

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 February 13, 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: Senator Adkins
Lindsay Olsen, Mortgage Investment Trust
Senator Allen
Charles "Chip" Wheelen, Chairman of Government Relations, KS Society of Association Executives
Jim Edwards, Senior Vice President, KCCI

Others attending: See attached list.

Hearings on:

SB 171 - state aircraft travel by the Governor

Dennis Hodgins gave an overview of SB 171 to the committee.

Senator Adkins testified in support of SB 171 which would permit the Governor to use the Executive Aircraft for personal and political purposes (Attachment 1).

Lindsay, Mortgage Investment Trust, proponent of SB 171 testified before the committee (Attachment 2).

There being no others wishing to testify on SB 171, the hearing was closed.

SB 94 - governmental ethics; restrictions on receiving gifts

Senator Adkins presented testimony and spoke in support of SB 94 which would permit a legislator or a part-time officer or employee to the executive branch to receive reimbursement for the actual costs associated with the preparation and making of a presentation at a speaking engagement. (Attachment 3).

Ken Wilke, Office of the Revisor of Statues, distributed a handout which compared: SB 94, SB 217, SB 285, and SB 286 (Attachment 4).

SB 217 - governmental ethics; prohibition against legislators and legislative employees accepting gifts

Senator Allen testified in support of SB 217, which would prohibit legislators and employees of the Legislative Branch from accepting any gifts, and lobbyists would be prohibited from giving any gifts to these groups(Attachment 5). Senator Allen presented a balloon amending SB 217 (Attachment 6).

Chip Wheelen, Chairman of Government Relations, KS Society of Association Executives, presented testimony in support of SB 217 if amended to clearly reflect that publications may be provided to legislators (Attachment 7).

CONTINUATION SHEET

February 13, 2001

Jim Edwards, Senior Vice President, KCCI testified in support of SB 217 (Attachment 8).

SB 285 - governmental ethics; exemption from reporting of lobbyist expenses

SB 286 - governmental ethics; exemption from reporting of lobbyist gifts

There being no others wishing to testify on SB 94, SB 217, SB 285, SB 286, the hearings were closed.

The meeting was adjourned at 2:25 p.m.

The next meeting is scheduled for February 14, 2001.

**SENATE
ELECTIONS AND LOCAL GOVERNMENT
GUEST LIST**

Date Feb 13

Bill Sneed	Polsine M; Shalton iWette
Mark Stock	Dept. of Admin Div. of Fac. Mgt
Sharon Marcum	" "
Chip Wheelen	Society of Assoc. Exec's
Brad Bryant	Sec. of state
Kathy Olsen	KBA
Lindsay Olsen	Conferee
Vera Gannaway	GEC
Carol Williams	GEC
Chris Wilson	KS Governmental Consulting

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SENATOR DAVID ADKINS

**Testimony in Support of
SB 171 and SB 94
Senate Elections and Local Government Committee
February 13, 2001**

Chairman Allen and Members of the Committee on Elections and Local Government:

It is my pleasure to appear before you today as a proponent of two bills I sponsored that have been assigned to this committee. I appreciate the Chairman's courtesy in providing a hearing on these bills.

SB 171

My intent in introducing this bill is simple: I want the Governor of Kansas, any Governor, to travel as safely as possible. Regardless of the activity in which the Governor is engaged (political, personal or official) I believe the Governor of Kansas should have access to the official state aircraft as a means of travel. This bill is simply intended to clearly articulate the policy preference of the legislature and the public. Our Governor should travel in safe aircraft piloted by experienced, tested pilots.

The unfortunate deaths of several public officials traveling on small aircraft, most recently Gov. Carnahan in Missouri, underscore the need to provide the safest possible mode of travel for our state's chief executive at all times.

For personal or political use the Governor would be required pursuant to this bill to reimburse the state for any expense attributable to nonofficial use. This policy protects the interests of the taxpayer.

We should do everything possible to allow state pilots to secure exemptions from FAA regulations which prohibit the state from accepting reimbursement of expenses for personal use. This bill would assist in this effort.

My friend Lindsay Olsen brought this matter to my attention through a letter to the editor which he wrote last November. I have attached a copy of his letter. I am pleased he is also present today to offer his support for this bill.

I urge your favorable consideration of this bill.

SB 94

This bill is designed to treat legislators and state elected officials similarly regarding acceptance of gifts. I do not understand why one standard should apply to our Governor and Attorney General and a different standard apply to Senators and Representatives.

For ease of enforcement and compliance I believe one standard should apply to all elected officials regarding acceptance of gifts.

I urge your favorable action on this bill.

I appreciate your attention to these two bills and for the opportunity to visit with you about them.

Respectfully submitted,

David Adkins

David Adkins

Senate Elec & Loc. Gov
2-13-01
Attachment 1

Missouri state aircraft available

The tragic death of Missouri Governor Mel Carnahan in an aircraft piloted by his son this week brings to light a potentially dangerous problem in the personal and political travel of the governor of Kansas. While the accident investigation is not yet complete, doubt will no less be cast on why the governor was not traveling on the official State of Missouri aircraft. The answer is, like Kansas; Missouri prohibits the Governor from using the state aircraft for personal or political travel purposes. Kansas Governor Bill Graves operates under the same constraints. Kansas is geographically a large state and the job of governor requires extensive travel on a tight schedule. The use of private aircraft is frequently the only way that the state's top officials can meet the demands on their time. The lines of distinction between personal and state business should not be a barrier to the safety of the governor, his staff and family. The Kansas Legislature should take immediate steps to allow the use of official state aircraft for the governor's personal and political travel. The governor should be required to pay a reasonable share of the expense, but should have complete access to the state aircraft for such purposes.

While 99.9% of all pilots and their aircraft operate safely, there is no reason to place the governor, his staff and family members in unfamiliar aircraft or flown by unfamiliar pilots when the State of Kansas operates a very capable aircraft flown by very experienced state pilots. The legislature must put aside any partisan concerns and realize this is first and foremost an issue of safety. The President of the United States travels on Air Force One for that very reason. A simple and fair reimbursement program

will eliminate this risk not only for Governor Graves, his staff and family, but for all future governors of Kansas as well.

Unfortunately, the citizens of Missouri and South Dakota learned tragically that this is a matter of safety, not an executive perk. Kansas should act on this issue in the next legislative session.

Lindsay Olsen
Leawood

6A The Sun Newspapers November 10, 2000

February 13, 2001

To: Senate Committee on Elections and Local Government

By: Lindsay Olsen, Mortgage Investment Trust Corporation

Re: **Senate Bill 171**

Madam Chair and Members of the Committee:

Introduction:

The purpose of Senate Bill 171 is to permit the Governor use of the Executive Aircraft for personal and political purposes. Presently, the Governor occasionally relies on chartered or donated aircraft and pilots while traveling on personal and political trips. As scheduled airline service is not always possible or practical, travel on non-state operated aircraft is frequently necessary. I believe that it is in the best interest of the citizens of the State to protect the personal safety of the Governor and those who travel with the Governor on non-state business by allowing such use of the State Executive Aircraft.

Background:

The State of Kansas maintains an Executive Aircraft (1985 Beechcraft King Air 300) for air transportation of the Governor, first family or other public officials on State business. The Kansas Highway Patrol provides professional pilots for the operation of the aircraft. The pilot in command receives periodic professional recurrent training.

When the Governor, family and staff travel for personal or political business, the Executive Aircraft is not used. Part of the reason is that the aircraft is operated under Federal Aviation Regulations (FAR) Part 91 as a not-for-hire operator. There may also be state regulations prohibiting or limiting the use of the Executive Aircraft for such purposes. There are definitely political reasons for the Governor to not to give an opponent any reason to criticize such use.

The loss of a sitting Governor could create chaos and disruption in state government. For that reason, the Governor should travel on the Executive Aircraft whenever possible and practical. According to the National Business Aircraft Association (NBAA) Business Aviation Fact Book, "Corporate/executive aircraft flown by two-person professional crews, have compiled in recent years a safety record that is comparable to that of FAR Part 121 airlines. In addition, during each of the last 12 years, the accident rate among corporate-executive operators has been superior to that of commuter air carriers and air taxis operating under FAR Part 135."

Senate Elec & Loc. Gov.
2-13-01
Attachment 2

SB171

February 13, 2001

Page 2

When the Governor uses an aircraft whether chartered or donated, the State has no operational control over the flight. No maintenance requirements are checked nor are the credentials of the pilot. While the Highway Patrol provides a Trooper as part of the crew and security detail, the Trooper may also be put in a compromising position with respect to the operation of the aircraft. The unfortunate tragedy that occurred last October in Missouri with Governor Carnahan is exactly the situation that this bill seeks to prevent.

Recommendations:

As written, **SB 171** lists only the Governor's use of the Executive Aircraft. Family and staff frequently accompany the Governor on such trips. The bill should clarify that such use includes family and political staff members.

Consideration should also be given to the rate of reimbursement. The rate should compensate the State for such additional incremental use of the aircraft, but not so high that it becomes a personal financial burden and as a result, cheaper less safe means of transportation is selected.

Implementation:

The Executive Aircraft being operated under FAR Part 91. As a result, the FAA determines what reimbursement is acceptable. A Petition for Exemption will need to be prepared and submitted to the FAA for approval. Passage of **SB 171** will add additional weight to such a petition.

As mentioned above, consideration should be given to providing the Secretary of Administration some guidance in the setting of the reimbursement rate. There are fixed and variable costs associated with the operation of an aircraft. I believe that a rate equal to the incremental cost of flying such additional hours would be fair to both the Governor and the taxpayer.

Conclusion:

The State of Kansas provides security for the Governor throughout his or her term not only for official state business but also for political and personal activities. There is no reason for that security not to encompass air travel.

Thank you for the opportunity to appear in support of **SB171**.

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SENATOR DAVID ADKINS

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SB 171 and SB 94
Senate Elections and Local Government Committee
February 13, 2001**

Chairman Allen and Members of the Committee on Elections and Local Government:

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The unfortunate deaths of several public officials traveling on small aircraft, most recently Gov. Carnahan in Missouri, underscore the need to provide the safest possible mode of travel for our state's chief executive at all times.

For personal or political use the Governor would be required pursuant to this bill to reimburse the state for any expense attributable to nonofficial use. This policy protects the interests of the taxpayer.

We should do everything possible to allow state pilots to secure exemptions from FAA regulations which prohibit the state from accepting reimbursement of expenses for personal use. This bill would assist in this effort.

My friend Lindsay Olsen brought this matter to my attention through a letter to the editor which he wrote last November. I have attached a copy of his letter. I am pleased he is also present today to offer his support for this bill.

I urge your favorable consideration of this bill.

SB 94

This bill is designed to treat legislators and state elected officials similarly regarding acceptance of gifts. I do not understand why one standard should apply to our Governor and Attorney General and a different standard apply to Senators and Representatives.

For ease of enforcement and compliance I believe one standard should apply to all elected officials regarding acceptance of gifts.

I urge your favorable action on this bill.

I appreciate your attention to these two bills and for the opportunity to visit with you about them.

Respectfully submitted,

David Adkins

David Adkins

Senate Elec + Loc. Gov
2-13-01
Attachment 3

	SB 94	SB 217	SB 285	SB 286
Purpose	<p>This bill changes current law by imposing upon the legislative branch and its employees the same restrictions regarding gifts and hospitality as K.S.A. 46-237a imposes on the executive branch.</p> <p>Under this bill K.S.A. 46-237a applies to both the legislative branch and the executive branch. K.S.A. 46-237 applies to any state officer or employee not caught under K.S.A. 46-237a .</p>	<p>This bill changes current law to prohibit legislators, candidates for the legislature, legislators-elect and employees of the legislative branch from soliciting or accepting any gifts; i.e. the dollar amount is reduced from \$40 to zero. In addition allowable hospitality is defined to include: official publications published regularly by trade associations, professional associations, foundations, or tax exempt organizations. There are corresponding changes in the lobbyist reporting requirements.</p> <p>Under this bill K.S.A. 46-237 applies to the legislative branch and K.S.A. 46-237a applies to the executive branch.</p>	<p>Changes current law to add an additional exemption from the lobbyist reporting requirement for any gift made to:</p> <p>(1) all members of the legislature: (2) all members of either house of the legislature: (3) all members of a political party caucus of the legislature; or (4) all members of a political party caucus of either house of the legislature.</p> <p>Under this bill, there are no restrictions on the value of the gift.</p>	<p>Changes current law to add an additional exemption from the lobbyist reporting requirement for any gift having a value of \$25 or less.</p> <p>Under this bill, there are no restrictions on who receives the gift as long as the value of the gift is \$25 or less.</p>
Violations- These are penalties under current law	<p>Civil fine up to \$5,000 1st violation; up to \$10,000 2nd violation; up to \$15,000 each subsequent violation (K.S.A. 46-288) Class B misdemeanor (K.S.A. 46-276)</p>	<p>Similar civil fines under K.S.A. 46-288 Class B misdemeanor (K.S.A. 46-276)</p>	<p>Similar civil fines under K.S.A. 46-288 Class B misdemeanor (K.S.A. 46-275)</p>	<p>Similar civil fines under K.S.A. 46-288 Class B misdemeanor (K.S.A. 46-275)</p>

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2-13-01
Attachment 4

Statute amended				
K.S.A. 46-237	Yes	Yes	N/A	N/A
K.S.A. 46-237a	N/A	Yes	N/A	N/A
K.S.A. 46-269	N/A	Yes	Yes	Yes
K.S.A. 46-271	N/A	N/A	N/A	N/A

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TOPEKA
SENATE CHAMBER

COMMITTEE ASSIGNMENTS
CHAIR: ELECTIONS AND LOCAL GOVERNMENT
MEMBER: ASSESSMENT AND TAXATION
EARLY CHILDHOOD DEVELOPMENT SERVICES
FINANCIAL INSTITUTIONS AND INSURANCE
REAPPORTIONMENT

February 13, 2001

Testimony in Favor of S.B. 217

Members of the Senate Elections and Local Government Committee:

Attached to my testimony on S.B. 217 is a chart this Committee received several weeks ago from Carol Williams at the Governmental Ethics Commission.

S.B. 217 would bring the \$40 number in the horizontal column called "Gifts" under the vertical columns called "Legislator" and "Employee of the Legislative Branch" down to \$0 per year. In other words, Legislators and Employees of the Legislative Branch would be prohibited from accepting any "gifts", and lobbyists would be prohibiting from giving any gifts to these groups.


This is the same limitation that already applies to Elected Officials of the Executive Branch, Employees of the Executive Branch, and Boards, Commissions, and Authorities of the Executive Branch.

In addition, the bill would provide an exemption from this gift ban for publications published on a regular basis by trade and professional associations, foundations, and tax-exempt organizations.


I would appreciate your favorable consideration of this bill, along with the other "Ethics Reporting and Gift Ban" bills we are hearing today.

Senate Elect + Loc Gov
2-13-01
Attachment 5

MONETARY SPENDING LIMITATIONS FOR LOBBYISTS

	Governmental Ethics Commission	Legislator	Employee of the Legislative Branch	Elected Official of the Executive Branch	Employees of the Executive Branch	Boards, Commissions, Authorities of the Executive Branch
Food and Beverage	Unlimited	Unlimited	Zero	Zero	Zero	
Recreation <i>(accompanied by lobbyist)</i>	\$100 per year	\$100 per year	Zero	Zero	Zero	
Entertainment <i>(not in presence of lobbyist)</i>	\$40 per year	\$40 per year	Zero	Zero	Zero	
Gifts <i>(includes travel)</i>	\$40 per year	\$40 per year	Zero	Zero	Zero	

LOBBYING EXPENDITURE ITEMIZATION CHART

	Governmental Ethics Commission	Food & Beverage		Recreation (With Lobbyist)		Entertainment (Without Lobbyist)		Gifts	
		Itemize		Itemize		Itemize		Itemize	
		Yes	No	Yes	No	Yes	No	Yes	No
All members of Legislature invited ***			✓		✓		✓	✓	
All members of either chamber invited ***			✓		✓		✓	✓	
All members of a legislative political party Caucus invited ***			✓		✓		✓	✓	
All members of a legislative committee invited		✓		✓		✓		✓	
All members of a county delegation invited		✓		✓		✓		✓	
Individual members of the Legislature / employees of legislative branch invited		✓		✓		✓		✓	

*** **Employees of the legislative branch are also included**

Names of legislative spouses are never itemized but the expenditures are reported in the aggregate

SENATE BILL No. 217

By Senator Allen

2-2

9 AN ACT concerning elections; relating to gifts to legislators and em-
10 ployees of the legislative branch; amending K.S.A. 46-237 and 46-271
11 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 46-237 is hereby amended to read as follows: 46-
15 237. (a) Except as provided by this section, no ~~state officer or~~ employee;
16 ~~candidate for state office or state officer elect of the legislative branch of~~
17 ~~state government, legislator, or candidate for the legislature~~ shall accept,
18 or agree to accept any (1) economic opportunity, gift, loan, gratuity, spe-
19 cial discount, favor, ~~hospitality or service having an aggregate value of \$40~~
20 ~~or more in any calendar year~~ or (2) hospitality in the form of recreation
21 having an aggregate value of \$100 or more in any calendar year from any
22 one person known to have a special interest, under circumstances where
23 such person knows or should know that a major purpose of the donor is
24 to influence such person in the performance of their official duties or
25 prospective official duties.

26 (b) Except as provided by this section, no person with a special in-
27 terest shall offer, pay, give or make any (1) economic opportunity, gift,
28 loan, gratuity, special discount, favor, ~~hospitality or service having an ag-~~
29 ~~gregate value of \$40 or more in any calendar year~~ or (2) hospitality in the
30 form of recreation having an aggregate value of \$100 or more in any
31 calendar year to any state officer or employee, ~~candidate for state office~~
32 ~~or state officer elect of the legislative branch of state government, legis-~~
33 ~~lator or candidate for the legislature~~ with a major purpose of influencing
34 such officer or employee, ~~legislator or candidate for state office or state~~
35 ~~officer elect the legislature~~ in the performance of official duties or pro-
36 spective official duties.

37 (c) No person licensed, inspected or regulated by a state agency shall
38 offer, pay, give or make any economic opportunity, gift, loan, gratuity,
39 special discount, favor, hospitality or service having an aggregate value of
40 \$40 or more in any calendar year to such agency ~~or any state officer or~~
41 ~~employee, candidate for state office or state officer elect of that agency.~~

42 (d) Hospitality in the form of food and beverages is ~~presumed not to~~
43 ~~be given to influence a state officer or employee, candidate for state office~~

[, legislator elect

Senate Elections & Loc. Gov
2-13-01
Attachment 6

1 ~~or state officer elect in the performance of official duties or prospective~~
 2 ~~official duties; may be accepted by a state officer or employee of the leg-~~ an
 3 ~~islative branch of state government, legislator, or candidate for the legis-~~
 4 ~~lature except when a particular course of official action is to be followed~~ [, legislator elect
 5 as a condition thereon.

6 (e) Except when a particular course of official action is to be followed
 7 as a condition thereon, this section shall not apply to: (1) Any official
 8 publication published on a regular basis by a trade association, profes-
 9 sional association, foundation or tax exempt organization; (2) any contri-
 10 bution reported in compliance with the campaign finance act; or ~~(2)~~ a (3)
 11 any commercially reasonable loan or other commercial transaction in the
 12 ordinary course of business.

13 (f) No state officer or employee shall accept any payment of honoraria
 14 for any speaking engagement except that a member of the state legislature
 15 or a part-time officer or employee of the executive branch of government
 16 shall be allowed to receive reimbursement in the preparation for and the
 17 making of a presentation at a speaking engagement in an amount fixed
 18 by the commission prior to the acceptance of the speaking engagement.
 19 Nothing in this section shall be construed to prohibit the reimbursement
 20 of state officers and employees for reasonable expenses incurred in at-
 21 tending seminars, conferences and other speaking engagements.

22 (g) The provisions of this section shall not be applicable to or prohibit
 23 the acceptance of gifts from governmental agencies of foreign nations
 24 except that any gift accepted from such foreign governmental agency,
 25 having an aggregate value of \$100 or more, shall be accepted on behalf
 26 of the state of Kansas.

27 (h) No legislator shall solicit any contribution to be made to any or-
 28 ganization for the purpose of paying for travel, subsistence and other
 29 expenses incurred by such legislator or other members of the legislature
 30 in attending and participating in meetings, programs and activities of such
 31 organization or those conducted or sponsored by such organization, but
 32 nothing in this act or the act of which this act is amendatory shall be
 33 construed to prohibit any legislator from accepting reimbursement for
 34 actual expenses for travel, subsistence, hospitality, entertainment and
 35 other expenses incurred in attending and participating in meetings, pro-
 36 grams and activities sponsored by the government of any foreign nation,
 37 or any organization organized under the laws of such foreign nation or
 38 any international organization or any national, nonprofit, nonpartisan or-
 39 ganization established for the purpose of serving, informing, educating
 40 and strengthening state legislatures in all states of the nation, when paid
 41 from funds of such organization and nothing shall be construed to limit
 42 or prohibit the expenditure of funds of and by any such organization for
 43 such purposes.

1 Sec. 2. K.S.A. 46-271 is hereby amended to read as follows: 46-271.

2 (a) No lobbyist shall offer, pay, give or make any economic opportunity,
3 gift, loan, gratuity, special discount, favor, ~~hospitality,~~ or service ~~having~~
4 an aggregate value of \$40 or more in any calendar year to any state officer
5 or employee ~~for candidate for state office~~ with a major purpose of influ-
6 encing such officer or employee in the performance of official duties or
7 prospective official duties. ~~Hospitality in the form of recreation, food and~~
8 ~~beverages are presumed not to be given to influence a state officer or~~
9 ~~employee or candidate for state office in the performance of official~~
10 ~~duties.~~

(1)

or (2) hospitality in the form of recreation having an aggregate value of \$100 or more in any calendar year

in the legislative branch or legislative candidate

11 (b) ~~Except when a particular course of official action is to be followed~~
12 ~~as a condition thereof, hospitality is presumed not to be given to influence~~
13 ~~a state officer or employee or candidate for state office in the performance~~
14 ~~of official duties. This subsection shall apply only to hospitality in the~~
15 ~~form of:~~

- 16 (1) Recreation;
- 17 (2) food;
- 18 (3) beverages; and
- 19 (4) publications published on a regular basis by trade associations,
- 20 professional associations, foundations and tax exempt organizations, when
- 21 provided by the lobbyist therefor.

- (1) Hospitality in the form of food and beverage;
- (2) official publications published on a regular basis by trade associations, professional associations, foundations and tax exempt organizations;
- (3) any

22 (c) ~~Except when a particular course of official action is to be followed~~
23 ~~as a condition thereon, this section shall not apply to:~~

- 24 ~~[(1) Any] contribution reported in compliance with the campaign fi-~~
25 ~~nance act as amended, or; or~~
- (4) ~~[(2)] a commercially reasonable loan or other commercial transaction in~~
26 ~~the ordinary course of business.~~

27 the ordinary course of business.

28 Sec. 3. K.S.A. 46-237 and 46-271 are hereby repealed.

29 Sec. 4. This act shall take effect and be in force from and after its
30 publication in the statute book.

Kansas Society of Association Executives

Testimony on Senate Bills 94, 217, 285, and 286

To The

Senate Committee on Elections and Local Government

By Charles L. Wheelen

February 13, 2001

Thank you for this opportunity to offer comments regarding four bills that would further regulate legislators as well as registered lobbyists. We are opposed to Senate Bills 94 and 286, we could support SB217 if amended, and we support SB285 but would prefer other amendments to current laws.

The Kansas Society of Association Executives is an organization consisting of a diverse membership of professionals who are responsible for management of trade groups, associations of businesses, or associations of professionals. Almost without exception, our memberships include part of your constituency.

Because many of our members are appointed by their associations to communicate their public policy positions, we are required by law to be registered as lobbyists. This means we are subject to all the lobbying restrictions and reporting requirements. We believe that existing laws sufficiently regulate lobbyists' interactions with legislators, and in some instances the restrictions should be revised.

There seems to be a popular myth that legislators can be influenced by modest gifts or meals. We know this is not the case. In our State public policy decisions are based principally on the facts pertaining to an issue and communications from constituents. Any notion that legislators can be persuaded to exchange votes for meals or gifts is sadly misguided. Furthermore, there is no evidence or other reason to believe that members of the Legislature or members of our organization are unethical.

Hospitality in the form of food or recreation, as well as promotional items that advertise an industry or profession are routine practices in the private sector. Inviting a client or customer to lunch or to a sporting event is customary, as is the practice of giving customers modest gifts. These are widely accepted practices in the business world. For this reason, we are opposed to SB94.

Senate Bill 217 would be a preferable alternative to SB94. It would abolish gifts but allow us to give legislators copies of our professional publications. Most of our organizations publish newsletters, journals, membership directories, and other documents which provide contemporary facts about the industry or profession we serve. These publications can be extremely valuable sources of information to legislators who want to be knowledgeable about an important sector of their local economy. It is not uncommon for a legislator to contact an association and request information that is already in one of our publications.

Unfortunately, the cost of preparing and printing our publications has gradually increased such that oftentimes, the value exceeds \$39.99. Under current law, if we were to provide a publication that has a value of \$40 or more to a legislator, we would be in violation of K.S.A. 46-271. We do not believe that the intent of K.S.A. 46-271 has ever been to deprive legislators of valuable information. Furthermore, if you decide to make gifts entirely unlawful, a provision allowing us to provide publications would be exceedingly important.

Sen. Elec & Loc. Gov
2-13-01

Attachment 7

Senate Bill 217 would ostensibly address the dilemma I have described. We are, however, concerned about the language in section two of the bill because it would define our publications as hospitality, and create an exception to the limit only if the publication is provided as hospitality. Our publications are not a form of hospitality; nor are they ever provided with a caveat that a legislator must assure that he or she will follow a particular course of official action. For this reason, we respectfully request that SB217 be amended to clearly reflect that our publications may be provided to legislators. We have drafted amendments to the bill that we believe would accomplish this objective.

Our requested amendments to K.S.A. 46-271 would also incorporate the \$100 aggregate limit on expenditures for recreation. In other words our version would make K.S.A. 46-271 consistent with other sections of the ethics and reporting laws, as well as create an exception for trade publications. Based on the ban on gifts proposed in section one of SB217, our amendments would also authorize promotional items or advertising having an aggregate value of less than \$40 in a calendar year. In other words, gifts could not be given to legislators for the purpose of lobbying, but promotional items would be acceptable.

We also propose addition of a new section in SB217 that would amend K.S.A. 46-269 to be consistent with the amendments in sections one and two of the bill. K.S.A. 46-269 is the law that imposes numerous reporting requirements on registered lobbyists. Having established in sections one and two of the bill that hospitality shall not be provided in exchange for official action, and that gifts for the sake of lobbying would be entirely unlawful, we would remove the unnecessary reporting requirement regarding gifts as well as itemized reporting of hospitality.

Our members have observed that the current method of itemized reporting of hospitality tends to provide a distorted rather than accurate description of legislators' interactions with lobbyists. It has been suggested that those legislators who desire to inform their constituents of their activities could keep track of their legislative social calendar and provide it upon request, publish it in their newsletter, or provide a hyperlink to it on their website. Thus the interested constituent could readily identify the extent to which a legislator attended luncheons, receptions, or other functions and could readily identify the lobbyists who sponsored those events. This would provide a far more accurate picture of the extent to which a legislator interacts with representatives of organizations and businesses, so-called special interests.

If you decide to address only the narrow issue of reporting the cost of gifts, we would ask you to focus on SB285 instead of SB286. Senate Bill 285 would allow the lobbyist to avoid itemized reporting of gifts when provided to all members of the Legislature, all members of either house, or all members of a caucus. This would endorse the common practice of providing promotional items that we described previously. In contrast, SB286 would create two levels of gifts, those that must be reported but not itemized and those that must be itemized.

For the above reasons, we urge your favorable consideration of our proposed amendments to SB217 and respectfully request that you recommend passage of the bill. Thank you for considering our testimony.

1 Sec. 2. K.S.A. 46-271 is hereby amended to read as follows: 46-271.

2 (a) No lobbyist shall offer, pay, give or make any ~~economic opportunity,~~
3 gift, loan, gratuity, special discount, favor, ~~hospitality,~~ or service ~~having~~
4 ~~an aggregate value of \$40 or more in any calendar year~~ to any state officer
5 or employee ~~or candidate for state office~~ with a major purpose of influ-
6 encing such officer or employee in the performance of official duties or
7 prospective official duties. ~~Hospitality in the form of recreation, food and~~
8 ~~beverages are presumed not to be given to influence a state officer or~~
9 ~~employee or candidate for state office in the performance of official~~
10 ~~duties;~~

(1) [strike thru]
, or (2) hospitality in the form of recreation
having an aggregate value of \$100 or more in
any calendar year
of the legislative branch of state government,
legislator or candidate for the legislature

11 (b) Except when a particular course of official action is to be followed
12 as a condition thereon, ~~hospitality is presumed not to be given to influence~~
13 ~~a state officer or employee or candidate for state office in the performance~~
14 ~~of official duties. This subsection shall apply only to hospitality in the~~
15 ~~form of:~~

- 16 (1) Recreation;
- 17 (2) food; _____ or
- 18 (3) beverages; and _____
- 19 (4) ~~publications published on a regular basis by trade associations,~~ [strike thru]
20 ~~professional associations, foundations and tax exempt organizations, when~~
21 ~~provided by the lobbyist therefor.~~

22 (c) Except when a particular course of official action is to be followed
23 as a condition thereon, this section shall not apply to:

- 24 (1) Any contribution reported in compliance with the campaign fi- [strike thru]
25 nance act as amended; ~~or, or~~
- 26 (2) a commercially reasonable loan or other commercial transaction in
27 the ordinary course of business; _____

(3) publications published on a regular basis
by trade associations, professional associations,
foundations and tax exempt organizations, or
(4) promotional items or advertising having an
aggregate value of less than \$40 in any calendar
year.

28 Sec. 3. K.S.A. 46-237 and 46-271 are hereby repealed.

29 Sec. 4. This act shall take effect and be in force from and after its
30 publication in the statute book.

[and insert new section (following page) then
renumber ensuing sections]

[insert the following additional section]

Sec. 3. K.S.A. 46-269 is hereby amended to read as follows: 46-269. Each report required to be filed by K.S.A. 46-268, and amendments thereto, is a public record and shall be open to public inspection upon request. Such report shall disclose the following:

(a) The full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying by the lobbyist during the period reported.

(b) The aggregate amount or value of all expenditures made, except for expenses of general office overhead, by the lobbyist or by the lobbyist's employer for or in direct relation to lobbying during the reporting period, if such expenditures exceed \$100. Individual expenditures of less than \$2 shall not be required to be reported under this subsection. Every lobbyist shall keep detailed accounts of all expenditures required to be reported pursuant to K.S.A. 46-268, and amendments thereto. Such expenditures shall be reported according to the following categories of expenditures:

(1) Food and beverages provided as hospitality;

(2) entertainment, gifts, honoraria or payments;

(3) mass media communications;

(4) recreation provided as hospitality;

(5) communications for the purpose of influencing legislative or executive action; and

(6) *promotional items provided as advertising; and*

(7) all other reportable expenditures made in the performance of services as a lobbyist.

With regard to expenditures for entertainment or hospitality which is primarily recreation, food and beverages, only amounts expended on a state officer or employee or on such officer or employee's spouse shall be considered to be for or in direct relation to lobbying. Notwithstanding the requirements of this subsection and subsection (d), no lobbyist shall be responsible to report any expenditure by the lobbyist's employer of which such person has no knowledge.

~~— (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:~~

~~— (A) Meals, the provision of which is motivated by a personal or family relationship;~~

~~— (B) meals provided at public events in which the person is attending in an official capacity;~~

~~— (C) meals provided to a person subject to this section when it is obvious such meals are not being provided because of the person's official position;~~

~~— (D) food such as soft drinks, coffee or snack foods not offered as part of a meal; and~~

~~— (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.~~

~~(c) (d) Except as provided by subsection (c), whenever *Whenever* an individual lobbyist contributes to a single special event, such lobbyist shall report only the aggregate amount or value of the expenditure contributed by such lobbyist.~~

~~(d) (e) Whenever more than one lobbyist is employed by a single employer, the reports required by this section relating to such employer shall be made by only one such lobbyist and that lobbyist shall be the lobbyist who is most directly connected with the particular expenditure or gift, honoraria or payment. No expenditure or gift, honoraria or payment required to be reported by this section shall be reported by more than one lobbyist.~~

~~(e) (f) 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.~~

LEGISLATIVE TESTIMONY



The Unified Voice of Business

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SB 217

February 13, 2001

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Elections & Local Government Committee

by

Jim Edwards
Senior Vice President

Chairwoman Allen and members of the Committee:

I thank you for the opportunity to appear before you today to express KCCI's support for SB 217, a measure which would define gifts for state officers or employees or candidates for state office. In addition, I would like to make some general statements concerning gifts and hospitality that could relate to other bills you might consider.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 2,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 48% of KCCI's members having less than 25 employees, and 78% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

I believe you would all concur that good government is open to, and encourages participation by all. With that premise in mind, KCCI believes that the legislature should be encouraging input, in

Senate Elec + Loc. Gov
2-13-01
Attachment 8

arms, from individuals and entities from across the state rather than providing impediments to the process. I have worked as one of KCCI's lobbyists for more than 19 years and can say that over the years providing general information to you as legislators and other state officials has become more difficult. Likewise, over that same period of time, it has become more difficult for those same persons to receive information.

Let me provide you with an actual example that happened within KCCI. We put out a little legislative pictorial guide. We assemble it primarily for our members to help them familiarize themselves with legislators other than their own. Thinking about this though, wouldn't it be great to provide these to other state officials as needed? Under existing statute, we can not provide these without reporting them as gifts. Would giving copies gain us influence? I seriously doubt it.

This is just one example, small as it may be, that shows that what has been done over the years, and specifically what was done last year, has not helped the process. Let us hope that this Legislature doesn't further hamper the process but instead looks favorably on bills such as SB 217. I can guarantee you that with less input your job will become much, much harder than it is today. Please remember that good government encourages input and interaction by all parties.

Thank you for the opportunity to appear before you today and I would be happy to stand for questions.