

Approved: 2-3-98  
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE.

The meeting was called to order by Chairman Janice Hardenburger at 1:30 p.m. on January 29, 1998 in Room 529-S of the Capitol.

All members were present:

Committee staff present: Dennis Hodgins, Legislative Research Department  
Mike Heim, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Graceanna Wood, Committee Secretary

Conferees appearing before the committee: Dan Hermes, Director of Governmental Affairs  
Connie Stewart, Kansas AFL-CIO (written testimony only)

Others attending: See attached list

Chairman Hardenburger requested introduction of bills. Pat Lehman, of the Kansas Fire Service Alliance requested a smoke detector bill. He advised that there are smoke detectors in most dwellings throughout the state. Most first class cities already require smoke detectors in houses, but rural areas do not. The fire departments want the smoke detector bill because it has proven time and time again that smoke detectors do save lives.

Senator Gooch made a motion to have the Committee introduce the bill, seconded by Senator Becker. Motion carried.

Senator Huelskamp requested a bill having reference to a statutes regarding surveying in certain counties where a cornerstone or monument has been removed and it has to be immediately reset. The surveyor would reset the monument or cornerstone and send the county a bill without prior county approval. The bill would require that before the work is done, the county would have to give approval.

Senator Steineger moved that the bill be introduced, seconded by Senator Lawrence. Motion carried.

Chairman opened hearings on SB 430. Since no proponents or opponents appeared before the Committee, hearings were closed. Continued hearings on SB 431. Written testimony by the Attorney General wanting to be included on SB 431 was presented to the Committee. (Attachment #1) The hearing was closed on the bill.

Chairman opened hearings on SB 432, relating to campaign finance; requiring the filing and disclosure of certain information by persons directly or indirectly influencing the nomination or election of any candidate to state or local office. Staff was asked to explain the difference between SB 391 and SB 432.

Dan Hermes, Director of Governmental Affairs, gave testimony on the Governor's proposal and recommendations in SB 432. The bill would require persons who spend more than \$2500, to indirectly or directly influence elections to report in the same manner as candidates. (Attachment #2)

The Committee discussion was centered around the \$2500 reporting requirement.

Staff provided information concerning a case regarding distribution of campaign literature that did not contain the name and address of the person or campaign official issuing the literature. (Attachment #3)

The Committee further discussed whether the bill infringed upon a person's freedom of expression and freedom of speech under the Constitution.

Connie Stewart, representing Kansas AFL-CIO provided written testimony in support of SB 432. (Attachment #4)

Chairman Hardenburger advised the Committee further hearings would be continued on SB 432.

Senator Steineger moved that the minutes of January 21, 22, 26 and 27 be approved as written, seconded by Senator Becker. Motion carried.

Meeting was adjourned at 2:30 p.m.

Next meeting will be at 1:30 p.m. February 2, 1998.

# ELECTIONS & LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: JANUARY 29, 1998

NAME	REPRESENTING
Kenneth Starr	Indepand Counsel
Bruce Dimmitt	Independent
Gonnie Stewart	KS AFL-CIO
DeAnna Peter	Governor's office
Edward Rome	League of Women Voters / As
Brad Bryant	Sec. of State
Pat Lehman	KS Fire Service Alliance
Jim Kertine	KANS STATE FIRE CHIEFS ASSOC
Ron Seelber	Dept of Admin
Stacey Farmer	KASB
Craig Grant	KNEA
Jinda McCann	KS Insurance Dept
Charlie Smithson	RLGSC
Carl Williams	RLGSC



State of Kansas  
**Office of the Attorney General**

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**CARLA J. STOVALL**  
ATTORNEY GENERAL

January 29, 1998

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The Honorable Janice Hardenburger  
Chairman, Senate Committee on Elections  
and Local Government  
State Capitol, Room 529-S  
Topeka, Kansas 66612

Re: Senate Bill No. 431

Dear Senator Hardenburger:

It has recently come to my attention that one of the state governmental ethics bills before your committee, Senate Bill No. 431, has language in it to specifically exclude officers and employees in my office, as well as those in the Secretary of State's office, State Treasurer's office, and Commissioner of Insurance's office, from its provisions. I did not seek to have my office excepted from the provisions of this bill and in fact believe that the exception should be removed.

I am sorry that I was not made aware of this bill in time to testify before your committee, but hope that this letter will serve to express my position on the matter and that the committee will consider removing the exception for officers and employees of the attorney general's office. Thank you for your attention to this matter of mutual concern.

Very truly yours,

Carla J. Stovall  
Attorney General of Kansas

CJS:JLM:jm

**Elec. & Local Gov.**  
**Date:** 1-29-98  
**Attachment:** # 1

# STATE OF KANSAS

BILL GRAVES, Governor  
State Capitol, 2nd Floor  
Topeka, Kansas 66612-1590



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## OFFICE OF THE GOVERNOR

### LEGISLATIVE TESTIMONY

TO: Chairperson Janice Hardenburger and Members of the Senate Committee on Elections and Local Government

FROM: Dan Hermes, Director of Governmental Affairs

DATE: January 29, 1998

SUBJECTS: SB 432 — Issue Advocacy and Independent Expenditure Reporting

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Madam Chairman and members of the committee, thank you for the opportunity to appear in support of this portion of the Governor's recommendation for ethics and campaign finance reform for the 1998 Legislative Session.

I have provided members of the committee and staff with amendments necessary to the bill to accomplish the intent of the Governor.

This bill would require individuals who spend more than \$2,500 to indirectly or directly influence elections to report in the same manner as candidates. It will also require groups not connected to campaigns that influence elections to file these reports.

The bill is limited to expenditures that occur from 60 days prior to the primary to the completion of the general election.

As the Governor said in his state of the state address, "It is not an issue of restricting citizen's rights. All we ask for is information on the source of their money and how it was spent. Kansans have a right to know who is trying to influence them in the political process."

Unlike last year's bill proposed by the Governor, no filing fees are required. The \$2,500 expenditure threshold is proposed to assure that groups with limited impact are not burdened by the reporting requirement. Finally, the time restrictions assure that those expenditures made for truly educational impact, and not those expenditures that are made to impact elections, are not covered by the bill.

**Elec. & Local Gov.**  
**Date:** 1-29-98  
**Attachment:** #2

This legislation does not restrict the type, content or amount of speech, it simply requires the disclosure of receipts and disbursements. The requirements are minimal and do not outweigh the substantially compelling state interest to maintain free, open and fair elections, to insure the integrity of campaign information to the voters and prevent corruption of the election process.

On behalf of the Governor, I urge favorable consideration of this measure by the committee. Thank you for the opportunity to appear before you today in support of this measure. I would be happy to answer any questions you may have on the provisions of this bill.

**MEMORANDUM**

TO: SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT  
FROM: THERESA KIERNAN  
RE: MCINTYRE v. OHIO ELECTIONS COMMISSION (1995)  
DATE: JANUARY 29, 1998

The case involved the distribution of leaflets expressing the views of "Concerned Parents and Taxpayers" opposing a proposed school tax levy. (Issue election)

A provision of the Ohio election law prohibited the distribution of campaign literature that did not contain the name and address of the person or campaign official issuing the literature. The purpose of the law was to identify persons who distribute campaign materials containing fraud, libel or false advertising and to provide voters with a mechanism for evaluating such materials.

The court ruled the law unconstitutional and held:

"The freedom to publish anonymously is protected by the First Amendment, and extends beyond the literary realm to the advocacy of political causes."

The court further stated that the state's interest in preventing fraud and libel does not justify the law's extremely broad prohibition of anonymous leaflets. The law was not limited to fraudulent, false or libelous statements.

If a law burdens core political speech, the court applies an exacting scrutiny test and will uphold the restriction only if it is narrowly tailored to serve an overriding state interest. The Ohio code included another prohibition against making or disseminating false statements during political campaigns; the prohibition against anonymous leaflets served as an aid to the enforcement of the other law.

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In candidate elections, the government can identify a compelling state interest in avoiding the corruption that might result from campaign expenditures. Disclosure lessens the risk that individuals will spend money to support a candidate as a quid pro quo for special treatment after a candidate is in office.

The court went on to say, "As this case demonstrates, the prohibition encompasses documents that are not even arguably false or misleading. It applies not only to the activities of candidates and their organized supporters, but also to individuals acting independently and using only their own modest resources. It applies not only to election of public officers, but also to ballot issues that present neither a substantial risk of libel nor any potential appearance of corrupt advantage. It applies not only to leaflets distributed on the eve of an election, when the opportunity for reply is limited, but also to those distributed months in advance. It applies no matter what the character or strength of the author's interest in anonymity. Moreover, as this case also demonstrates, the absence of the author's name on a document does not necessarily protect either that a person or a distributor of a forbidden document from being held responsible for compliance with the election code. Nor has the State explained why it can more easily enforce the direct bans on disseminating false documents against anonymous authors and distributors than against wrongdoers who might use false names and addresses in an attempt to avoid detection. We recognize that a State's enforcement interest might justify a more limited identification requirement, but Ohio has shown scant cause for inhibiting the leafletting at issue here."



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Executive Secretary  
Treasurer  
**Jim DeHoff**

Executive Vice  
President  
**Wayne Maichel**

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Jerry Johnson  
Greg Jones  
Earl Kanatzar  
Wil Leiker  
Frank Mueller  
Dwayne Peaslee  
Craig Rider  
Gary Russell  
Wallace Scott  
Debbie Snow  
Betty Vines*

**Testimony Presented To  
Senate Elections and Local Government  
on Senate Bill 432  
by  
Connie Stewart  
January 29, 1998**

Madam Chairperson, members of the committee, I thank you for the opportunity to appear before you on Senate Bill 432. My name is Connie Stewart and I am here today representing the thousands of members of the Kansas AFL-CIO and their families.

We support the basic provisions of Senate Bill 432. We believe in the right of everyone to be involved in the political process, but we also believe the public has a right to know who is influencing their decisions. If we, as an organization, want to place a t.v. ad advocating the election or defeat of a candidate, we have no problem being required to identify the ad as being paid for by the AFL-CIO. In fact, because we are a registered political action committee, we would already be required to report the expenditure and our contributions. We do not make a practice of public ads in state elections, but, I can think of no legitimate reason to object. We are all familiar with the hundreds of ads that are run in every election, with some name attached such as the Committee for Freedom and Justice as the only identifier, which means nothing to anyone. We believe the public does have the right to know who these groups are.

We would, however, request one change. A similar bill has been introduced in the House, House Bill 2664. In HB 2664, under the section which defines what "Expenditure" does not include, there are the same sections A - E as appear in Senate Bill 432. However, HB 2664 also includes sections F - H. We are primarily concerned with section H which states: "Expenditure" does not include (H) costs associated with internal organizational communications of business, labor, professional or other organizations. We would ask that you include this section in SB 432 also. Internal communications with an organization's own members is a very different issue than communications directed at the general public and we don't believe should be included in any independent expenditure reporting requirements. Such a requirement does not serve any public interest and would place an unnecessary burden of advance public notice of non-public communications. It is not that our internal programs are being conducted secretly, but they are, in fact, not being conducted in the public arena. Our members know who we are, and we do, indeed,



**Elec. & Local Gov.**

**Date:** 1-29-98

**Attachment:** # 4





clearly identify ourselves in these communications. We don't see any purpose in this kind of internal communication being included in this legislation. We ask that you amend SB 432 to include this exclusion.

Thank you.