Approved 4-9-91
Date

MINUTES OF THE House COMMITTEE ON Elections.

The meeting was called to order by Representative Tom Sawyer at
Chairperson

9:10 a.m./p.m. on Monday, April 1st, 1991 in room 521-S of the Capitol.

All members were present except:

Committee staff present:

Pat Mah, Research
Arden Ensley, Revisor
Ellie Luthye, Committee Secretary

Conferees appearing before the committee:

Representative George Dean
Ron Smith, Kansas Bar Association
John Anderson, City of Overland Park
Jim Kaup, League of Kansas Municipalities
Jim Olson, Executive Director, Community Resources Council
Don Goss, Olathe Chamber of Commerce

The House Elections Committee was called to order at 9:10 a.m. on Monday, April 1st, 1991 by Chairman Tom Sawyer.

The Chair opened hearings on HB 2599, concerning preparation of jury lists.

He called on Representative George Dean, the sponsor of this bill. Representative Dean stated there was often a problem of people not voting because they did not wish to serve on a jury and currently one of the provisions for choosing jurors is from the voter registration lists. He felt that using the driver license lists, as well as the census lists, would provide the necessary selection needed and at the same time would not deter constituents from voting.

Ron Smith, Kansas Bar Association Legislative Counsel, presented testimony in opposition to HB 2599. He recommended changing the word "or" in line 18 to "and", restoring the stricken language in lines 16, 17 and 29 and striking the new language in lines 35-36. He stated it was the mix of using all three lists, voter registration, census and drivers license, that creates a fair panel, not the exclusion of one in favor of another. (Attachment 1)

Following questions, the Chair closed hearings on HB 2599.

Hearings were then opened on SB 86, defining substantial interest and compensation.

John Anderson, City of Overland Park, was the first conferee to appear before the committee in support of SB 86. He stated that this bill, as amended, would allow public officials to continue their commitment to public service by serving as officers and directors of not for profit organizations while still being able to vote on matters affecting those organizations when they come before the Council. He urged passage of SB 86, as amended. (Attachment 2)

The next conferee was Jim Kaup, League of Kansas Municipalities General Counsel. He stated the League believes state law should allow local government officers and employees to serve on the boards of certain civic and social organizations without having to abstain from participating in city government actions that affect those organizations. (Attachment 3)

Jim Olson, Executive Director to the Community Resources Council, next presented written testimony. He stated the service of elected officials on non-profit boards of directors has done much to foster a shared community vision of community problems and the means to address them. He urged passage of SB 86 as amended. (Attachment 4)

Don Goss, Olathe Chamber of Commerce, next spoke to the committee as a proponent to SB 86. However, he asked the committee to amend the bill to include 501 (C) (6) Business Associations in its language. He stated that leaving the language as written could put an end to numerous public-private partnerships which have taken several years to foster. (Attachment 5)

The Chair recessed the meeting at 9:55 a.m. so the representatives could have their House picture taken.

The meeting reconvened at 10:25 a.m.

The minutes of the meetings on March 28th and 29th were presented for approval or correction. Representative McKechnie made a motion to accept the minutes, seconded by Representative Stephens and the motion carried.

The Chair adjourned the Elections Committee at 10:30 a.m with the announcement that hearings would continue on SB 86 on Tuesday.

The next meeting of the House Elections Committee will be Tuesday, April 2nd, 1991, Room 521-S.

GUEST LIST

COMMITTEE: Elections DATE: 4-1-91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
John S. Anderson	8500 Santa Fe Drive	City of Overland Park KS
Donald R. Goss	12425 Aberdeen Cir.	Ov-Park Chamber of Commerce
Michael Wolf	Topeka	C.C./KS
Ron Smith	"	KBA
Jean Atchison	Topeka	KAAC
Mark Tallman	Topeka	KASB
Teresa Floerchinger	Topeka	Budget
Jim Kaup	Topeka	League of Municipalities
Rebecca Bossemeyer	Topeka	SOS
Ron Thornburgh	"	SOS

POSITION STATEMENT April 1, 1991
From the Kansas Bar Association

TO: Members, House Elections Committee

FROM: Ron Smith, KBA Legislative Counsel

SUBJ: HB 2599; Jury Lists

The KBA opposes this legislation in its current form. We do suggest an amendment below that we would support.

Background. There is a perception that by using voter registration lists when impaneling juries, people choose not to register in order to avoid jury duty. We do not think that is the case in all areas, although it may happen on occasion. If it happens, that is not justification for this legislation.

The creation of a jury panel is essential to due process of law. "Every criminal defendant is constitutionally entitled to a jury drawn from a venire representing a fair cross section of the community."[1] The Sixth Amendment requirement of a fair cross section on the venire "is a means of assuring not a representative jury (which the Constitution does not demand), but an impartial one (which it does) ..."[2]

Whether the trial itself criminal or civil in nature, juries are usually drawn from the same pan-

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[1] **Taylor v. Louisiana**, 419 U.S. 522, 528, 95 S.Ct. 692, 42 L.Ed.2d 690 (1975).

[2] **Holland v. Illinois**, 493 U.S. ___, 110 S.Ct. 803, at 806, 107 L.Ed.2d 905 (1990). Kansas law agrees. **State v. Massey**, 247 Ka 79, 795 P.2d. 344, 347 (1990).

House Elections Committee
Attachment 1
4-1-91

el. The lists used to create the panel are essential to the process. To the extent you narrow the lists, you create problems for the judicial branch in insuring a fair trial. "The difficulty in selecting a fair and impartial jury is an important factor in weighing a claim of prejudice."[3]

K.S.A. 43-162 allows three types of lists to be used: (a) voter registration, (b) licensed drivers residing in the county, or (c) census records. **We would agree with proponents that counties which use only the voter registration list are not complying with the spirit of this statute.** They must draw juries from the widest possible list of residents. Limiting their lists to a single list may create unconstitutional jury panelsdepending on surrounding facts.

However, HB 2599 restricts the lists even further. Restricting the overall list -- by excluding from jury panels those adults who are not licensed drivers or on the census rolls but who are registered to vote -- creates a constitutional issue of its own as to the fairness of the resulting panel. Voter Registraton lists often include more older people and fewer younger citizens and minorities. Driver's lists will include more younger people and minorities, but may exclude older citizens. It is the mix of these lists that creates a fair panel, not the exclusion of one in favor of another.

Although the statute is drawn using the word "or" in line 18, we think the "intent and purpose of the act" is to draw jurors from the widest possible group of adult citizens. **By changing the word "or" to "and" in line 18, restoring the stricken language in lines 16, 17 and 29, and striking the new language in lines 35-36, KBA thinks you'll have**

[3]**State v. Hunter**, 241 Kan 629, 740 P.2d 559, at 565 (1987).

1-2

a stronger law than before, and one in which there is no constitutional issue. KBA would support this bill drawn in this manner.

I admit this amendment requires counties to create a master list from all three lists now available to draw jurors from. This may cause a new expense. But using all three lists might be quite simple -- such as simply choosing the first panelist from Voter Registration Lists, the second panelist from the motor vehicle list, and the third from the census rolls, the fourth from VR list, etc. etc. However, it would avoid legal challenges.

Providing an accused, or civil litigants, with a fair and impartial jury is never easy, rarely is it convenient to citizens to serve on these juries, and the whole process perhaps may require expense. It is, however, that portion of our democracy that makes us unique in the world. It should not lightly be changed.

Thank you.

Issue: Should voter registration lists be utilized to choose jury panels?

KBA Position: *The Kansas Bar Association OPPOSES removing a court's ability to utilize voter registration lists when determining jury panels.*

Rationale: State officials are concerned that people do not vote because they fear being chosen for a jury. Criminal defense counsel also are concerned that county reliance solely on voter registration lists skewers minority representation on jury panels, perhaps unconstitutionally.

Statutes require jurors be chosen from a combination of lists, including county motor vehicle registrations. Administrative judges should insure no single list is utilized. The KBA opposes removing voter registration lists from the jury panel statute. Such removal would raise serious constitutional questions in the criminal law field.

TESTIMONY IN SUPPORT OF SENATE BILL NO. 86,
AS AMENDED BY SENATE COMMITTEE ON ELECTIONS

TO: THE HONORABLE TOM SAWYER, CHAIRMAN AND
MEMBERS OF THE HOUSE COMMITTEE ON ELECTIONS
KANSAS LEGISLATURE
ROOM 521-S
KANSAS STATE CAPITOL
TOPEKA, KANSAS 66612

DATE: APRIL 1, 1991

RE: SENATE BILL NO. 86, AS AMENDED BY SENATE COMMITTEE ON ELECTIONS

THE PROBLEM

Example 1: You are a City Councilmember who serves on the local board of the Girl Scouts. You receive no remuneration from the Girl Scouts. As part of a Girl Scout fund raising event, the City Council is asked to appropriate $100.00 to purchase Girl Scout cookies which are to be donated to the Salvation Army soup kitchen. You vote for the appropriation. By doing so you have violated the Governmental Ethics Act applicable to local governments and are subject to fine and forfeiture of office.

Example 2: You are a City Councilmember and your City Council is the sole source of funds provided to a local convention and tourism bureau which confines its operation exclusively to promoting conventions and tourism for the City. In order to provide some oversight on the Bureau's operations, the City Council requires one of its Councilmembers to serve, without remuneration, as an ex officio director on the board of the Bureau, and you are appointed to serve. The appropriation for funding the Bureau comes before the Council, and you vote on the matter. You have violated the Governmental Ethics Act applicable to local governments and are subject to fine and forfeiture of office.

Under current state statutes, if a local public official serves, even without remuneration, as a director or officer of a strictly not for profit corporation, the public official has a substantial interest in the corporation and is prohibited from participating in any activity which can be construed as a contractual matter between the not for profit corporation and a public body regardless of whether the public official discloses the interest. The City of Overland Park does not believe that any public purpose is served by such a restriction and supports Senate Bill No. 86, as amended by Senate Committee on Elections, which removes the restriction involving certain not for profit corporations with the provision that Senate Bill No. 86, as amended, be expanded to remove restrictions involving not for

profit organizations which are exempt from federal taxation under Section 501(c)(6) of Chapter 26 of the United States Code.

You, as state legislators, face the same problem as the local elected official. The Governmental Ethics Act which covers local officials has the same provisions regarding substantial interest as the State Governmental Ethics Act which covers state legislators, officers and employees.

BACKGROUND

As part of their commitment to public service to the community, several members of the governing body of the City of Overland Park, Kansas, serve as officers and directors of not for profit organizations. In the summer of 1990, the Kansas Public Disclosure Commission staff informed the Overland Park Legal Department that the new form of the statement of substantial interest would have no reference to not for profit corporations in the definition of "business." Prior to this, the members of the Overland Park governing body filed a statement of substantial interest for local public offices which contained the language that "the definition of business does not contemplate. . .strictly charitable and nonprofit organizations. . ." (Emphasis supplied). This seemed to indicate that strictly charitable and not for profit organizations were not a "business." Since a public official could have a substantial interest only in a "business," the official would not have a substantial interest in strictly charitable and not for profit organizations. However, I informed the Councilmembers that the definition of "business" found at K.S.A. 75-4301 did not exempt not for profit organizations. I advised the Councilmembers to refrain from any action between the not for profit organization and the City Council until we could get a ruling from the Kansas Public Disclosure Commission.

On September 11, 1990 I requested a ruling from the Kansas Public Disclosure Commission as to whether certain organizations, all of which truly lack profit making activity or intent, were included in the term "business" as used by K.S.A. 75-4301 et seq. These organizations include: (a) United Community Services of Johnson County, Kansas which serves as a planning arm of United Way; (b) Commission on Aging of the Johnson County Area Agency on Aging which is responsible for evaluating and implementing the delivery of services to the elderly and developing a plan for distribution of state, county and federal funds; (c) Overland Park 2000 Foundation which promotes historic preservation and assists in the eradication of blight through building improvements in the downtown area of Overland Park; and (d) the Overland Park Conventions and Visitors Bureau which is funded solely by the City of Overland Park and which confines its operations exclusively to the promotion and solicitation of convention and tourism for the City. In each case, the Councilmembers served without remuneration.

In Opinion No. 90-22, a copy of which is attached hereto, the Kansas Public Disclosure Commission ruled that there is no "distinction made in the statute between not for profit corporations and for profit corporations" and that both are "businesses" in which public officials have a substantial interest if they serve as a director, even without remuneration. The Commission went on to note that "this opinion will have extraordinarily broad ramifications" and "it is illegal in many instances for city commissioners to participate in the making of contracts with a 'business' in which he or she holds a 'substantial interest,' including grants to nonprofit organizations."

PROPOSED SOLUTION

Senate Bill No. 86, as amended, contains an amendment to K.S.A. 75-4301(a) which would provide that an individual or an individual's spouse, does not have a substantial interest in certain not for profit organizations solely because the individual or individual's spouse serves as an officer, director, associate, partner or proprietor of the not for profit organization. The not for profit organizations are those organizations exempt from federal taxation of corporations under Section 501(c)(3), (4), (7), (8), (10) and (19) of Chapter 26 of the United States Code. These include such not for profit corporations as those operating exclusively for religious, charitable, scientific and education purposes; certain civic leagues not organized for profit; certain not for profit clubs and fraternal beneficiary societies; and posts or organizations of past or present members of the Armed Services of the United States or an auxiliary unit or society.

The City of Overland Park further urges that Senate Bill No. 86, as amended, be expanded to provide that an individual does not have a substantial interest in those not for profit corporations exempt under Section 501(c)(6) of the Code solely because the individual or individual's spouse serves as a director, associate, or is an associate, partner or proprietor of such organization. These organizations relate to promotion of economic development such as business leagues, chambers, and, in the case of the City of Overland Park, the Overland Park Convention and Tourism Bureau. This would enable the City to place a Councilmember on the board of the Bureau in order to provide an oversight of the Bureau operations without restricting the Councilmember from voting on matters involving the Bureau which come before the City Council.

The proposed amendment to K.S.A. 75-4301(a) does not mean that an individual can never have a substantial interest in those enumerated not for profit organizations. For example, an individual has substantial interest in a not for profit organization if the individual or spouse, individually or collectively, received compensation from a not for profit corporation in the aggregate amount of $2,000 during the preceding calendar year which is included as taxable income on the federal

return. Also, an individual would still have a substantial interest in any not for profit organization if either the individual or spouse, without consideration, received goods or services having a value of $500 or more from the not for profit corporation. The amendment only means that an individual does not have a substantial interest in certain not for profit organizations solely because the individual or spouse serves as a director or holds an office, or is an associate, partner or proprietor of a not for profit organization exempt from federal taxation under the above cited Code provisions.

OTHER ISSUE

Senate Bill No. 86, as amended, also contains an amendment to K.S.A. 75-4301(a) to provide that the definition of "compensation" does not mean reimbursement of expenses as long as the reimbursement does not exceed the expenses and the expenses are substantiated by an itemization. The language contained in the bill reflects advisory opinions which have heretofore been issued by the Kansas Public Disclosure Commission. We submit that it is preferable to have the language codified by statute rather than in opinion form.

* * *

The City of Overland Park urges that you consider passage of Senate Bill No. 86, as amended, with the previously addressed provision, which will allow public officials to continue their commitment to public service by serving as officers and directors of not for profit organizations while still being able to vote on matters affecting those organizations when they come before the Council.

Respectfully submitted,

John S. Anderson

STATE OF KANSAS

KANSAS PUBLIC DISCLOSURE COMMISSION

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

October 17, 1990

Opinion No. 90-22

John S. Anderson
Assistant City Attorney
City of Overland Park
City Hall
8500 Santa Fe Drive
Overland Park, Kansas 66212

Dear Mr. Anderson:

This opinion is in response to your letter of September 11, 1990 in which you request an opinion from the Kansas Public Disclosure Commission concerning the definition of "substantial interest" as that phrase has been modified by Section 15 of Chapter 306 of the 1990 Session Laws of Kansas, for use in the local conflict of interest law.

We understand you request this opinion in your capacity as Assistant City Attorney for Overland Park, Kansas. You note in your request that the definition of "substantial interest" and other definitions which are included in that phrase have been changed by the 1990 Legislature. You set forth in great detail the interpretative problem the language change creates and several specific fact patterns. We thank you for your perceptive comments and direction in assisting the Commission in dealing with this complex problem.

We start with the premise that to hold a "substantial interest" under the local conflict law the interest must be in a "business" (See New Section 14(a)). "Business" is defined in New Section 14(b) as follows:

> "(b) "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income."

The questions you raise can be categorized as follows:

> (1) Does a private not for profit corporation meet the definition of business?

(2) Does a corporation, association, partnership, proprietorship, trust, or joint venture created by a local governmental subdivision constitute a business?

On the first question, we do not see any distinction made in the statute between not for profit corporations and for profit corporations. It is, therefore, our opinion that both constitute a "business" as that phrase is used in the definition of "substantial interest" under the local conflict law.

Turning to the second question, we first note that "Governmental subdivision" is defined by new Section 14 (f) as follows:

"(f) "Governmental subdivision" means any city, county, township, school district, drainage district or other governmental subdivision of the state having authority to receive or hold public moneys or funds."

As a matter of statutory construction, since "Governmental subdivision" is a defined term not specifically included within the definition of "business", it is our opinion that those entities which meet the definition of "Governmental subdivision" are not a "business" as that term is used in the local conflict law. Thus, a corporation, association, partnership, proprietorship or joint venture created by ordinance or resolution which has the authority to receive or hold public funds does not constitute a "business". The mere fact that an entity receives public funds is not enough for exclusion from the definition, the entity must also be created by ordinance or resolution.

Applying these rules to your specific fact patterns, it is our opinion that:

(1) United Community Services of Johnson County, Kansas does constitute a "business" even though it is a private not for profit corporation.

(2) Commission on Aging. Although created by resolution, this association does not have the authority to receive or hold public funds and therefore constitutes a "business".

(3) Overland Park Convention and Visitors Bureau, Inc. Although this entity has the authority to receive public funds, it is not created by resolution or ordinance and therefore does constitute a "business". On this fact pattern you ask an additional question on whether an ex officio member of the board of directors, that is, a non-voting member, would be deemed to hold a "substantial interest" in the entity. New Section 14(a)(4) merely uses the term "director" and makes no distinctions between voting and non-voting members. It is, therefore, our opinion that if a person holds a position on the board of directors (it does not matter whether it is ex officio), a "substantial interest" exists.

(4) Overland Park Economic Development Council. Although this entity receives public funds, it is not a creation of ordinance or resolution but draws its existence from the Overland Park Chamber of Commerce. Thus, it constitutes a "business". Here you ask the additional question of whether the service on the board of directors of the Council constitutes a "substantial interest" in that entity, the Chamber of Commerce, or both. Under new Section 14(a)(4) the operative phrase is "in that business". Since the Council is an association which meets the definition of business, it is our opinion that "that business" refers to the Council alone.

(5) Theatre For Young America, Inc., does constitute a "business" under the tests enunciated above.

(6) Overland Park 2000 Foundation does constitute a "business" under the tests enunciated above.

In closing, we note that this opinion will have extraordinarily broad ramifications and solicit further input from you on how these decisions will affect local government operations. Our greatest concern is the application of K.S.A. 75-4304 under the new definition. Specifically, it is illegal in many instances for city commissioners to participate in the making of contracts with a "business" in which he or she holds a "substantial interest", including grants to non-profit organizations.

Sincerely,

Lowell K. Abeldt

Lowell K. Abeldt, Chairman

By Direction of the Commission

LKA:DDP:dlw

League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Elections
FROM: Jim Kaup, League General Counsel
RE: SB 86--Local Governmental Ethics
DATE: April 1, 1991

The League requested introduction of SB 86 in response to an advisory opinion issued by the Kansas Public Disclosure Commission to the City of Overland Park in October 1990. The advisory opinion (No. 90-22), was on the question of whether a councilmember's service as a member of the board of directors of a private not-for-profit corporation was a "substantial interest" which would trigger certain provisions of, and prohibitions under, the local governmental ethics law (K.S.A. 1990 Supp. 75-4301a et seq.). The Disclosure Commission's response stated that the state law did not distinguish between serving as an officer or director for a for-profit or a not-for-profit corporation or association. In short, a directorship on the local United Way or Girl Scouts board is as much a substantial interest as one on the board of Acme Manufacturing, Inc. or First State Bank.

The Need for SB 86.

While the League does not disagree with the conclusion reached in Advisory Opinion No. 90-22, we do not believe it is a result intended by the Kansas legislature.

The significance of a "substantial interest" under the state law is not only the requirement of disclosure of that interest on forms filed with the county election officer, but also the general prohibition against participating in "the making of a contract" between the city and the business in which an official has a "substantial interest".

What this means, for example, is that it may well be unlawful for a councilmember who serves as a director of the board of the local United Way to not only "make or participate in the making of a contract" with the United Way but also unlawful to so "contract" with any agency affiliated with, or receiving funding from, the United Way.

This issue of the legality of such "contracting" arises regardless of whether the officer or employee has declared his or her directorship on the United Way on the statement of substantial interests. (K.S.A. 1990 Supp. 74-4305).

The seriousness of this issue is heightened by the fact that we do not know how broadly the phrase "making of a contract" should be, or could be read. Does it cover approval of city budgets which appropriate moneys to agencies which also receives United Way funding such as the local legal aid office? A homeless shelter? A safe house for battered women?

Finally, the League notes the penalties for violations of the act--forfeiture of public office and conviction of a Class B misdemeanor.

Amendments Made by SB 86.

(1) Amending Definition of "Substantial Interest".

SB 86, at page 1, lines 37:39, amends the local governmental ethics law's definition of "substantial interest". As drafted, this is the language the League prepared in response to the Advisory Opinion issued to the City of Overland Park.

The proposed amendment excludes from the definition of "substantial interest" the holding of the positions of officer, director, associate, partner or proprietor of certain organizations which are tax-exempt under the U.S. tax code.

The League felt reference to existing tax code exemptions was the most definitive and reliable, as well as the simplest, way to resolve the problems which we believed would otherwise follow from the Commission's Advisory Opinion.

In preparing its amendment the League looked at all 25 of the present categories of tax-exempt organizations under "Section 501(c)" of the U.S. tax code. We believe that six of those 25 exemptions are relevant to the issue at hand. Attached to the League's testimony is a photocopy of the full text of Sec. 501(c). Set out below is a short statement to explain those exemptions under Sec. 501(c) which have been utilized under SB 86.

U.S. Tax Code-Exempt Organizations Affected By Senate Bill 86:

Sec. 501(c)(3)--

Corporations, and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific or educational purposes, with no part of the net earnings going to the benefit of any private shareholder or individual.

Sec. 501(c)(4)--

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare . . . and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.

Sec. 501(c)(7)--

"Clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Sec. 501(c)(8)--

"Fraternal beneficiary societies, orders, or associations--
(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and
(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents."

Sec. 501(c)(10)--

"Domestic fraternal societies, orders, or associations, operating under the lodge system--
(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and
(B) which do not provide for the payment of life, sick, accident, or other benefits."

Sec. 501(c)(19)--

"A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization . . . and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

While the amendment does not limit the proposed new exemption to only non-compensated positions held in such tax-exempt organizations, it should be noted that anyone receiving $2,000 in taxable income from an organization, whether or not the organization is tax-exempt, must declare such as a "substantial interest" under K.S.A. 1990 Supp. 75-4301a(a)(2). This is because "substantial interest" encompasses any one of the interests covered under Supp. 75-4301a(a)(1) through (5).

(2) Amending Definition of "Compensation."

SB 86, at page 2, lines 29:32, would also amend the local governmental ethics law's definition of compensation.

This proposed amendment--intended solely to clarify the existing law--was the result of the close scrutiny the City of Overland Park gave Supp. 75-4301a before and after the Advisory Opinion noted above. It does not relate to the problem identified by the Advisory Opinion.

The amendment would clarify that certain documented reimbursements are not to be considered as "compensation" and therefore such reimbursements would not be counted

towards the $2,000 threshold for creation of a "substantial interest" as defined at K.S.A. 1990 Supp. 75-4301a(a)(2).

The new language at page 2, lines 29:32, with the exception of the word "reasonable" which was added by the Senate committee, is taken word-for-word from Section 204.06(b), A Model Law for Campaign Finance, Ethics and Lobbying Regulation, July 1990 Proposed Draft for Adoption, Council on Governmental Ethics Law.

The League is not aware of any consequences this amendment would have to the local governmental ethics law other than the intended consequence stated above.

Conclusion

The League believes state law should allow local government officers and employees to serve on the boards of certain civic and social organizations without having to abstain from participating in city government actions that affect those organizations. We are concerned that the law, if left unchanged, will in fact discourage local government officials from becoming involved with, and taking leadership roles in, local civic, charitable and educational organizations. The League respectfully suggests that this result would not only be beyond the legislature's intent in adopting the local governmental ethics law, it would be harmful to the public interest.

The League respectfully urges your favorable consideration of SB 86, as amended by the Senate.

United States Tax Code:
Subchapter F. -- Exempt Organizations

Sections 501(c)(1) - (25)

Subchapter F.—Exempt Organizations

In '76, P.L. 94-455, Sec. 2101(d), added Part VII.

In '75, P.L. 93-625, Sec. 10(d), added Part VI.

In '69, P. L. 91-172, Sec. 101(j)(58), redesignated former parts II, III, and IV as parts III, IV, and V respectively and added new part II.

PART I.—GENERAL RULE

Sec.

In '87, P.L. 100-203, Sec. 10711(b)(2)(B), amended item 504. Prior to amendment, item 504 read as follows:

"504. Status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying."

In '84, P.L. 98-369, Sec. 513(b), added the item for Code Sec. 505.

In '76, P.L. 94-455, Sec. 1307(d)(3)(B), added the item for Code Sec. 504.

In '69, P. L. 91-172, Sec. 101(j)(61), repealed item 504 relating to denial of exemption.

Sec. 501. Exemption from tax on corporations, certain trusts, etc.

(c) List of exempt organizations.

The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

(A) is exempt from Federal income taxes—

(i) under such Act as amended and supplemented before July 18, 1984, or

(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or

(B) is described in subsection (l).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) which do not provide for the payment of life, sick, accident, or other benefits.

(11) Teachers' retirement fund associations of a purely local character, if—

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

(12)(A) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(B) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from a nonmember telephone company for the performance of communication services which involve members of the mutual or cooperative telephone company,

(ii) from qualified pole rentals,

(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company, or

(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

(i) from qualified pole rentals, or

(ii) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987).

(D) For purposes of this paragraph, the term "qualified pole rental" means any rental of a pole (or other structure used to support wires) if such pole (or other structure)—

(i) is used by the telephone or electric company to support one or more wires which are used by such company in providing telephone or electric services to its members, and

(ii) is used pursuant to the rental to support one or more wires (in addition to the wires described in clause (i)) for use in connection with the transmission by wire of electricity or of telephone or other communications.

For purposes of the preceding sentence, the term "rental" includes any sale of the right to use the pole (or other structure).

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its

charter to engage in any business not necessarily incident to that purpose and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(14)(A) Credit unions without capital stock organized and operated for mutual purposes and without profit.

(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of shares or deposits in—

(i) domestic building and loan associations,

(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit,

(iii) mutual savings banks not having capital stock represented by shares, or

(iv) mutual savings bonds described in section 591(b)[.]

(C) Corporations or associations organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for associations or banks described in clause (i), (ii), or (iii) of subparagraph (B); but only if 85 percent or more of the income is attributable to providing such reserve funds and to investments. This subparagraph shall not apply to any corporation or association entitled to exemption under subparagraph (B).

(15)(A) Insurance companies or associations other than life (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $350,000.

(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

(C) For purposes of subparagraph (B), the term "controlled group" has the meaning given such term by section 831(b)(2)(B)(ii).

(16) Corporations organized by an association subject to part IV of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(17)(A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(i) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities, with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits,

(ii) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)), and

(iii) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

(i) merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subparagraph (A) are then reduced by any sick, accident, or unemployment compensation benefits received under State or Federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(ii) merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(iii) merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subparagraph (A)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees were eligible under such other plan, but only if the employees eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subparagraph (A).

(C) A plan shall be considered to meet the requirements of subparagraph (A) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(D) The term "supplemental unemployment compensation benefits" means only—

(i) benefits which are paid to an employee because of his involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(ii) sick and accident benefits subordinate to the benefits described in clause (i).

(E) Exemption shall not be denied under subsection (a) to any organization entitled to such exemption as an association described in paragraph (9) of this subsection merely because such organization provides for the payment of supplemental unemployment benefits (as defined in subparagraph (D)(i)).

(18) A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if—

(A) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

(B) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated employees (within the meaning of section 414(q)),

(C) such benefits do not discriminate in favor of employees who are highly compensated employees (within the meaning of section 414(q)). A plan shall not be considered discriminatory within the meaning of this subparagraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan, and

(D) in the case of a plan under which an employee may designate certain contributions as deductible—

(i) such contributions do not exceed the amount with respect to which a deduction is allowable under section 219(b)(3),

(ii) requirements similar to the requirements of section 401(k)(3)(A)(ii) are met with respect to such elective contributions,

(iii) such contributions are treated as elective deferrals for purposes of section 402(g) (other than paragraph (4) thereof), and

(iv) the requirements of section 401(a)(30) are met.

For purposes of subparagraph (D)(ii), rules similar to the rules of section 401(k)(8) shall apply. For purposes of section 4979, any excess contribution under clause (ii) shall be treated as an excess contribution under a cash or deferred arrangement.

(19) A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization—

(A) organized in the United States or any of its possessions,

(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(20) an organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in this paragraph merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

(21) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

(A) the purpose of such trust or trusts is exclusively—

(i) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts;

(ii) to pay premiums for insurance exclusively covering such liability; and

(iii) to pay administrative and other incidental expenses of such trust (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts; and

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(i) the purposes described in subparagraph (A), or

(ii) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in subparagraph (A)) in —

(I) public debt securities of the United States,

(II) obligations of a State or local government which are not in default as to principal or interest, or

(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States, or

(iii) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

For purposes of this paragraph the term "Black Lung Acts" means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis.

(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

(A) the purpose of such trust is exclusively—

(i) to pay any amount described in section 4223(c) or (h) of the Employee Retirement Income Security Act of 1974, and

(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

(i) the purposes described in subparagraph (A), or

(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(B),

(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b), 4223(h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.

(23) Any association organized before 1880 more than 75 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents.

(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986).

(25)(A) Any corporation or trust which—

(i) has no more than 35 shareholders or beneficiaries,

(ii) has only 1 class of stock or beneficial interest, and

(iii) is organized for the exclusive purposes of—

(I) acquiring real property and holding title to, and collecting income from, such property, and

(II) remitting the entire amount of income from such property (less expenses) to 1 or more organizations described in subparagraph (C) which are shareholders of such corporation or beneficiaries of such trust.

For purposes of clause (iii), the term "real property" shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest.

(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by 1 or more organizations described in subparagraph (C).

(C) An organization is described in this subparagraph if such organization is—

(i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a),

(ii) a governmental plan (within the meaning of section 414(d)),

(iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing, or

(iv) any organization described in paragraph (3).

(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—

(i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and

(ii) to terminate their interest in the corporation or trust by either, or both, of the following alternatives, as determined by the corporation or trust:

(I) by selling or exchanging their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

(II) by having their stock or interest redeemed by the corporation or trust after the shareholder or beneficiary has provided 90 days notice to such corporation or trust.

(E)(i) For purposes of this title—

(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

(II) all assets, liabilities, and items of income, deduction, and credit of a "qualified subsidiary" shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

(ii) For purposes of this subparagraph, the term 'qualified subsidiary' means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock.

(F) For purposes of subparagraph (A), the term "real property" includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

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United Way
of Greater Topeka

TESTIMONY BEFORE THE HOUSE ELECTIONS COMMITTEE
REGARDING SENATE BILL #86
James L. Olson, Executive Director
Community Resources Council of Shawnee County, Inc.
April 1, 1991

I am here today to testify in support of Senate Bill #86 as it affects non-profit corporations as defined in Section 501(c)3 of the United States Tax Code.

My agency is a community human services planning council funded through a public/private sector partnership of the City of Topeka, Shawnee County and the United Way of Greater Topeka. No elected officials serve as directors or officers of the Community Resources Council.

Regarding Senate Bill #86, The Kansas Public Disclosure Commission in its interpretation of current Kansas law, has ruled that an elected official who serves as a director or officer of a non-profit organizations has a "substantial interest" in the non-profit organization. According to this interpretation of current law, it would be illegal for an elected official to participate in making contracts with a non-profit organization if the official serves as a director or officer of the organization.

First, I would note that federal law requires non-profit community action agencies to have boards consisting of 1/3 local elected officials or their designees. In Shawnee County several city council members and all three county commissioners either serve, or designate a representative to serve, on the local community action board. For both units of government the current interpretation of the law would make it difficult to continue the 18 year practice of contracting with our local community action agency for emergency food/utility aid and self-sufficiency counseling.

During the past decade there has been a deliberate movement on the national, state and local level to establish private/public sector partnerships to address community needs. This is a strategy that works best when the persons at the table have the authority to commit resources.

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TESTIMONY BEFORE THE HOUSE ELECTIONS COMMITTEE
REGARDING SENATE BILL #86

This sort of collaboration in Topeka has resulted in joint funding strategies to address problems such as emergency aid, teenage pregnancy, alcohol-drug abuse, housing, child care and latchkey services. The service of elected official on non-profit boards of directors has done much to foster a shared community vision of our problems and the means to address them.

Regarding the possibility that elected officials would use non-profit board service to promote personal financial or political gain, I would note that the federal tax code governing tax-exempt 501(c)3 organizations, prohibits net earnings from such organizations being distributed to, or benefitting any private shareholder or individual. The law also prevents such organizations from campaigning for or against any candidate for public office.

Notwithstanding these federal statutes, some persons have raised the concern that an elected official may derive indirect political gain from participating in making a contract with an organization on whose board he or she serves. While such opportunity exists, it should be noted that board service offers elected officials the opportunity to guide non-profits toward endeavors that effectively address the needs of the community.

The opportunity for public gain from collaboration between elected officials and charitable organizations far outweighs any concerns about indirect and non-monetary political gain from such relationships.

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OLATHE
CHAMBER
OF COMMERCE

Thank you for the chance to speak with you today about Senate Bill 86. It is a bill that helps clarify the definition of "substantial ownership in a private corporation" by elected public officials. New language in the bill exempts public officials, serving on not-for-profit corporation boards of directors, from having to declare a "substantial ownership."

The Senate Election Committee's work in this area named specific types of tax exempt corporations. Leaving the language as written, however, could put an end to numerous public-private partnerships which have taken several years to foster.

If I may explain, it will demonstrate our concerns. The new language approved by the Senate Election Committee will exempt all charitable, philanthropic organizations. This would include the Girl Scouts, Boy Scouts, and Heart Association to name just a few. These are organizations defined by various chapters of the Internal Revenue Code as 501 (C) (3) not-for-profit corporations.

Let us assume for a moment that public funds, or funds more than $5,000 from the elected official go to one of these groups. Senate Bill 86 would not require the official, if they sit on the board of directors, to declare "substantial ownership" or a conflict of interest.

Now lets assume that public funds, or funds more than $5,000 from the elected official, goes to what is known as a 501 (C) (6) Business Association. If the public official is serving on the board of directors, a declaration of "sub-

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stantial ownership" in a private corporation would be required. This same official would also need to declare a conflict of interest in all matters coming before the public body they are elected to. Yet, a business association is recognized by the Internal Revenue Code as a not-for-profit corporation.

The example I gave here will affect numerous Chambers of Commerce in Kansas. Chambers of Commerce community governments created public-private partnerships to bring into existence development mechanisms for their communities. The exclusion of 501 (C) (6) organizations from Senate Bill 86 could cause these partnerships for economic development and tourism to ~~disband~~. What makes these cooperative groups work is the ability for government to have representation on the governing board. Conflict of interest declarations, resulting from "substantial ownership" that doesn't exist, could cause communities to dissolve these cooperative efforts.

A recent opinion by Kansas Attorney General Bob Stephan, makes it critical that 501 (C) (6) organizations be included in the exemptions listed in Senate Bill 86. His opinion stipulates that elected officials sitting on boards of 501 (C) (6) corporations must declare "substantial ownership" if public dollars go to these groups. As a result, I am immediately aware of two Chambers of Commerce and four agencies that will be affected by the outcome of this bill. It would affect four agencies closely tied to the public-

private partnerships I am speaking about.

We know other Chambers of Commerce have similar programs for their economic development and visitors bureau thrusts. Many, however, don't have the manpower to be here to speak to you today about this important legislation. Olathe, Overland Park and numerous other communities want to be able to continue having a cooperative effort between the public and private sector. Without inclusion of 501 (C) (6) language in Senate Bill 86, we won't be able to continue functioning with the input and representation of elected public officials. It is a vital part of the process that make such partnerships work.

We are not asking that the issue of "substantial ownership" be ducked by elected public officials. It is essential that elected officials disclose "substantial ownership" of most private corporations. In the instance of 501 (C) (6) Business Associations, elected officials really don't have an ownership position within the corporation. There are no cash dividends paid to stockholders. By law, dollars contributed to the association cannot go to its board members in salary or other remuneration. The dollars can, however, go a long way in helping communities double their efforts to help existing industry grow and new industry and business to move to Kansas.

Because of the reasons cited, we respectfully ask this House Elections Committee to amend Senate Bill 86 to include 501 (C) (6) Business Associations in its language.