

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE.

The meeting was called to order by Chairperson Barbara P. Allen at 1: 30 p.m. on January 25, 2001 in Room 245-N of the Capitol.

All members were present except:

Committee staff present:     Mike Heim, Kansas Legislative Research Department  
                                  Dennis Hodgins, Kansas Legislative Research Department  
                                  Ken Wilke, Office of the Revisor of Statutes  
                                  Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee: Ken Grotewiel, Director, Consumer Assistant Division,  
  Insurance Department  
  Larry McGill, Executive Vice President, Kansas Association  
  of Insurance Agents

Others attending: See attached list.

Hearing on: **SB 28 - concerning election campaign finance; prohibiting contributions in elections for the office of insurance commissioner from certain entities**

Ken Grotewiel, Director of the Consumer Assistance Division for the Kansas Insurance Department, appeared on behalf of Insurance Commissioner Kathleen Sebelius to ask for support of **SB 28**. This bill prohibits individuals and companies regulated by the Kansas Insurance Department from making political contributions to the Insurance Commissioner or to candidates for that office (Attachment 1).

Larry McGill, Executive Vice President, Kansas Association of Insurance Agents testified in opposition to **SB 28**. He stated it unfairly takes the right to participate openly in the electoral process from one group of individuals because of arbitrary criteria that leaves other stake holders unaffected (Attachment 2).

There being no others wishing to testify on **SB 28** the hearing was closed.

The opinion, requested by the Chair, from the Kansas Governmental Ethics Commission on the lobbyist reporting law was distributed to the Committee (Attachment 3).

The meeting adjourned at 2:30 p.m.

The next meeting is scheduled for January 30, 2001.



## MEMORANDUM

TO: Senate Committee on Elections and Local Government

FROM: Ken Grotewiel, Director of the Consumer Assistance Division

Kathleen Sebelius, Commissioner of Insurance

RE: Senate Bill 28 (Political Contributions to Insurance Commissioner Campaigns)

DATE: January 25, 2001

My name is Ken Grotewiel and I am the Director of the Consumer Assistance Division for the Kansas Insurance Department. I am appearing today on behalf of Insurance Commissioner Kathleen Sebelius to ask for your support of SB 28. The Insurance Commissioner is the only elected official that regulates an industry in Kansas.

This bill prohibits individuals and companies regulated by the Kansas Insurance Department from making political contributions to the Insurance Commissioner or to candidates for that office. It also prohibits the Insurance Commissioner or any candidate for that office from knowingly soliciting or accepting contributions from the insurance industry.

I believe this legislation will help assure Kansans that the office of Insurance Commissioner will work for consumer interests and not be affected by financial ties to the industry it regulates. Since people spend over \$9 billion dollars a year on insurance, this is not too much for them to expect. In my work with consumers everyday, they often express the sentiment that the insurance department is bought and paid for by the industry it regulates.

In an article this month in the Topeka Capital Journal titled "Distrust of government pervades populace", the article stated that studies have shown that two-thirds of Americans trusted government in the 1950's and that by the 1990's this measure of trust has been reversed (January 13, 2001).

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Attachment 1

And while Commissioner Sebelius refused to take money from insurance companies and agents during her 1994 and 1998 campaigns, the public does not fully trust that money from the insurance industry is not calling the shots when it comes to its own regulation. Passage of this bill would be another important step in building on the increased trust in the Commissioner's office that has resulted from her refusal to take any contributions from the industry.

The Commissioner's practice of not soliciting contributions has also been well received in some insurance quarters. For example, agents are no longer asked or pressured to attend a Commissioner's fundraising lunch and company presidents have said goodbye to being solicited routinely for substantial contributions as a mandatory part of doing business in Kansas.

There are 12 elected state insurance Commissioners. At least two of these states, Delaware and Georgia, prohibit industry contributions to their elected Commissioner. Other states prohibit contributions to elected regulators, such as Railroad or Utility Commissioner by their regulated industry. The law in Georgia has been upheld by their state supreme court as a permissible constitutional limit on the political activities of the insurance industry.

While Commissioner Sebelius will continue her practice of refusing financial contributions from the industry, passage of SB 28 will ensure that never again will financial ties between the Kansas Insurance Department and the insurance industry undermine the public's confidence in the Commissioner's office. Never again will the hundreds of decisions made each year affecting the financial well-being of consumers, insurance companies, and agents be tainted in the public's eye by contributions from the very industry the Commissioner regulates.

The Insurance Commissioner's office is critical to all Kansans. They deserve a free and independent regulator that will protect their interests and not those of the insurance industry. I ask for your support of SB 28.

**TESTIMONY ON S.B. 28 BEFORE THE  
SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE  
JANUARY 25, 2001  
BY LARRY MAGILL,  
EXECUTIVE VICE PRESIDENT  
KANSAS ASSOCIATION OF INSURANCE AGENTS**

Thank you Madam Chair and members of the committee for the opportunity to appear today in opposition to S.B. 28, a measure introduced at the request of the Kansas Insurance Department that would prohibit anyone regulated by the KID from contributing to an Insurance Commissioner candidate.

This is not the first time this legislation has been introduced. In fact, it has been introduced a number of times since the early 90's. The concept is basically flawed for the following reasons:

- It's an unconstitutional denial of an individual's right to participate in the electoral process. The right to contribute to the candidate of your choice is as basic a right as the right to vote and nowhere in either the U.S. or Kansas constitutions does it say that you will have a selective right to participate by contributing to the candidate of your choice in only certain elections.
- It's inequitable. While S.B. 28 would deny anyone regulated by the Commissioner of Insurance from contributing to a Commissioner candidate, it does nothing to abridge the same rights of others with a keen interest in the Commissioner's race such as attorneys, health care professionals impacted by the health insurance system and the Health Care Stabilization Fund, individuals covered by the workers compensation system (which is nearly everyone who works in Kansas), labor unions who have an interest in regulation of workers compensation insurers, workers compensation group self insurance pool sponsors which covers a broad spectrum of entities and types of businesses, volunteer firefighters and many others. All of these groups have much at risk by decisions made by the Insurance Commissioner and, yet, their right to participate in the electoral process would not be impeded under this bill.
- Its "protection" is misguided and unnecessary. Although you will probably hear from proponents that those of us in the industry have been pressured in the past to contribute to Insurance Commissioner candidates (with the exception of the current Commissioner, of course), my members have never felt obligated to contribute to a candidate and many of them don't. If the pressures were so great, why haven't more of them contributed in the past?
- It harms the electoral process. If members of the industry most concerned with the office cannot contribute to the candidate of their choice, who will? S.B. 28 might prevent good candidates from coming forward because they would find it more difficult to raise enough funds to run a statewide race.

- If this is good public policy, why not prohibit all attorneys from contributing to the Attorney General's race or all financial institutions and securities firms from contributing to the Treasurer's or Secretary of State's races?
- It would undoubtedly encourage indirect contributions to candidates through party committees or other means instead of allowing an open process.

This isn't ethics legislation and it isn't campaign finance reform. It's discrimination against one group of individuals in favor of others. It unfairly takes the right to participate openly in the electoral process from one group of individuals because of an arbitrary criteria that leaves other stakeholders unaffected.

We urge the committee to report the bill unfavorably for passage, if you work the bill at all. We would be happy to answer questions or provide additional information.



**GOVERNMENTAL ETHICS COMMISSION**

May 18, 2000

Opinion No. 2000-22

**TO ALL INTERESTED PERSONS:**

Pursuant to K.S.A. 46-254, the Kansas Governmental Ethics Commission takes the opportunity to issue its opinion as to whether gifts and hospitality provided to a legislator or candidate for the legislature by a lobbyist are attributed to the lobbyist or the lobbyist's client(s) when considering the limits imposed by K.S.A. 1999 Supp. 46-237.

**OPINION:**

K.S.A. 1999 Supp. 46-237 states in pertinent part:

"(a) No state officer or employee, candidate for state office or state officer elect shall accept, or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year from any one person known to have a special interest, under circumstances where such person knows or should know that a major purpose of the donor is to influence such person in the performance of their official duties or prospective official duties. "

The Commission determines that the value of gifts provided to a legislator or candidate for the legislature by a lobbyist on behalf of a client are attributed to the limits imposed by this statute for the lobbyist's client or clients on whose behalf the gift or hospitality was provided. Therefore, a lobbyist may provide a gift or gifts having an aggregate value of less than \$40 in any calendar year to each legislator on behalf of each client whom he or she represents.

The Commission notes that K.S.A. 1999 Supp. 46-237 was amended by House Bill 2627. Effective July 1, 2000, there will be a \$100 limit on hospitality in the form of recreation given to state officers or employees subject to the prohibitions of K.S.A. 1999 Supp. 46-237. The analysis noted above will apply to this new limitation as well.

BY DIRECTION OF THE COMMISSION

A handwritten signature in cursive script, appearing to read "Daniel Severt".

Daniel Severt, Chairman

DS:VMG:dlw

Senate & Lec + Loc. Gov.  
1-25-01

Attachment 3



## GOVERNMENTAL ETHICS COMMISSION

May 18, 2000

Opinion No. 2000-23

### TO ALL INTERESTED PERSONS:

Pursuant to K.S.A. 46-254, and the enactment of House Bill 2627 during the 2000 legislative session, the Kansas Governmental Ethics Commission takes the opportunity to issue its opinion clarifying what records must be maintained by a lobbyist pursuant to K.S.A. 46-269 and K.A.R. 19-63-6.

### OPINION:

K.S.A. 46-269 states in pertinent part:

"(e) All accounts, records and documents of the lobbyist which relate to every expenditure reported or which should have been reported shall be maintained and preserved by the lobbyist for a period of five years from the date of the filing of such report or statement and may be inspected under conditions determined by the commission."

K.A.R. 19-63-6 states:

*"Lobbyist's records.* Records in support of every report or statement filed shall be maintained and preserved by the lobbyist for a period of five years from the date of the filing of the report or statement and may be inspected by and under conditions determined by the commission. At a minimum, each lobbyist shall maintain the following records:

"(a) A detailed account of all lobbying expenditures, including:

"(1) the full name and address of the person to whom the payment is made;

"(2) the purpose of the expenditure;

"(3) the date of the expenditure, including both the date of contracting and the date of payment; and

"(4) the amount of the expenditure;



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"(b) a bill, statement, contract or other documentation of the agreement between the parties; and

"(c) the check or other instrument by which payment was made."

The Commission now determines that in addition to the items listed in K.A.R. 19-63-6, a lobbyist must maintain the following:

1. chart of accounts (if applicable);
2. general ledger;
3. Bank and credit card statements for all accounts held in connection with lobbying activities including any personal accounts used in connection with lobbying. Additionally, for these accounts, the following support documentation must be available:
  - a. Deposit slips;
  - b. Canceled checks;
  - c. Receipts and invoices to substantiate all expenditures and reimbursements;
4. Lists of persons attending meals, entertainment or hospitality events which must be reported pursuant to K.S.A. 1999 Supp. 46-269 as amended by House Bill 2627.

Sincerely,



Daniel Severt, Chairman  
By Direction of the Commission

DS:VMG:dlw



**GOVERNMENTAL ETHICS COMMISSION**

June 21, 2000

Opinion No. 2000-32

Michael R. Murray  
Director Governmental and Public Affairs  
Sprint Midwest Operations  
800 SW Jackson, Suite 1108  
Topeka, Kansas 66612-1242

Dear Mr. Murray:

This opinion is in response to your letter of June 9, 2000, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the lobbying provisions of the state level conflict of interest laws (K.S.A. 46-215 *et seq.*). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.*, and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

**FACTUAL STATEMENT:**

We understand that you request this opinion in your capacity as the lobbyist for Sprint Corporation (Sprint). You have explained that Sprint has several divisions including Sprint Communications Company L.P. which is Sprint's long distance division (LDD); United Telephone Company of Kansas, United Telephone of Eastern Kansas and United Telephone of South Central Kansas which are Sprint's local telephone divisions in Kansas (LTD); and Sprint Spectrum L.P. which is Sprint's wireless service (Sprint PCS). You have informed us that all of these "divisions" are separate legal entities which generate their own revenues, have their own boards of directors and their own federal tax identification numbers.

You have explained that your salary is paid by Sprint/United Management Company (SUMC) which is a management service company providing various services to Sprint and its subsidiaries and affiliates. SUMC receives a management fee from each of the entities listed above and all of your lobbying expenses are allocated and reimbursed by each entity on whose behalf you perform services.

**QUESTION:**

If a lobbyist lobbies on behalf of the subsidiary companies, may the lobbyist register only as a lobbyist for the parent company and still spend \$100 per legislator for "recreation provided as hospitality" for each of the subsidiary companies without registering as the lobbyist for the subsidiary companies?

**OPINION:**

K.S.A. 46-265(a) details the requirements for lobbyist registration. It states in pertinent part:

"(a) Every lobbyist shall register with the secretary of state by completing and signing a registration form prescribed and provided by the commission. Such registration shall show the name and address of the lobbyist, the name and address of the person compensating the lobbyist for lobbying, the purpose of the employment and the method of determining and computing the compensation of the lobbyist. *If the lobbyist is compensated or to be compensated for lobbying by more than one employer or is to be engaged in more than one employment, the relevant facts listed above shall be stated separately for each employer and each employment.* Whenever any new lobbying employment or lobbying position is accepted by a lobbyist already registered as provided in this section, such lobbyist shall report the same on forms prescribed and provided by the commission before engaging in any lobbying activity related to such new employment or position, and such report shall be filed with the secretary of state. When a lobbyist is an employee of a lobbying group or firm which contracts to lobby and not an owner or partner of such entity, the lobbyist shall report each client of the group, firm or entity whose interest the lobbyist represents. Whenever the lobbying of a lobbyist concerns a legislative matter, the secretary of state promptly shall transmit copies of each registration and each report filed under this act to the secretary of the senate and the chief clerk of the house of representatives." (Emphasis added.)

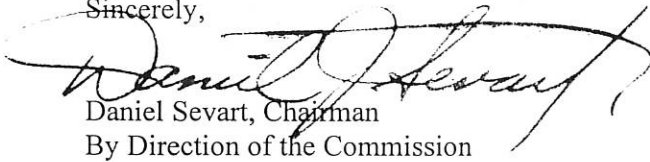
Pursuant to this statute, a lobbyist may represent more than one company so long as he or she registers as the lobbyist for that company. Therefore, if a company has subsidiary companies which are separate legal entities, the lobbyist for the parent company may represent the subsidiary companies so long as he or she registers as the lobbyist for each of those companies. Similarly, a lobbyist may not lobby on behalf of the subsidiary company until he or she registers as that company's lobbyist.

In Opinion 2000-22, this Commission determined that pursuant to K.S.A. 1999 Supp. 46-237 as amended by HB 2627, a lobbyist may spend no more than \$99.99 on hospitality in the form of recreation and \$39.99 for other gifts per legislator per calendar year for each client he or she represents. Therefore, if a lobbyist has registered as the lobbyist for a parent company and its

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subsidiary companies, the lobbyist may provide hospitality in the form of recreation having an aggregate value of less than \$100.00 and a gift or gifts having an aggregate value of less than \$40 in any calendar year to each legislator on behalf of the parent company and each legally recognizable subsidiary company that he or she has registered to represent.

Sincerely,



Daniel Sevart, Chairman  
By Direction of the Commission

DS:VMG:dlw



**GOVERNMENTAL ETHICS COMMISSION**

August 17, 2000

Opinion No. 2000-43

**TO ALL INTERESTED PERSONS:**

Pursuant to K.S.A. 46-254, the Kansas Governmental Ethics Commission takes the opportunity to issue its opinion on the definition of the term "invited" pursuant to K.S.A. 1999 Supp. 46-269 as amended by 2000 Kan. Sess. Laws 124 § 3.

**OPINION:**

K.S.A. 1999 Supp. 46-269 as amended by 2000 Kan. Sess. Laws 124 § 3 states in pertinent part:

"(c) (1) In addition to the information reported pursuant to subsection (b), each lobbyist expending an aggregate amount of \$100 or more for lobbying in any reporting period shall report any gift, entertainment or hospitality provided to members of the legislature, members of the judicial branch of government and any employees of the legislature or judicial branch of government. Such report shall disclose the full name of the legislator, member of the judicial branch and employee who received such gift, entertainment or hospitality and the amount expended on such gift, entertainment or hospitality.

"(2) No report shall be required to be filed pursuant to this subsection (c) for the following:

...  
"(E) entertainment or hospitality in the form of recreation, food and beverages provided at an event to which the following have been invited:

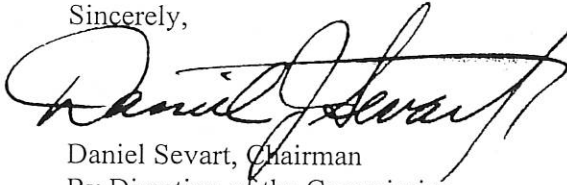
"(i) All members of the legislature or all members of either house of the legislature; or

"(ii) all members of a political party caucus of the legislature or all members of a political party caucus of either house of the legislature."

In order for an invitation to comply with subsection (2)(E)(i) or (2)(E)(ii), the invitation must be meaningful and issued in good faith. In determining whether an invitation is meaningful and issued in good faith, the following factors, among others, should be considered..

- 1) **Actual Notice:** The person extending the invitation must provide notification in a manner that ensures that the majority of the invitees receive actual notice - the manner in which the invitation is distributed or communicated to the invitees remains within the discretion of the invitor;
- 2) **Timeliness of Notice:** The invitees must receive notice in a manner sufficiently timely to allow them a real possibility of attending the event. Consideration must include, but is not limited to, the location of the event, the location of the invitees, the necessity of travel to the event, and the scheduling of other events generally attended by a significant portion of the invitees; and
- 3) **Likelihood of Attendance:** There must be a reasonable likelihood that the majority or a reasonable mix of the invitees will or reasonably could attend the event. An invitation to an event that is historically only attended by certain individuals and which carries no reasonable likelihood that the majority or a reasonable mix of the invitees will attend, will not be considered an invitation pursuant to subsection (2)(E).

Sincerely,



Daniel Severt, Chairman  
By Direction of the Commission

DS:VMG:dlw