

MINUTES OF THE Senate COMMITTEE ON Elections

The meeting was called to order by Senator Ronald R. Hein at
Chairperson

1:30 ~~am~~ ^{pm} on March 21, 1983 in room 522-S of the Capitol.

All members were present except:

Senator Edward F. Reilly, Jr.
Senator Ed Roitz

Committee staff present:

Myrta Anderson, Legislative Research Dept.
Ramon Powers, Legislative Research Dept.
Arden Ensley, Revisor of Statutes' Office
Sharon Green, Committee Secretary

Conferees appearing before the committee:

Mr. James Maag, Kansas Bankers Association
Ms. Jana Atchison, Kansas Public Disclosure Commission

The Chairman called the meeting to order.

Mr. Jim Maag testified in favor of HB 2488, and indicated the changes in the measure to the Committee. Mr. Maag indicated that this bill would simplify the record keeping of the lobbyists and make it easier if they were to report on a monthly basis.

Ms. Jana Atchison testified in favor of HB 2488, stating that the Public Disclosure Commission met in February to discuss the concept of the bill, and the Commission favors the two changes being that of 1) reporting monthly, and 2) changing the expenditure amount to be reported from \$50 to \$100. She indicated that she did not know why the other amendment was made, and that the Commission had not taken a position on that amendment.

Questions were asked and a general discussion was held.

The Chairman explained to the committee the Sub Committee Report on SB 378 and SB 379. (Attachment 1) (Attachment 2)

Motion was made by Senator Johnston to adopt the Sub Committee Report. Senator Meyers seconded the motion. The motion was adopted.

Motion was made by Senator Hayden and seconded by Senator Norvell to report SB 378 and SB 379 favorably as amended. The motion was adopted.

Motion was made by Senator Hayden and seconded by Senator Meyers to favorably pass HB 2406 and place it on the Consent Calendar. The motion was adopted.

Motion was made by Senator Norvell to amend HB 2488 by reinserting lines 43, 44, and 45. Senator Hayden seconded the motion. The motion was adopted.

A substitute motion was made by Senator Gannon to amend HB 2488 by reinserting the language in lines 43, 44, and 45 but change the \$1 to \$2. Senator Johnston seconded the motion. The substitute motion was adopted.

Motion was made by Senator Meyers to reinsert \$10 in line 56. The motion died for lack of a second.

Motion was made by Senator Norvell and seconded by Senator Gannon to report HB 2488 favorably as amended. The motion was adopted.

Motion was made by Senator Gannon and seconded by Senator Meyers to adopt the minutes of March 14 and March 15. The motion was adopted.

The meeting was adjourned by the Chairman.

SENATE BILL No. 378

By Committee on Elections

2-23

0017 AN ACT relating to state governmental ethics; prohibiting certain
0018 activities by state officers and employees, former state officers
0019 and employees, persons licensed, inspected or regulated by
0020 state agencies and persons having a special interest; prescribing
0021 penalties for the violation thereof; amending K.S.A. 46-
0022 233, 46-237, ~~46-241~~ and 46-276 and repealing the existing
sections.

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 ~~New Section 1. No former state officer or employee, except~~
0025 ~~former legislators, for 12 months following the date on which~~
0026 ~~such officer or employee ceases to be a state officer or employee,~~
0027 ~~may, for compensation, on behalf of any person other than a~~
0028 ~~governmental entity, make any formal or informal appearance~~
0029 ~~before, or negotiate with, any officer or employee of the depart-~~
0030 ~~ment with which such person was associated as a state officer or~~
0031 ~~employee within 12 months prior to the date on which they~~
0032 ~~ceased to be a state officer or employee.~~

Section 1.

0033 ~~Sec. 2.~~ K.S.A. 46-233 is hereby amended to read as follows:
0034 46-233. (a) No state officer or employee shall in his or her *the*
0035 capacity as such officer or employee participate in the making of
0036 a contract with any person or business by which such officer or
0037 employee is employed or in whose business such officer or
0038 employee has a substantial interest and no such person or busi-
0039 ness shall enter into any contract where any state officer or
0040 employee, acting in such capacity, is a signatory to or a partici-
0041 pant in the making of such contract and is employed by or has a
0042 substantial interest in such person or business.

0043 Whenever any individual has, within the preceding two (2)
0044 years participated as a state officer or employee in the making of
0045 any contract with any person or business, such individual shall

Att. 1

0046 not accept employment with such person or business for one (1)
0047 year following termination of employment as a state officer or
0048 employee.

0049 (b) No individual shall, while a legislator or within one (1)
0050 year after the expiration of a term as legislator, be interested
0051 pecuniarily, either directly or indirectly, in any contract with the
0052 state, which contract is funded in whole or in part by any
0053 appropriation or is authorized by any law passed during such
0054 term, except that the prohibition of this subsection (b) shall not
0055 apply to any contract interest in relation to which a disclosure
0056 statement is filed as provided by K.S.A. 46-239.

0057 (c) No individual, while a legislator or within one (1) year
0058 after the expiration of a term as a legislator, shall as a litigant or by
0059 representing any person in a court proceeding attack any legisla-
0060 tive action taken or enactment made during any term such indi-
0061 vidual served as a legislator as being unconstitutional because of
0062 error in the legislative process with respect to such action or
0063 enactment.

The prohibition of this subsection (c) shall not apply to a current or former legislator charged with a violation of such legislative action or enactment.

0064 (d) Subsections (a) and (b) shall not apply to the following:
0065 (1) Contracts let after competitive bidding has been adver-
0066 tised for by published notice; and
0067 (2) Contracts for property or services for which the price or
0068 rate is fixed by law.

(d) Subsections (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.

0069 New Sec. 3. No state officer or employee may accept a posi-
0070 tion with an outside organization which is licensed by, inspected
0071 by, ~~contracts with~~ or is regulated by the agency in which the state
0072 officer or employee is employed. This section shall not apply to
0073 appointed or elected members of a state board, council or com-
0074 mission. ~~Except no member of such board, council or commis-~~
0075 sion shall participate in any license, inspection or contract on
0076 behalf of their state board, council or commission with any
0077 outside organization with which such member is associated.

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' that

0078 Sec. 4. K.S.A. 46-237 is hereby amended to read as follows:
0079 46-237. (a) No state officer or employee or candidate for state
0080 office shall accept, or agree to accept any economic opportunity,
0081 gift, loan, gratuity, special discount, favor, hospitality, or service
0082 having an aggregate value of ~~one hundred dollars (\$100)~~ \$100 or

3.

0083 more in any calendar year from any one person known to have a
0084 special interest, under circumstances where he or she *such person*
0085 knows or should know that a major purpose of the donor is to
0086 influence him or her *such person* in the performance of his or her
0087 *their* official duties or prospective official duties.

0088 (b) *No person with a special interest shall offer, pay, give or*
0089 *make any economic opportunity, gift, loan, gratuity, special dis-*
0090 *count, favor, hospitality or service having an aggregate value of*
0091 *\$100 or more in any calendar year to any state officer or employee*
0092 *or candidate for state office with a major purpose of influencing*
0093 *such officer or employee in the performance of official duties or*
0094 *prospective official duties.*

0095 (c) Hospitality in the form of food and beverages are pre-
0096 sumed not to be given to influence a state officer or employee in
0097 the performance of his or her *such officer or employee's* official
0098 duties or prospective official duties, except when a particular
0099 course of official action is to be followed as a condition thereon.

0100 (d) Except when a particular course of official action is to be
0101 followed as a condition thereon, this section shall not apply to (1)
0102 any contribution reported in compliance with the campaign fi-
0103 nance act; or (2) a commercially reasonable loan or other com-
0104 mercial transaction in the ordinary course of business.

0105 ~~New Sec. 5. No state officer or employee may retain com-~~
0106 ~~ensation for any activity or published work when the work is~~
0107 ~~accomplished with the use of the state's time or its facilities,~~
0108 ~~services or supplies not generally available to all citizens of this~~
0109 ~~state or, except in the case of a legislator or constitutional officer,~~
0110 ~~in the course of their official duties. A state officer or employee~~
0111 ~~who receives such compensation shall deposit it with the agency~~
0112 ~~with which they are associated. A state officer or employee need~~
0113 ~~not, however, deposit reimbursement received for bona fide ex-~~
0114 ~~penses reimbursable by the state.~~

0115 Sec. 6. K.S.A. 46-241 is hereby amended to read as follows:
0116 46-241. No state officer or employee shall disclose or use con-
0117 fidential information acquired in the course of his or her official
0118 duties in order to further his or her own economic interest or
0119 those of any other person ~~may use their public position or office,~~

0120 ~~or information gained therefrom, or public supplies, material,~~
 0121 ~~equipment, personnel, expenses or state time to obtain financial~~
 0122 ~~gain or anything of substantial value for the private benefit of~~
 0123 ~~such officer or employee or of their spouse or for any person with~~
 0124 ~~which the officer or employee has a substantial interest. This~~
 0125 ~~section shall not apply to (1) any contribution reported in com-~~
 0126 ~~pliance with the campaign finance act; or (2) any solicitation for~~
 0128 ~~the benefit of any charitable organization which is required to file~~
 0129 ~~a registration statement with the secretary of state pursuant to~~
 0130 ~~K.S.A. 17-1740 or which is exempted from filing such statement~~
 0131 ~~pursuant to K.S.A. 17-1741 or for the benefit of any educational~~
 0132 ~~institution or such institution's endowment association, if such~~
 0133 ~~association has qualified as a nonprofit organization under para-~~
 0134 ~~graph (3) of subsection (c) of section 501 of the internal revenue~~
 0134 ~~code of 1954, as amended.~~

0135 New Sec. 7. No person licensed, inspected or regulated by a
 0136 state agency shall offer, pay, give or make any economic oppor-
 0137 tunity, gift, loan, gratuity, special discount, favor, hospitality, or
 0139 service having an aggregate value of \$100 or more in any calendar
 year to that agency.

0140 Sec. 8. K.S.A. 46-276 is hereby amended to read as follows:
 0141 46-276. Violation of any provision of K.S.A. 46-232, 46-233,
 0142 46-235 to, 46-236, 46-238, inclusive, 46-240 to, 46-242, inclusive,
 0143 46-267 and 46-271 to 46-273, inclusive, and amendments thereto,
 0144 and sections 1 and 3 of this act, and amendments thereto, is a class
 0145 B misdemeanor.

0146 New Sec. 9. ~~Violation of any provision of K.S.A. 46-237 or~~
 0147 ~~46-241 or of section 6 of this act is a class D felony.~~

0148 Sec. 10. K.S.A. 46-233, 46-237, 46-241 and 46-276 are hereby
 0149 repealed.

0150 Sec. 11. This act shall take effect and be in force from and
 0151 after its publication in the statute book.

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46-237.

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SENATE BILL No. 379

By Committee on Elections

2-23

0016 AN ACT relating to state governmental ethics; defining and
0017 requiring the filing of statements of substantial interest;
0018 amending K.S.A. 1982 Supp. 46-247 and K.S.A. 46-229 and
0019 46-248 and repealing the existing sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 46-229 is hereby amended to read as fol-
0022 lows: 46-229. "Substantial interest" means any of the following:

0023 (a) The ownership *within the preceding 12 months* by an individ-
0024 ual or spouse, either individually or collectively of a legal or
0025 equitable interest exceeding five thousand dollars (\$5,000) or five
0026 percent (5%) \$5,000 or 5% of any business, whichever is less;

0027 (b) the receipt in the preceding calendar year by an individual
0028 or spouse individually or collectively of compensation which is
0029 or will be required to be included as taxable income on Kansas
0030 federal income tax returns of such individual and spouse in an
0031 aggregate amount of one thousand dollars (\$1,000) \$1,000 from
0032 any business or combination of businesses;

\$2,000

0033 (c) the receipt in the preceding calendar year 12 months by an
0034 individual of gifts or honoraria having an aggregate value of five
0035 hundred dollars (\$500) \$500 or more from any person other than a
0036 relative of such individual;

known to have a special interest

0037 ~~(d) the receipt in the preceding 12 months by an individual of~~
0038 ~~any gift, loan, gratuity, special discount, favor, hospitality, or~~
0039 ~~service having an aggregate value of \$100 or more from any one~~
0040 ~~person known to have a special interest;~~

(d)

0041 ~~(d) (e)~~ The holding of the position of officer or director of any
0042 business, irrespective of the amount of compensation received by
0043 the individual holding any such position;

, associate, partner or proprietor

(e)

0044 (e) (f) if an individual's compensation is a portion or percentage

0045 of each separate fee or commission paid to a business or combi-
0046 nation of businesses, such individual has a substantial interest in
0047 any client or customer who pays fees or commissions to such
0048 business or combination of businesses from which fees or com-
0049 missions such individual received an aggregate of ~~one thousand~~
0050 dollars (\$1,000) ~~\$1,000~~ or more in the preceding calendar year 12
0051 months.

\$2,000

0052 Sec. 2. K.S.A. 1982 Supp. 46-247 is hereby amended to read
0053 as follows: 46-247. The following individuals shall file written
0054 statements of substantial interests, as provided in K.S.A. 46-248 to
0055 46-252, inclusive, and amendments thereto:

0056 (a) Legislators and candidates for nomination or election to
0057 the legislature;

0058 (b) individuals holding an elected office in the executive
0059 branch of this state, and candidates for nomination or election to
0060 any such office;

0061 (c) state officers and employees receiving compensation from
0062 the state at a rate of \$25,000 per year or more, except that this
0063 section shall not apply to unclassified state officers and employ-
0064 ees of institutions under the state board of regents whose princi-
0065 pal duties are teaching and who are so designated on the excep-
0066 tion lists; which shall be submitted to the commission annually
0067 on January 31 by the chief officer of each institution and certified
0068 to be correct and members of boards, councils and commissions
0069 who are listed ~~on a designation list prepared~~ by the head of a state
0070 agency;

under the jurisdiction of the head of any state agency

as designees

0071 (d) individuals whose appointment to office is subject to
0072 confirmation by the senate whether or not such individual is a
0073 state officer or employee;

pursuant to section 7

0074 (e) members of state councils, commissions and boards;

0075 (f) general counsels for state agencies irrespective of how
0076 compensated.

0077 New Sec. 3. As used in this act and article 2 of chapter 46 of
0078 Kansas Statutes Annotated, and amendments thereto, the defini-
0079 tions in sections 4 to 7, inclusive, shall apply.

0080 New Sec. 4. "Designee" means (a) any state officer, employee
0081 or member of any agency, department, division, bureau or other

0082 unit of state government ~~which has responsibility for (1) major~~
 0083 ~~policy making, or (2) contracting, purchasing or procurement, or~~
 0084 ~~(3) writing or drafting specifications for contracts, or (4) admin-~~
 0085 ~~istering or awarding grants, benefits or subsidies, or (5) inspect-~~
 0086 ~~ing, licensing, or regulating any person or entity; and (b) any state~~
 0087 ~~officer or employee who in the preceding 12 months has been a~~
 0088 ~~consultant for any person or entity other than the state for com-~~
 0089 ~~ensation. "Designee" does not include any driver's license ex-~~
 0090 ~~aminer or motor carrier inspector of the department of revenue.~~

who holds a position: (1) defined as a

responsible for

position;

responsible for

except persons performing purely ministerial functions in the awarding of grants under entitlement programs

while a state officer or employee

0091 New Sec. 5. "Major policy making" position means (a) the
 0092 administrative head or heads or executive of a state agency, (b) the
 0093 head of each department, division, bureau or other major admin-
 0094 istrative unit within a state agency, and (c) persons exercising
 0095 similar authority to the foregoing.

0096 New Sec. 6. "Consultant" means an expert who is called on
 0097 for professional or technical advice or opinions.

0098 ~~New Sec. 7. "Designation list" means a list of all designees~~
 0099 ~~under the jurisdiction of the head of a state agency.~~

7

of designees under their jurisdiction, identify the positions, names and home mailing addresses of all designees of that agency

0100 New Sec. 8. (a) The head of every state agency shall submit a
 0101 designation list to the commission on April 1. Such person shall
 0102 prepare and submit a separate designation list for each depart-
 0103 ment, division, bureau or other unit within such person's jurisd-
 0104 iction, identifying the positions, names and home mailing ad-
 0105 dresses of all designees of that agency. Such person shall attach to
 0106 each designation list an organizational chart for the agency,
 0107 department or division to which that list corresponds. Such
 0108 person shall certify the designation list to be correct. Such person
 0109 shall notify the commission of the name, home address and
 0110 position of any new designee under such person's jurisdiction
 0111 within 10 days of appointment. The commission may require the
 0112 head of a state agency to make additions to or deletions from the
 0113 designation list.

agency head may

annually between March 15 and March 31

their

agency head

and

agency head

request

0114 (b) The commission shall transmit promptly copies of all
 0115 designation lists received under this section to the secretary of
 0116 state and shall cause the names and positions of the designees on
 0117 such designation lists to be published in the Kansas register.

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0118 Sec. 9. K.S.A. 46-248 is hereby amended to read as follows:

0119 46-248. The statement of substantial interests required by K.S.A.
 0120 46-247 to 46-252, inclusive, and amendments thereto, shall in-
 0121 clude the substantial interests of the individual making the state-
 0122 ment ~~as provided in this section~~. Campaign contributions re-
 0123 ported in compliance with the campaign finance act shall not be
 0124 included in this statement.

Such statement shall include the informa-
 tion required by K.S.A. 46-229, and amend-
 ments thereto, in such detail and form as
 is required by the commission.

0125 ~~(a) The following shall be disclosed by all individuals re-~~
 0126 ~~quired to file:~~

0127 (1) The name, address and type of business of any corporation
 0128 or the name, address and type of practice of any professional
 0129 organization or individual professional practice in which the
 0130 individual making the statement was an officer, director, asso-
 0131 ciate, partner or proprietor at the time of filing; and

(a)

of substantial interest

0132 (2) each substantial interest of the individual making the
 0133 ~~statement in such detail and form as is required by the commis-~~
 0134 ~~sion,~~

between April 15 and

0135 ~~(b) The statements required by this section to be filed shall be~~
 0136 ~~filed at the following times:~~

or if the individual is appointed after
 April 30 in any year, such statement shall
 be filed within 15 days after such appoint-
 ment and annually thereafter between April
 15 and April 30, so long as the act applies
 to the individual

0137 (1) For individuals who are state officers or employees speci-
 0138 fied in K.S.A. 46-247, and amendments thereto, except candidates,
 0139 annually on ~~January 31~~ April 30, so long as the act applies to the
 0140 individual;

or before the date prescribed by K.S.A.
 1982 Supp. 25-205, and amendments thereto,
 such statements shall be filed on the date
 prescribed by K.S.A. 1982 Supp. 25-205 or
 within 10 days thereafter

0141 (2) for individuals who become candidates, on the date of
 0142 filing declaration to become a candidate ~~June 20 of the year the~~
 0143 ~~election is to be held for such candidacy,~~ or if the individual
 0144 becomes a candidate by another means ~~after June 20~~ then within
 0145 ten (10) five days of becoming a candidate, unless within such
 0146 period the candidacy is officially declined or rejected; and

the date prescribed by K.S.A. 1982 Supp.
 25-205

0147 ~~(3) for individuals to which paragraphs (1), and (2) and (4) of~~
 0148 ~~this subsection (b) do not apply, at the time of within 15 days after~~
 0149 ~~appointment to state office or employment and annually thereaf-~~
 0150 ~~ter commencing on the next succeeding January 31 April 30, so~~
 0151 ~~long as this act applies to such individual.~~

0152 (4) For individuals whose appointment to state office or em-
 0153 ployment is subject to confirmation by the senate, at the time of
 0154 appointment and annually thereafter commencing on the next
 0155 succeeding January 31, so long as this act applies to such indi-

0156 vidual.

0157 ~~(e)~~ Individuals who become subject to ~~paragraphs (1), or (2) or~~
0158 ~~(4)~~ of subsection ~~(b)~~ and who have on file a statement of sub-
0159 ~~stantial interests for the preceding January 31 April 30 filing date,~~
0160 ~~or thereafter,~~ shall not be required to file any additional statement
0161 of substantial interests for that period.

(b)

[paragraph

(a)

[pursuant to this act for the current year

0162 ~~(d)~~ If an individual serves in more than one capacity for
0163 which a statement of substantial interests is required to be filed
0164 ~~on January 31 April 30,~~ such individual shall be required to file
0165 only a single statement of substantial interests for all capacities
0166 for which a statement is required to be filed ~~on January 31 April~~
0167 ~~30.~~

(c)

[pursuant to this act

0168 ~~(c)~~ The statements required by this section to be filed shall be
0169 filed with the secretary of state in all cases. ~~The secretary of state~~
0170 ~~shall promptly transmit copies of all filings by legislators, candi-~~
0171 ~~dates for the legislature and individuals subject to confirmation~~
0172 ~~by the senate to the secretary of the senate and the chief clerk of~~
0173 ~~the house of representatives.~~

(d)

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0174 Sec. ~~10.~~ K.S.A. 1982 Supp. 46-247 and K.S.A. 46-229 and
0175 46-248 are hereby repealed.

10

0176 Sec. ~~11.~~ This act shall take effect and be in force from and
0177 after its publication in the ~~Kansas register.~~

statute book