statement from the Kansas Farm Bureau giving background information on the presidential preference primary and presenting arguments for and against the presidential preference primary. (See Attachment IV)

A statement by Richard Joss, Political Science Dept., Kansas State University, presenting an alternative to the presidential primary was presented to the Committee. (See Attachment VI) Committee discussion followed.

Rep. Jones said she especially supported the following three arguments in support of the presidential ~~primary~~ ^{primary}:

1. If representative government is to be democratic government, there must be the broadest possible popular participation in selecting elected officials.
2. Candidates would have to direct their campaigns to the population as a whole, rather than to special interest groups that would be represented in delegates selected through the state convention process.
3. It would seem to be ^{political} wisdom to give special attention ^{in turbulent times} to the feelings of those that believe that the process of electing the President is not sufficiently reflective of the masses.

Committee discussion followed. Rep. Jones said that she would recommend the Committee report H.B. 2144 favorably. Rep. Ferguson moved that the Committee accept H.B. 2144 but pass it without recommendation to the 1978 Legislature. Senator Smith seconded the motion. Motion carried. Rep. Jones wished to be reported as voting "no".

Proposal No. 15 - Local Conflict of Interest

Senator Burke ~~then~~^g called on Lynn Hellebust, Governmental Ethics Commission to continue the review of policy questions on conflict of interest legislation. Mr. Hellebust distributed a pamphlet to the Committee entitled, "Ethics is Everybody's Business" giving a summary of the Governmental Ethics Commission's duties and responsibilities with respect to the Campaign Finance Law and conflict of interest legislation (See Attachment VII)

Committee discussion then returned to policy questions relating to financial disclosure, who must file and standards of conduct. (See Attachment II)

Rep. Ferguson ~~then~~^g moved that municipal judges ~~and employees of the court~~ be included in the list of local candidates, officers and employees to file financial disclosure and to be included in standards of conduct. Rep. Schmidt seconded the motion. Motion carried.

Senator Mulich then moved that the statutes reflect clarifying language to include employees of the court in addition to local candidates and officers of the judiciary. Rep. Ott seconded the motion. Motion carried.

Rep. Ott then moved that items under Standards of Conduct, B. Use of Position

1. Officers and employees cannot
 - a. Engage in lobbying his or her own state agency for pay
 - b. Accept compensation for performance of official duties, other than that to which he or she is entitled for such performance
 - c. Accept from any person with a special interest compensation for property or services in excess of that charged in the ordinary course of business

be included in the draft legislation for local candidates, officers and employees as they are for state level candidates officers and employees. Senator Mulich seconded the motion. Motion carried.

Committee discussion followed on K.S.A. 1976 Supp: 75-4305. Rep. Ferguson moved to insert the word "materially" before ~~a~~ffect, line 7, K.S.A. 1976 Supp. 75-4305,

so that the language reads, "Any public officer or employee who has not filed a disclosure of substantial interests and who, while acting in his official capacity, shall pass upon any matter which will materially affect..." Rep. Ott then moved that K.S.A. 1976 Supp. 75-4305 be included in the draft legislation for standards of conduct, local conflict of interest. Rep. Gillmore seconded the motion. Motion carried. Reps. Gordon and Jones wished to be recorded as voting "no".

Senator Mulich moved that the language in K.S.A. ~~46-241~~ 1976 Supp. 46-233 and K.S.A. 1976 Supp. 46-234 be included in the draft legislation for standards of conduct, restrictions on post employment, local conflict of interest. Senator Mulich seconded the motion. Motion carried.

Committee discussion followed on whether or not to include the language in K.S.A. 1976 Supp. 46-236 and 46-237 the draft legislation for standards of conduct, receipt or solicitation, local conflict of interest. The decision was made to delay the decision on this matter until the next meeting when information could be presented on what other states have done with respect to the issue.

Senator Mulich moved that the language concerning representation cases used in the state conflict of interest legislation (K.S.A. 1976 Supp. 46-240, 46-242a, 46-242b) be applied to the local level, as they apply (Workmen's Comp. cases would not). Rep. Modrcin seconded the motion. Motion carried.

Committee discussion followed on standards of conduct, H. Restrictions on outside employment, I. Personal interest in proposed legislation. No action was taken on these items by the Committee. Committee adjourned for lunch.

Committee discussion followed on including the judiciary in the state level conflict of interest legislation. Rep. Ferguson moved to include the judiciary under state level conflict of interest disclosure provisions. Rep. Gillmore seconded the motion. Motion carried.

Discussion followed on definition of public employee. Mr. Mordy of Common Cause suggested using the definition of public employee as found in the NCSL Model Conflict of Interest legislation (See Attachment III). Rep. Schmidt moved that the definition of "public employee" as used in the NCSL Model Bill be implemented in the state level conflict of interest legislation. Rep. Ferguson seconded the motion. Motion failed.

Rep. Gillmore moved to include the judiciary (including district court judges) under state level conflict of interest, standards of conduct provisions. Rep. Modrcin seconded the motion. Rep. Gillmore moved to amend the motion to include judiciary and employees under state level conflict of interest, standards of conduct provisions. Rep. Modrcin seconded the motion. Motion carried.

Committee discussion followed on penalties, local conflict of interest provisions. Rep. Ferguson moved to adopt Section 6 of 7 RS 1568, draft legislation on local conflict of interest. Rep. Jones seconded the motion. Motion carried.

Committee discussion followed on K.S.A. 1976 Supp. 25-4141, failure to file an affidavit of intent. Rep. Gillmore moved that the language be clarified in K.S.A. 1976 Supp. 25-4141 to provide for certain exceptions. Rep. Jones seconded the motion. Motion carried.

Senator Burke then stated that the agenda for the October 26-27 meeting would include a review of all draft legislation relating to state and local conflict of interest, *draft legis to Rules and Regulations of the Governmental Ethics Commission* and all draft legislation relating to amendments to the Campaign Finance Act. Consideration of Proposal No. 18, Voter Registration would be scheduled for the November 14 and 15 meeting. The meeting adjourned.