

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairperson Barbara Allen at 1:30 p.m. on January 29, 2004 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Legislative Research
Martha Dorsey, Legislative Research
Ken Wilke, Revisor of Statutes
Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee:

Senator Kerr
Carlos Mayans, Mayor, Wichita
Carol Williams, Executive Director, Governmental Ethics Commission
Richard A. Olmstead, KUTAK ROCK LLP

Others attending:

See Attached List.

Chairperson Allen asked for bill introductions. Senator Huelskamp ask for a bill introduction on training of part time law enforcement officers. Senator Huelskamp moved to introduce seconded by Senator Jackson. The motion carried.

Hearing on:

SB 376 - Campaign finance; use of unexpended campaign funds

Chairperson opened the hearing on **SB 376**. The Chair requested Ken Wilke, Revisor of Statutes to explain **SB 376** (Attachment 1).

Senator Kerr welcomed to the committee by the Chair stated the "Cole v. Mayans" court decision was not what the legislature intended. **SB 376** defends the policy of the ethics commission. The bill represents codification of the situation. No written testimony provided.

Carol Williams, Executive Director, Ethics Commission appeared before the committee. Carol provided background information and explained the amendments (Attachment 2). She recommended the word "charitable" be added after service on line 8, page 5 (Attachment 3). Chairperson Allen requested the Ethics Commission to report back to committee on the questions raised by the committee regarding transferring of funds.

Chairperson Allen recognized Carlos Mayans, Mayor, City of Wichita, testifying in support of **SB 376**. Mayor Mayans stated **SB 376** sends a clear message that the legislature never intended to prohibit transfers of unused campaign funds to a different campaign fund established by the same candidate for the purpose of being elected to a different public office (Attachment 4).

Written testimony from Richard Olmstead was distributed to committee in support of **SB 376** (Attachment 5).

There being no others to testify on **SB 376**, the Chair closed the hearing.

Action on:

SB 292 - Purchase or installation of fire hydrants by fire districts

At the hearing on **SB 292**, Chairperson Allen had requested Senator Schmidt to meet with the interested parties to come to an agreement regarding fire hydrants by fire districts. Senator Schmidt reported an

CONTINUATION SHEET

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE at 1:30 p.m. on January 29, 2004 in Room 423-S of the Capitol.

agreement had been made and presented a balloon to that effect to committee. Senator Schmidt stated the balloon had not changed the substance, just clarified what initially had been asked (Attachment 6). Senator Betts made a motion to adopt the balloon, seconded by Senator Buhler. The motion carried. Senator Schmidt moved, Senator O'Connor seconded to pass **SB 292** out favorably as amended. The motion carried.

Chairperson Allen informed the committee it would be meeting next week.

The meeting adjourned at 2:30 p.m.

SENATE
ELECTIONS AND LOCAL GOVERNMENT
GUEST LIST

Date Thurs Jan 29

R. Pat - Klein	SOS
Melissa Waingemann	SOS
Ron Appletoft	WATER DIST No 1 of Jole
Zach Skow	Intern for O'Connor
Kennie Leffler	DOB
Denny Burgess	city of Wichita
Lana Myers	" "
Sue Krusiche	Senate
Vera Gannaway	GEC
Karina Kenna	GEC
Carl Miller	GEC

SENATE BILL No. 376

By Committee on Elections and Local Government

1-27

AN ACT concerning campaign finance; relating to use of unexpended campaign funds; amending K.S.A. 25-4142 and 25-4157a and K.S.A. 2003 Supp. 25-4143 and repealing the existing sections.

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

Section 1. K.S.A. 25-4142 is hereby amended to read as follows: 25-4142. K.S.A. 25-4119e, 25-4119f, 25-4119g, 25-4142 through 25-4187 and K.S.A. 25-4153b section 4, and amendments thereto, shall be known and may be cited as the campaign finance act.

Sec. 2. K.S.A. 2003 Supp. 25-4143 is hereby amended to read as follows: 25-4143. As used in the campaign finance act, unless the context otherwise requires:

(a) "Candidate" means an individual who: (1) Appoints a treasurer or a candidate committee;

(2) makes a public announcement of intention to seek nomination or election to state or local office;

(3) makes any expenditure or accepts any contribution for such person's nomination or election to any state or local office; or

(4) files a declaration or petition to become a candidate for state or local office.

(b) "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.

(c) "Clearly identified candidate" means a candidate who has been identified by the:

(1) Use of the name of the candidate;

(2) use of a photograph or drawing of the candidate; or

(3) unambiguous reference to the candidate whether or not the name, photograph or drawing of such candidate is used.

(d) "Commission" means the governmental ethics commission.

(e) (1) "Contribution" means:

(A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value given to a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office.

1 istence at the time of such transfer regardless of when the original
2 campaign fund is closed after the date such transfer is made and
3 such transfer is hereby validated.
4 (b) For the purposes of this section, a candidate's transfer of
5 campaign funds to a bona fide successor committee or candidacy in
6 accordance with this section shall be construed to be:
7 (1) Not a contribution within the meaning of K.S.A. 25-4143 and
8 amendments thereto.
9 (2) A permissible use of all residual funds otherwise not obli-
10 gated for the payment of expenses incurred in a candidate's cam-
11 paign in addition to the uses specified in subsection (d) of K.S.A.
12 25-4157a and amendments thereto.
13 (c) For the purposes of this section:
14 (1) "Bona fide successor committee or candidacy" means the
15 candidate's campaign committee or candidacy for an elected public
16 office different from the elected public office held by the candidate
17 at the time such transfer was made.
18 (2) "Local office" shall have the meaning ascribed to it in K.S.A.
19 25-4143 and amendments thereto.
20 (3) "Public office" means a state or local office.
21 (4) "State office" shall have the meaning ascribed to it in K.S.A.
22 25-4143 and amendments thereto.
23 (d) This section shall be part of and supplemental to the cam-
24 paign finance act.]

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Attachment 1

1 (B) Any advance, conveyance, deposit, distribution, gift, loan or pay-
2 ment of money or any other thing of value made to expressly advocate
3 the nomination, election or defeat of a clearly identified candidate for a
4 state or local office;

5 (C) a transfer of funds between any two or more candidate commit-
6 tees, party committees or political committees;

7 (D) the payment, by any person other than a candidate, candidate
8 committee, party committee or political committee, of compensation to
9 an individual for the personal services rendered without charge to or for
10 a candidate's campaign or to or for any such committee;

11 (E) the purchase of tickets or admissions to, or advertisements in
12 journals or programs for, testimonial events;

13 (F) a mailing of materials designed to expressly advocate the nomi-
14 nation, election or defeat of a clearly identified candidate, which is made
15 and paid for by a party committee with the consent of such candidate.

16 (2) "Contribution" does not include:

17 (A) The value of volunteer services provided without compensation;

18 (B) costs to a volunteer related to the rendering of volunteer services
19 not exceeding a fair market value of \$50 during an allocable election
20 period as provided in K.S.A. 25-4149, and amendments thereto;

21 (C) payment by a candidate or candidate's spouse for personal meals,
22 lodging and travel by personal automobile of the candidate or candidate's
23 spouse while campaigning;

24 (D) the value of goods donated to events such as testimonial events,
25 bake sales, garage sales and auctions by any person not exceeding a fair
26 market value of \$50 per event; or

27 (E) ~~the transfer, in accordance with K.S.A. 25-4157a, and amend-~~
28 ~~ments thereto, of residual funds not otherwise obligated for the payment~~
29 ~~of expenses incurred in a campaign or the holding of office.~~

30 (f) "Election" means:

31 (1) A primary or general election for state or local office; and

32 (2) a convention or caucus of a political party held to nominate a
33 candidate for state or local office.

34 (g) (1) "Expenditure" means:

35 (A) Any purchase, payment, distribution, loan, advance, deposit or
36 gift of money or any other thing of value made by a candidate, candidate
37 committee, party committee or political committee for the express pur-
38 pose of nominating, electing or defeating a clearly identified candidate
39 for a state or local office.

40 (B) Any purchase, payment, distribution, loan, advance, deposit or
41 gift of money or any other thing of value made to expressly advocate the
42 nomination, election or defeat of a clearly identified candidate for a state
43 or local office;

the transfer of campaign funds to a bona
fide successor committee in accordance
with K.S.A. 25-4157a and amendments
thereto

- 1 (C) any contract to make an expenditure;
- 2 (D) a transfer of funds between any two or more candidate commit-
- 3 tees, party committees or political committees; or
- 4 (E) payment of a candidate's filing fees.
- 5 (2) "Expenditure" does not include:
- 6 (A) The value of volunteer services provided without compensation;
- 7 (B) costs to a volunteer incidental to the rendering of volunteer serv-
- 8 ices not exceeding a fair market value of \$50 during an allocable election
- 9 period as provided in K.S.A. 25-4149, and amendments thereto;
- 10 (C) payment by a candidate or candidate's spouse for personal meals,
- 11 lodging and travel by personal automobile of the candidate or candid...
- 12 spouse while campaigning or payment of such costs by the treasurer of a
- 13 candidate or candidate committee;
- 14 (D) the value of goods donated to events such as testimonial events,
- 15 bake sales, garage sales and auctions by any person not exceeding fair
- 16 market value of \$50 per event; or
- 17 (E) any communication by an incumbent elected state or local officer
- 18 with one or more individuals unless the primary purpose thereof is to
- 19 expressly advocate the nomination, election or defeat of a clearly identi-
- 20 fied candidate.
- 21 (h) "Expressly advocate the nomination, election or defeat of a clearly
- 22 identified candidate" means any communication which uses phrases in-
- 23 cluding, but not limited to:
- 24 (1) "Vote for the secretary of state";
- 25 (2) "re-elect your senator";
- 26 (3) "support the democratic nominee";
- 27 (4) "cast your ballot for the republican challenger for governor";
- 28 (5) "Smith for senate";
- 29 (6) "Bob Jones in '98";
- 30 (7) "vote against Old Hickory";
- 31 (8) "defeat" accompanied by a picture of one or more candidates; or
- 32 (9) "Smith's the one."
- 33 (i) "Party committee" means:
- 34 (1) The state committee of a political party regulated by article 3 of
- 35 chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
- 36 (2) the county central committee or the state committee of a political
- 37 party regulated under article 38 of chapter 25 of the Kansas Statutes
- 38 Annotated, and amendments thereto;
- 39 (3) the bona fide national organization or committee of those political
- 40 parties regulated by the Kansas Statutes Annotated;
- 41 (4) not more than one political committee established by the state
- 42 committee of any such political party and designated as a recognized
- 43 political committee for the senate;

1 (5) not more than one political committee established by the state
2 committee of any such political party and designated as a recognized
3 political committee for the house of representatives; or

4 (6) not more than one political committee per congressional district
5 established by the state committee of a political party regulated under
6 article 38 of chapter 25 of the Kansas Statutes Annotated, and amend-
7 ments thereto, and designated as a congressional district party committee.

8 (j) "Person" means any individual, committee, corporation, partner-
9 ship, trust, organization or association.

10 (k) (1) "Political committee" means any combination of two or more
11 individuals or any person other than an individual, a major purpose of
12 which is to expressly advocate the nomination, election or defeat of a
13 clearly identified candidate for state or local office or make contributions
14 to or expenditures for the nomination, election or defeat of a clearly
15 identified candidate for state or local office.

16 (2) "Political committee" shall not include a candidate committee or
17 a party committee.

18 (l) "Receipt" means a contribution or any other money or thing of
19 value, but not including volunteer services provided without compensa-
20 tion, received by a treasurer in the treasurer's official capacity.

21 (m) "Public office" means ~~a~~ state or local office.

22 (n) "Local office" means a member of the governing body of a city of
23 the first class, any elected office of a unified school district having 35,000
24 or more pupils regularly enrolled in the preceding school year, a county
25 or of the board of public utilities.

26 ~~(m)~~ (o) "State office" means any state office as defined in K.S.A. 25-
27 2505, and amendments thereto.

28 ~~(n)~~ (p) "Testimonial event" means an event held for the benefit of
29 an individual who is a candidate to raise contributions for such candidate's
30 campaign. Testimonial events include but are not limited to dinners,
31 luncheons, rallies, barbecues and picnics.

32 ~~(o)~~ (q) "Treasurer" means a treasurer of a candidate or of a candidate
33 committee, a party committee or a political committee appointed under
34 the campaign finance act or a treasurer of a combination of individuals
35 or a person other than an individual which is subject to paragraph (2) of
36 subsection (a) of K.S.A. 25-4172, and amendments thereto.

37 ~~(p)~~ "Local office" means a member of the governing body of a city
38 of the first class, any elected office of a unified school district having
39 35,000 or more pupils regularly enrolled in the preceding school year, a
40 county or of the board of public utilities.

41 Sec. 3. K.S.A. 25-4157a is hereby amended to read as follows: 25-
42 4157a. (a) No moneys received by any candidate or candidate commit-
43 tee of any candidate as a contribution under this act shall be used or be

- (1) A member of the governing body of a city of the first class;
(2) an elected office of:
(A) A unified school district having 35,000 or more pupils regularly enrolled in the preceding school year;
(B) a county; or
(C) the board of public utilities.

1 made available for the personal use of the candidate and no such moneys
2 shall be used by such candidate or the candidate committee of such can-
3 didate except for:

- 4 (1) Legitimate campaign purposes;
- 5 (2) expenses of holding political office ;
- 6 (3) contributions to the party committees of the political party of
7 which such candidate is a member;
- 8 (4) any membership dues or donations paid to a community service
9 or civic organization in the name of the candidate or candidate committee
10 of any candidate;
- 11 (5) expenses incurred in the purchase of tickets to meals and special
12 events sponsored by any organization the major purpose of which is to
13 promote or facilitate the social, business, commercial or economic well
14 being of the local community; or
- 15 (6) expenses incurred in the purchase and mailing of greeting cards
16 to voters and constituents.

} , charitable

17 For the purpose of this subsection, expenditures for "personal use"
18 shall include expenditures to defray normal living expenses for the can-
19 didate or the candidate's family and expenditures for the personal benefit
20 of the candidate having no direct connection with or effect upon the
21 campaign of the candidate or the holding of public office.

22 (b) No moneys received by any candidate or candidate committee of
23 any candidate as a contribution shall be used to pay interest or any other
24 finance charges upon moneys loaned to the campaign by such candidate
25 or the spouse of such candidate.

26 (c) No candidate or candidate committee shall accept from any other
27 candidate or candidate committee for any candidate for local, state or
28 national office, any moneys received by such candidate or candidate com-
29 mittee as a campaign contribution. The provisions of this subsection shall
30 not be construed to prohibit:

31 (1) A candidate or candidate committee from accepting moneys from
32 another candidate or candidate committee if such moneys constitute a
33 reimbursement for one candidate's proportional share of the cost of any
34 campaign activity participated in by both candidates involved. Such re-
35 imbursement shall not exceed an amount equal to the proportional share
36 of the cost directly benefiting and attributable to the personal campaign
37 of the candidate making such reimbursement; or

38 (2) ~~the transfer of campaign funds, pursuant to paragraph (1) of sub-~~
39 ~~section (d), to a different campaign fund established by the same candidate~~
40 ~~for the purpose of being elected to a different public office.~~

41 (d) ~~At the time of the termination of any campaign and prior to the~~
42 ~~filing of a termination report in accordance with K.S.A. 25-4157, and~~
43 ~~amendments thereto, all residual funds otherwise not obligated for the~~

A candidate or candidate committee from transferring campaign funds to a bona fide successor committee or candidacy established by the candidate.
Whenever a transfer to a bona fide successor committee or candidacy is made, all monies shall be transferred to the bona fide successor committee or candidacy.
(d)

1 payment of expenses incurred in such campaign or the holding of office
 2 shall be contributed to a charitable organization, as defined by the laws
 3 of the state, contributed to a party committee or returned as a refund in
 4 whole or in part to any contributor or contributors from whom received
 5 or paid into the general fund of the state. (1) At the time of the termi-
 6 nation of any campaign and prior to the filing of a termination report in
 7 accordance with K.S.A. 25-4157, and amendments thereto, all residual
 8 funds not otherwise obligated for the payment of expenses incurred in
 9 such campaign or the holding of office, or any portion of such funds, may
 10 be:

11 (A) Contributed to a charitable organization, as defined by the laws
 12 of the state;

13 (B) contributed to a party committee;

14 (C) returned as a refund in whole or in part to any contributor or
 15 contributors from whom such funds were received; or

16 (D) paid into the general fund of the state; or

17 (E) transferred to a bona fide successor committee or candidacy es-
 18 tablished by the candidate.

19 Whenever campaign funds are transferred to a bona fide successor com-
 20 mittee or candidacy pursuant to this section, all monies must be trans-
 21 ferred from the original campaign fund within 10 days after the date such
 22 transfer is made.

23 (e) For the purposes of this section, "bona fide successor committee
 24 or candidacy" means the candidate's campaign committee or candidacy
 25 for an elected public office different from the elected public office held by
 26 the candidate at the time such transfer was made.

27 New Sec. 4. (a) For the period commencing on January 1, 1976, and
 28 ending on the day preceding the effective date of this act, any candidate
 29 who transferred campaign funds to a bona fide successor candidacy, as
 30 such term is defined in section 3, shall be deemed to have made such
 31 transfer in compliance with the provisions of the campaign finance act in
 32 existence at the time of such transfer regardless of when the original
 33 campaign fund is closed after the date such transfer is made and such
 34 transfer is hereby validated.

35 (b) This section shall be part of and supplemental to the campaign

5 25 Sec. 5-13, K.S.A. 25-4142 and 25-4157a and K.S.A. 2003 Supp. 25-
 26 4143 are hereby repealed.

6 27 Sec. 6-4. This act shall take effect and be in force from and after its
 28 publication in the Kansas register.

[and 25-4157a and K.S.A. 2003 Supp. 25-4143 are

] , and amendments thereto,



GOVERNMENTAL ETHICS COMMISSION

Testimony before Senate Elections and Local Government Committee

SB 376

by Carol Williams

January 29, 2004

On behalf of the Governmental Ethics Commission, I stand before you today as neither a proponent or opponent of SB 376. The Governmental Ethics Commission does not take a position on this bill. This testimony is being provided as background information and to explain the amendments and new language being provided for K.S.A. 25-4143 and K.S.A. 25-4157a.

Senate Bill 376 has been introduced to address the Kansas Supreme Court decision in *Joan Cole v Carlos Mayans and Winston Kenton* handed down in December of 2003. In its' decision, the Court ruled that Carlos Mayans, a candidate for Mayor in the city of Wichita, is prohibited from transferring funds from his legislative campaign account to his mayoral account. The Court ruled the transfer of funds from one campaign account to another is a contribution and that K.S.A. 25-4157a(c) prohibits contributions between candidacies.

As background, in July of 2002, Representative Mayans requested an advisory opinion from the Commission as to whether he could use his State Representative campaign funds to run for Mayor of Wichita. In Opinion 2002-20, the Commission stated "Nothing in the Kansas Campaign Finance Act prohibits a state legislator from using his existing campaign funds to run for a city office". Acting upon Opinion 2002-20, Representative Mayans transferred funds from his State Representative campaign account to a new mayoral campaign account. In February 2003, Mr. Mayans' attorney requested another advisory opinion from the Commission. The Commission was asked if the Campaign Finance Act prohibits a former State legislator from

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transferring funds from his legislative campaign fund to his Mayoral campaign fund, whether Mayans' Mayoral campaign was a bona fide successor committee or candidacy, and whether the transfer of funds by a candidate from one candidacy to a bona fide successor candidacy constitutes a contribution. The Commission opined that as long as a candidate carries over the remaining balance of his first campaign fund to a bona fide successor campaign, the Act does not prohibit the transfer. In addition, since Mr. Mayans intended his mayoral campaign to be a successor campaign to his legislative campaign, the Commission considered the Mayoral campaign to be a bona fide successor candidacy, and that carryover funds by a candidate to a bona fide successor candidacy does not constitute a contribution pursuant to K.A.R. 19-22-1.

Since 1976, the Commission has issued eight advisory opinions to legislators and other individuals inquiring whether a candidate could transfer excess campaign funds to a campaign account for another state or local office. In each opinion issued since 1976, the Commission has opined that it is permissible to make such a transfer and that these transfers do not constitute a contribution. A minimum of 60 candidates have made such transfers over the years.

Senate Bill 376 amends three provisions of the Campaign Finance Act. These amendments would permit a candidate for a state or local office to transfer the residual funds from his or her original campaign account to a new campaign account which is established by the candidate when he or she files for a different state or local office.

On page 2, lines 27 through 29, is new language which excludes from the definition of contribution the transfer of residual funds pursuant to K.S.A. 25-4157a.

On page 4, line 21, is a definition for public office. This new definition is necessary because the term is used in new language found in K.S.A. 25-4157a.

On page 4, lines 22 through 25, is a technical amendment. The current definition of local office is found in subsection (2)(p). This amendment moves the same definition up to subsection (2)(n) which the Commission believes is a better placement for the definition.

K.S.A. 25-4157a is amended in several sections. On page 5, line 9, the word "charitable" is added. Current language permits a candidate to use campaign funds for any membership dues or donations paid to a community service or civic organization in the name of the candidate or candidate committee of any candidate. If the Committee passes this bill favorably, the Commission recommends the term "charitable organization" be added to this section since there are some charitable organizations that may not fit within the current language of civic or community service organizations:

Lines 38 through 40, on page 5, include new language which will permit the transfer of campaign funds to a different campaign fund established by the same candidate for the purpose of being elected to a different public office.

The new language found on lines 17 through 26, on page 6, provides that upon termination, a candidate can transfer all of his or her campaign funds to a bona fide successor committee or candidacy established by the candidate. The candidate has ten days to complete such transfer.

New section 4 provides that any candidate who transferred campaign funds to a bona fide successor candidacy commencing January 1, 1976 through the day preceding the effective date of this act, will have made such transfer in compliance with the provisions of the Campaign Finance Act.



GOVERNMENTAL ETHICS COMMISSION

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

Opinion No. 76-3

February 4, 1976

The Honorable John Simpson
Senator, District No. 24
P. O. Box 1403
Salina, Kansas 67401

Dear Senator Simpson:

This opinion is in response to your letter of December 5, 1975 in which you request an opinion from the Governmental Ethics Commission concerning the Campaign Finance Act, K.S.A. 1975 Supp. 25-4101 et seq.

We understand you request this opinion in your capacity as a state senator. You inform us that at the conclusion of your 1972 campaign the Simpson for Senate committee had a cash balance of approximately \$900. These funds have been maintained in a Salina bank and there have been no deposits or withdrawals since 1972. The only authorized signature on the account is that of your campaign chairman for 1972. You are not authorized to write checks upon the account.

You also inform us that you have recently appointed a treasurer and chairman pursuant to K.S.A. 1975 Supp. 25-4101 et seq. for your 1976 Simpson for Senate Committee. The chairman of the 1972 committee desires to contribute the approximately \$900 to this newly formed committee. It is intended that the distribution will take place so that \$500 is allocable to the primary election period and the remaining balance allocable to the general election period.

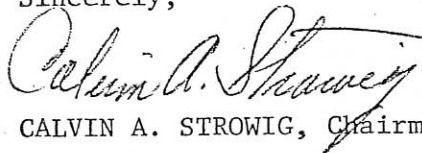
Based on this factual situation, we understand you to ask the following four questions:

1. Does the transfer of funds from your 1972 committee to your 1976 committee constitute a contribution?
2. If so, in what name should the contribution be listed?
3. To whom should the contribution be attributed for the purposes of the individual contribution limitations?
4. Does the procedure outlined above for the distribution of 1972 residual funds to your 1976 campaign comply with the Campaign Finance Act?

In Opinion No. 74-21, a copy of which is enclosed, the Commission considered an analogous situation. There we determined that the transfer of funds constituted a contribution in the name of the prior committee which was attributable for the purposes of the individual contribution limitations to the individual who had actual discretion concerning the distribution of the funds. Upon reviewing these determinations, we believe they were incorrect. Specifically, we note from a review of the entire Act and especially K.S.A. 1975 Supp. 25-4109(a), that we are constrained to an opinion that the Act does not limit the amount of funds which may be carried over by one candidate committee from one election to another when the committee was formed after the effective date of the Act. Thus our prior opinion, which in effect limited the amount which could be carried over from a candidate committee formed prior to the effective date of the Act to a successor committee formed after the Act, treats the two situations differently. For example, a representative who ran for election in 1974 and now seeks a position in the senate would be able to carry over an unlimited amount of funds since the initial committee was formed after the effective date of the Act, while a senator seeking reelection would be restricted in the amount carried over from his or her candidate committee which was formed prior to the effective date of this Act. Since we believe the Act should not work such inequalities, it is our opinion that the transfer of funds from your 1972 committee to your 1976 committee does not constitute a contribution but should be listed as an "other receipt" in the name of the 1972 committee. In addition, since the transfer does not constitute a contribution, the individual contribution limitations do not apply to it. Thus, while the procedure you have outlined does comply with the Act, it is our opinion that the entire fund can be transferred at one time without affecting any person's contribution limitation.

In closing, we hereby overrule those portions of Opinion No. 74-21 which are inconsistent with this opinion.

Sincerely,



CALVIN A. STROWIG, Chairman

By Direction of the Commission

CAS:ja

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April 24, 1997

Opinion No. 1997-16

Patricia A. Rahija
Wyandotte County Election Commissioner
9400 State Avenue
Kansas City, Kansas 66112-1588

Dear Ms. Rahija:

This opinion is in response to your letter of April 14, 1997, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the Kansas Campaign Finance Act (K.S.A. 25-4142 et seq.). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 25-4142 et seq., and whether some other statutory system, common law theory or agency rule and regulation applies to your inquiry is not covered by this opinion.

FACTUAL STATEMENT

We understand you request this opinion in your capacity as the Wyandotte County Election Commissioner. You advise us that a consolidation plan was drafted by the Wyandotte County/Kansas City Consolidation Study Commission, and approved by the voters in that county on April 1, 1997. This plan would consolidate several of the Kansas City, Kansas, and Wyandotte County governmental offices. The new system would be called the Unified Government, and would include one Chief Executive/Mayor and ten members of the Board of Commissioners.

Individuals interested in running for these eleven positions must file for candidacy by May 13, 1997. The candidates will then run for office and be elected during a Special Primary Election on July 8, 1997, and a Special General Election on September 9, 1997.

You have also provided us with your proposed plan for holding these special elections, the Consolidation Study Commission's recommendations to the Governor and legislature and a letter from the Consolidation Study Commission to the Governor.

QUESTION

Based on this factual statement, you ask us the following questions:

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April 24, 1997

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1. What contribution limitations, if any, are there for the Unified Government races?
2. Will individuals who had previous candidate bank accounts be required to close those accounts and open new ones for the Unified Government races?

OPINION

We first note that for the Kansas Campaign Finance Act (K.S.A. 25-4142 et seq.) to apply to the Unified Government races, those positions must either be for a "state office" or "local office" as those terms are defined in K.S.A. 25-4143. K.S.A. 25-4143(k) defines "state office" as "any state office defined by K.S.A. 25-2505 and amendments thereto". While that statute is beyond the jurisdiction of this Commission, clearly it does not apply to Unified Government races.

K.S.A. 1996 Supp. 25-4143(n) defines "local office" in pertinent part as the following:

"...a member of the governing body of a city of the first class, any elected office of a unified school district having 35,000 or more pupils regularly enrolled in the preceding school year, a county or of the board of public utilities."

In reviewing the materials you have provided us, it appears that the Unified Government is to oversee the governmental operation of Wyandotte County. In addition, the Consolidation Study Commission used the general election laws applicable to county elections as a basis for the Unified Government Special Elections. Therefore, this Commission believes that the Chief Executive/Mayor and Board of Commissioners are "members of the governing body of a county", and are thereby seeking a "local office". Thus, the Kansas Campaign Finance Act applies to individuals who become candidates for those positions.

With this initial determination in mind, we turn to your first question. K.S.A. 25-4153(a) in pertinent part states:

"The aggregate amount contributed to a candidate and such candidate's

candidate committee and to all party committees and political committees and dedicated to such candidate's campaign, by any political committee or any person except a party committee, the

Opinion No. 97-16

April 24, 1997

Page 3

candidate or the candidate's spouse, shall not exceed the following:

...(2) for the office of...candidate for local office, \$500 for each primary election...and an equal amount for each general election...."

In applying this subsection to your question, because this is a new election, separate and apart from the recent city election, each candidate running for a Unified Government position would be permitted to receive a maximum of \$500 from each contributor in the Special Primary Election period, and another \$500 from each contributor in the Special General Election period.

Turning to your second question, candidates seeking these positions must file the appointment of treasurer or candidate committee form (K.S.A. 25-4144) and pay the \$30.00 candidate report fee (K.S.A. 1996 Supp. 25-4119f(3)). If the candidates have previous campaign accounts open, they may terminate those accounts and transfer the balance to the new campaign accounts as provided in K.S.A. 25-4157.

In closing, we do note that each candidate will be required to file either an affidavit of intent to expend and receive less than \$500 (K.S.A. 25-4173) or file the appropriate receipts and expenditures reports (K.S.A. 25-4148) on the dates specified by those particular statutes.

Sincerely,

Diane Gaede, Chairwoman

By Direction of the Commission

DG:WCS:dlw

Return to opinion page.

January 23, 1997

Opinion No. 1997-03

J. Michael Haskin
Treasurer, Houglund for Senate
PO Box 413
Olathe, Kansas 66051-0413

Dear Mr. Haskin:

This opinion is in response to your letter of January 13, 1997, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the Kansas Campaign Finance Act (K.S.A. 25-4142 et seq.).

FACTUAL STATEMENT

We understand you request this opinion in your capacity as treasurer for the Steve Houglund for State Senate campaign. You advise us that the candidate was unsuccessful in his bid for the Kansas Senate. He would now like to run for the Olathe School Board, and has approximately \$1700 in his Senate campaign account that he would like to transfer into the school board campaign. The Olathe School Board is a local elective office, as defined by K.S.A. 25-901, not under the jurisdiction of the Kansas Campaign Finance Act (K.S.A. 25-4142 et seq.).

QUESTION

Based on these facts, you ask us the following questions:

1. Does the Kansas Campaign Finance Act prohibit a candidate, after losing an election, from transferring his or her excess campaign funds to a campaign account for a local elective office not under the purview of the Act?
2. If permissible, what procedure should be used to transfer the funds?

OPINION

Nothing in the Kansas Campaign Finance Act prohibits a candidate, after losing an election, from transferring his or her excess campaign funds to a

campaign account for a local elective office not under the purview of the Act.

Opinion No. 97-
January 23, 1997
Page 2

Turning to your second question, the candidate should file the appropriate forms to become a candidate for school board, then file a receipts and expenditures report with the Secretary of State's Office terminating the Senate account and showing the money being transferred into the school board account. Please refer to K.S.A. 25-904 for guidance as to what reports must be filed by a candidate for the school board.

In closing, we note that under K.S.A. 25-4153(f) political funds collected and subject to the provisions of the Kansas Campaign Finance Act could not be transferred to a campaign account for a federal elective office.

Sincerely,

Diane Gaede, Chairwoman

By Direction of the Commission

DG:WCS:dlw

Return to opinion page.

May 6, 1997

Opinion No. 1997-17

The Honorable David Haley
Kansas State Representative, 34th District
936 Cleveland Avenue
Kansas City, Kansas 66101

Dear Representative Haley:

This opinion is in response to your letter of May 3, 1997, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the Kansas Campaign Finance Act (K.S.A. 25-4142 et seq.). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 25-4142 et seq., and whether some other statutory system, common law theory or agency rule and regulation applies to your inquiry is not covered by this opinion.

FACTUAL STATEMENT

We understand you request this opinion in your capacity as an incumbent state legislator. You advise us that you may want to run for an elected position in Wyandotte County. You further advise us that you would want to use your existing legislative campaign funds for this election.

QUESTION

Is it permissible under the Kansas Campaign Finance Act (K.S.A. 25-4142 et seq.) for a state legislator to use his or her own legislative campaign funds to run for a county office?

OPINION

Nothing in the Kansas Campaign Finance Act prohibits a state legislator from using his or her own legislative campaign funds to run for a county office. Therefore, it would be permissible for you to use your existing campaign funds to run for office in Wyandotte County.

Opinion No. 97-
May 6, 1997
Page 2

In closing, we note that in KCGSC Opinion No. 97-16, the Commission opined that individuals running for Wyandotte County Unified Government positions must comply with the provisions of the Kansas Campaign Finance Act. We have attached a copy of that opinion for your use.

Sincerely,

Diane Gaede, Chairwoman

By Direction of the Commission

DG:WCS:dlw

April 18, 2002

Opinion No. 2002-09

Kelly Levi
Campaign Manager
Stovall/Glasscock Republican Leadership 2002
P.O. Box 4402
Topeka, Kansas 66604-0402

Dear Ms. Levi:

This opinion is in response to your letter of April 15, 2002, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the Campaign Finance Act (K.S.A. 25-4142 *et seq.*). We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 25-4142 *et seq.* Thus, 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 Campaign Manager for the Stovall/Glasscock Republican Leadership 2002 campaign (S/G Campaign). You have explained that in July of 2001, Kent Glasscock (Glasscock) announced his candidacy for Governor, appointed a treasurer, and transferred the funds remaining in his Glasscock for State Representative campaign account into his new Glasscock for Governor campaign account.

In November of 2001, Carla Stovall (Stovall) and Glasscock announced their candidacy for the offices of Governor and Lieutenant Governor respectively. At this time, Stovall transferred the \$4,184.06 in campaign funds remaining in her Stovall for Attorney General campaign account to the S/G Campaign account and Glasscock transferred the \$129,737.74 remaining in his Glasscock for Governor account to the S/G Campaign account.

On April 15, 2002, Stovall announced her intent to withdraw as a Gubernatorial candidate.

QUESTION:

May the campaign funds contributed to the Stovall/Glasscock for Governor campaign be used in any subsequent Glasscock for Governor campaign?

OPINION:

The Kansas statutes establish that the candidates for Governor and Lieutenant Governor are to be nominated and elected jointly. (K.S.A. 25-4003). In addition, K.S.A. 25-4144 provides that the candidate for Governor shall carry out the requirements and responsibilities of the candidate campaign under the Campaign Finance Act, for the "pair of candidates." The Commission notes that the Kansas

Campaign Finance Act contemplates that the candidates for Governor and Lieutenant Governor are in fact separate candidates running a joint campaign. They are not considered a single candidate.

K.A.R. 19-22-1 discusses the transfer of funds from one campaign account to another. It states in pertinent part:

“ . . .the carryover of funds or inventory by a candidate, [or] candidate committee . . . or the transfer thereof to a bona fide successor committee or candidacy does not constitute a contribution.”

Pursuant to this regulation and previous opinions of this Commission (see Commission opinions 1997-03, 1997-16), it is clear that candidates may transfer campaign funds to a bona fide successor committee or candidacy without consideration of the campaign contribution limits. Therefore, a candidate for Governor or a candidate for Lieutenant Governor may transfer their share of the joint campaign funds to their bona-fide successor campaign.

In determining their proportionate share, the Commission now determines that the duty is upon the treasurer (see Commission opinion 1993-40) to make a good faith estimate of what portion of the campaign funds belong to each candidate. For guidance, the Commission notes that this determination could be based upon the percentage of the amount brought to the campaign by each party, a percentage based upon the amount of campaigning each of the two parties did, a classification of which contributions were intended for each candidate, or on any other reasonable basis upon which the treasurer can discern what portion of the money belongs to each of the candidates. It is possible that each candidate could get one-half of the money if the treasurer objectively and in good faith believed that the contributions were intended to equally support both candidates, or that a combination of these rationales could be applied.

It should be noted however, that in most situations, one candidate could not take all of the money even if the two candidates were in agreement. K.S.A. 25-4157a(c) prohibits one candidate from giving contributions to another candidate. It states in pertinent part:

“No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution.”

Therefore, when one member of the Governor/Lieutenant Governor team leaves the campaign, the treasurer must determine the proportionate share of the campaign funds to which each candidate is entitled. If one of the candidates does not wish to transfer this money to a successor campaign account, he or she must follow the proscriptions in K.S.A. 25-4157a(d) with regard to the disposal of campaign funds upon the termination of a campaign.

Sincerely,

Daniel Severt, Chairman

July 18, 2002

Opinion No. 2002-20

The Honorable Carlos Mayans
Kansas State Representative, 100th District
1842 N. Valleyview
Wichita, Kansas 67212

Dear Representative Mayans:

This opinion is in response to your letter of July 3, 2002, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the Campaign Finance Act (K.S.A. 25-4142 *et seq.*). We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 25-4142 *et seq.* Thus, 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 an incumbent state legislator. You advise us that you may want to run for an elected position as the Mayor of Wichita. You further advise us that you would like to use your existing legislative campaign funds for this election. You note that the City of Wichita has passed Ordinance Number 44-852 which prohibits certain campaign contributions to candidates.

QUESTION:

May a state legislator use his State Representative Candidate Committee campaign funds to run for the Mayor of Wichita, pursuant to the Kansas Campaign Finance Act?

OPINION:

Nothing in the Kansas Campaign Finance Act prohibits a state legislator from using his existing campaign funds to run for a city office. See K.A.R. 19-22-1 and Commission Opinion 1997-17. You question the application of Wichita Ordinance Number 44-852. This Commission is not in a position to address this issue, as Wichita ordinances are not within our jurisdiction.

Sincerely,

Daniel Severt, Chairman
By Direction of the Commission

DS:VMG:dlw

February 20, 2003

Opinion No. 2003-05

Richard A. Olmstead
Husch & Eppenberger, LLC
Epic Center
301 North Main Street, Suite 600
Wichita, Kansas 67202

Dear Mr. Olmstead:

This opinion is in response to your letter of February 11, 2003, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the Campaign Finance Act (K.S.A. 25-4142 *et seq.*). We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 25-4142 *et seq.* Thus, 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 on behalf of former state legislator Carlos Mayans who is currently a candidate for Mayor of Wichita. You have explained that on August 15, 2002, with the intent of starting a bona fide successor campaign, Mr. Mayans transferred \$50,000 from his Legislative campaign fund (Legislative Fund) to his Mayoral campaign fund (Mayoral Fund). This left his Legislative Fund with a balance of approximately \$22,000. Mr. Mayans then made expenditures out of the Legislative Fund for legislative expenses in the amount of \$3,410.19 and attorney fees in the amount of \$11,751.99 related to questions surrounding his ability to use campaign funds from his Legislative Fund in his Mayoral campaign. On December 31, 2002, Mr. Mayans closed the Legislative Fund and transferred the remaining balance of \$6,060.51 to his Mayoral Fund.

After contacting the Commission, Mr. Mayans learned that for his Mayoral Fund to be treated as a bona fide successor candidacy pursuant to K.A.R. 19-22-1, he should have transferred the entire balance and closed his Legislative Fund on August 15, 2002. To cure this mistake, Mr. Mayans reimbursed the Mayoral Fund with his own personal funds in the amount of \$3,410.19. He did not reimburse the Mayoral Fund for the \$11,751.99 in professional services rendered, because, after consulting with the Commission's staff, he believed this expense was a legitimate campaign expenditure for his mayoral campaign. As a result of these actions, Mr. Mayans believes that since August 15, 2002 all funds in his Legislative Fund have been either transferred to or used for the funding of his mayoral campaign which would then constitute a bona fide successor campaign.

QUESTIONS:

1. Does the Kansas Campaign Finance Act prohibit a former State legislator from transferring funds from his Legislative campaign fund to his Mayoral campaign fund?
2. Based on the facts stated above, is Mr. Mayans' Mayoral campaign a "bona fide successor committee or candidacy" as contemplated by the Commission in K.A.R. 19-22-1?

3. Does the transfer of funds by a candidate from one candidacy to a bona fide successor candidacy constitute a "contribution" for purposes of K.S.A. 25-4143(e)(1) and K.S.A. 25-4157a(c)?

OPINION:

Several statutes and regulations must be addressed in order to completely answer your questions. K.S.A. 25-4143(e) provides the definition of a contribution. It states in pertinent part:

"(1) 'Contribution' means:

...

"(C) a transfer of funds between any two or more candidate committees, party committees or political committees;

K.S.A. 25-4157a(c) provides:

"No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution."

K.A.R. 19-22-1 states in pertinent part:

". . . the carryover of funds or inventory by a candidate . . . from one election period to another or the transfer thereof to a bona fide successor . . . candidacy does not constitute a contribution."

When a candidate for one office chooses to run for a different or additional office, he may do one of two things with his campaign funds:

1. Pursuant to K.A.R. 19-22-1, he may "carryover" the remaining balance of campaign funds from the first campaign account into a new campaign account for the second office sought. If the transfer is performed in this manner, the second office sought is considered a "successor candidacy."
2. Or, he may choose to retain the first campaign account (to be used for the expenses of holding the first public office and legitimate campaign purposes related to a campaign for the first office and eventually, if the candidate chooses to close that account, distribute the funds pursuant to K.S.A. 25-4157a(d)) and also open a new campaign account for the second office sought with campaign funds solicited specifically for that second office. Pursuant to K.S.A. 25-4157a(c), however, if he chooses to retain the first account, he may not transfer any of the money from his first campaign fund to his second campaign fund because they are considered separate candidacies.

Therefore, with respect to your first question, so long as a candidate carries over the remaining balance of his first campaign fund to a bona fide successor campaign, the Campaign Finance Act does not prohibit the transfer. If, however, the candidate chooses to retain the first account, K.S.A. 25-4157a(c) prohibits the transfer of campaign funds between the two accounts.

With respect to your second question, although Mr. Mayans erred in not transferring all of his Legislative Fund at the time he originally opened the Mayoral Fund, he has corrected this mistake by reimbursing his Mayoral Fund for the Legislative expenditures. Because Mr. Mayans intended his mayoral campaign to be a successor campaign to his legislative campaign, and because all of the remaining money in the Legislative Fund was either transferred to or used for expenses related to the Mayoral campaign, the Commission considers the Mayoral campaign to be a bona fide successor candidacy.

With respect to your third question, K.A.R. 19-22-1 specifically provides that the “carryover of funds or inventory by a candidate . . . or the transfer thereof to a bona fide successor . . . candidacy does not constitute a contribution.” This regulation has been in effect since 1975 and the Commission has been issuing opinions to this effect since 1976. See e.g. Commission Opinions 1976-03, 1997-03, 1997-16, 2002-09, 2002-20. It should be noted that the Legislature is well aware of the Commission’s interpretation, as each election year the Commission’s staff provides literature and other information to members of the Legislature which indicates that they may carryover their campaign funds from one campaign to another. Therefore, pursuant to K.A.R. 19-22-1, the carryover of funds from one campaign to a bona fide successor campaign is not a contribution, and does not violate the Campaign Finance Act.

Sincerely,

Daniel Severt, Chairman
By Direction of the Commission

DS:VMG:dlw

June 19, 2003

Opinion No. 2003-18

John T. Frederick
Government Relations Manager
The Boeing Company
P.O. Box 7730, MC K12-05
Wichita, Kansas 67277-7730

Dear Mr. Frederick:

This opinion is in response to your letter of June 6, 2003, in which you request an opinion from the Kansas Governmental Ethics Commission concerning the Campaign Finance Act (K.S.A. 25-4142 *et seq.*). We note at the outset that the Commission's jurisdiction concerning your question is limited to the application of K.S.A. 25-4142 *et seq.* Thus, 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 Government Relations Manager for the Boeing Company (Boeing). You have provided us with the following hypothetical scenario:

A contribution is made to an incumbent candidate for the state senate in the primary election cycle beginning January 1, 2001 and running through the day of the primary election in 2004. During this primary election cycle, the candidate announces that he is running for Governor, closes his senate campaign account and transfers all of that money to his gubernatorial campaign account pursuant to K.A.R. 19-22-1. The candidate is not elected governor and remains in the Senate. The gubernatorial campaign account holds a negative account balance, and the candidate has not opened a new senate campaign account.

QUESTIONS:

1. If the candidate opens a senate campaign account, what amount can now be given to his senate campaign during this primary election cycle?
2. What amount can now be given to retire the debt from the gubernatorial campaign?

OPINION:

K.A.R. 19-30-4 applies to the allocation of contributions when a candidate runs for a different office than that originally sought. It states in pertinent part:

“When during an election period a candidate decides to seek state or local office other than that originally anticipated or sought in the preceding election, all contributions received during the election period shall be attributed to the individual's contributions limits for the office finally sought.”

Although the contribution given in 2001 was originally given to the senate campaign during the senatorial primary election, because the candidate closed his senate campaign account and transferred all of that money to his 2002 gubernatorial campaign account pursuant to K.A.R. 19-22-1, the contribution was allocated to the gubernatorial primary election.

Pursuant to K.S.A. 25-4149, the senatorial primary election period started January 1, 2001 and will run through the day of the primary election in 2004. Because your original contribution was allocated to the gubernatorial campaign, you have not made a contribution to this candidate's senatorial primary election. Therefore, if the candidate were now to leave his gubernatorial account open and, at the same time, open a new senatorial campaign account, you would be able to give this candidate up to \$1,000.00 towards his senatorial primary election. See K.S.A. 25-4153.

With regard to the gubernatorial campaign, pursuant to K.S.A. 25-4149, the general election period ended December 31, 2002, and the new primary election cycle began on January 1, 2003 and will run until the day of the primary election in 2006. Therefore, if the candidate chooses to leave open his gubernatorial campaign account, you may contribute up to \$2000.00 towards his gubernatorial primary election. See K.S.A. 25-4153. Please note that it does not matter that the candidate uses this money to reduce the debt from the previous election or whether he intends to run again for governor.

Sincerely,

Daniel Severt, Chairman
By Direction of the Commission

DS:VMG:dlw

1 made available for the personal use of the candidate and no such moneys
 2 shall be used by such candidate or the candidate committee of such can-
 3 didate except for:

- 4 (1) Legitimate campaign purposes;
- 5 (2) expenses of holding political office ;
- 6 (3) contributions to the party committees of the political party of
 7 which such candidate is a member;
- 8 (4) any membership dues or donations paid to a community service
 9 or civic organization in the name of the candidate or candidate committee
 10 of any candidate;
- 11 (5) expenses incurred in the purchase of tickets to meals and special
 12 events sponsored by any organization the major purpose of which is to
 13 promote or facilitate the social, business, commercial or economic well
 14 being of the local community; or
- 15 (6) expenses incurred in the purchase and mailing of greeting cards
 16 to voters and constituents.

17 For the purpose of this subsection, expenditures for "personal use"
 18 shall include expenditures to defray normal living expenses for the can-
 19 didate or the candidate's family and expenditures for the personal benefit
 20 of the candidate having no direct connection with or effect upon the
 21 campaign of the candidate or the holding of public office.

22 (b) No moneys received by any candidate or candidate committee of
 23 any candidate as a contribution shall be used to pay interest or any other
 24 finance charges upon moneys loaned to the campaign by such candidate
 25 or the spouse of such candidate.

26 (c) No candidate or candidate committee shall accept from any other
 27 candidate or candidate committee for any candidate for local, state or
 28 national office, any moneys received by such candidate or candidate com-
 29 mittee as a campaign contribution. The provisions of this subsection shall
 30 not be construed to prohibit:

31 (1) A candidate or candidate committee from accepting moneys from
 32 another candidate or candidate committee if such moneys constitute a
 33 reimbursement for one candidate's proportional share of the cost of any
 34 campaign activity participated in by both candidates involved. Such re-
 35 imbursement shall not exceed an amount equal to the proportional share
 36 of the cost directly benefiting and attributable to the personal campaign
 37 of the candidate making such reimbursement; or

38 (2) *the transfer of campaign funds, pursuant to paragraph (1) of sub-*
 39 *section (d), to a different campaign fund established by the same candidate*
 40 *for the purpose of being elected to a different public office.*

41 (d) ~~At the time of the termination of any campaign and prior to the~~
 42 ~~filing of a termination report in accordance with K.S.A. 25-4157, and~~
 43 ~~amendments thereto, all residual funds otherwise not obligated for the~~

, charitable

January 29, 2004

Madame Chair and members of the Election and Local Government Committee thank you for the opportunity to testify in support of SB 376.

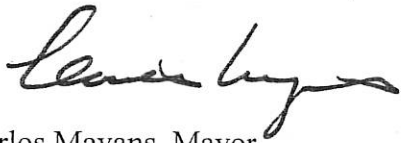
This bill sends a clear message that the legislature never intended to prohibit transfers of unused campaign funds to a different campaign fund established by the same candidate for the purpose of being elected to a different public office.

In section 3, the bill clearly defines a "bona fide successor committee or candidacy" as requested by the Supreme Court Decision..

Section 4, is absolutely necessary as it validates all such campaign transfers that have occurred since the inception of the act on January 1, 1976 and ending on the day preceding the effective day of this act.

I ask you to pass SB 376 in its current form allowing such transfers between state and local campaigns.

Thank you for your support!



Carlos Mayans, Mayor
City of Wichita
316-268-4331 office
316-734-8054 cell
316-722-0284 home
cmayans@wichita.gov

Senate Elec & Loc Gov
01-29-04
Attachment 4

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January 28, 2004

**VIA HAND DELIVERY
& E-MAIL TO ALLEN@SENATE.STATE.KS.US**

The Honorable Barbara Allen
Chairperson, Elections and Local Governments Committee
Kansas State Senator, District 8
Kansas State Capital
10th & Jackson, Room 423-S
Topeka, Kansas 66612

Re: Senate Bill 376

Dear Senator Allen:

This letter is being sent on behalf of our client, Mr. Carlos Mayans, Mayor of the City of Wichita, Kansas, in support of Senate Bill 376. We have had the distinct pleasure of representing Mr. Mayans before the Sedgwick County District Court, the Kansas Court of Appeals and the Supreme Court of Kansas in response to a challenge by Ms. Joan Cole to Mr. Mayans' use of legislative campaign funds in his bid for Mayor of the City of Wichita. Prior to transferring his legislative funds to his Mayoral campaign, Mr. Mayans received opinions from the Kansas Governmental Ethics Commission (Op. No. 2002-20) and from Wichita City Attorney, Gary Rebenstorf. Both opinions indicated the use of such funds was permitted by the Kansas Campaign Finance Act ("CFA") and Wichita's Campaign Finance Act, respectively. As you likely know, Ms. Cole's challenge to Mr. Mayans' use of these funds was eventually addressed by the Supreme Court of the State of Kansas.

We directed the Court to K.A.R. 19-22-1(a) which indicates transfers to bona fide successor candidacies or committees are not "contributions" for purposes of the CFA. As such, we argued the transfer of funds to Mr. Mayans' mayoral campaign was not a "contribution" subject to either K.S.A. 25-4157a(c) or the Wichita Campaign Finance Act (which relies exclusively on the CFA definition of contribution in regulating elections). We also directed the Court's attention to numerous formal opinions from the Governmental Ethics Commission indicating such transfers have always been permissible under the CFA. *See e.g.*, KGEC Op. Nos. 1976-03; 1997-16; 1997-17; 2003-05. We were also supported by the Governmental Ethics Commission who filed an *amicus curiae* brief in support of our position. Much to our dismay,

The Honorable Barbara Allen
January 28, 2004
Page 2

the Court held, without any discussion of legislative history, it was the Legislature's intent to prohibit all such transfers.

We are pleased to see, through Senate Bill 376, that the Legislature is sending the clear and unequivocal message that it was never its intent to prohibit such transfers. As you are likely aware, Mr. Mayans is not the only former State Legislator who has availed himself to the provisions of K.A.R. 19-22-1(a). Many have come before him to use funds from a State House of Representatives campaign to run for local office, or from a State Senate Campaign to run for Governor or some other State office. And many are awaiting passage of a bill, like Senate Bill 376, to make a run for local office next term. It is our opinion that Senate Bill 376 will allow such transfers to occur in the future without any question in the courts regarding legislative intent. It is also our opinion that Section 4 of the bill is an absolute and necessary inclusion as it validates all such transfers that have occurred since the inception of the CFA in its present form.

Some concern was expressed by the Supreme Court that allowing transfers from a State officer-holder's campaign to a local campaign would usurp a local government's ability to impose campaign finance laws that are more restrictive than the CFA. We assert that nothing in Senate Bill 376 usurps local authority. Local governments, pursuant to the home rule, have the inherent power to adopt more restrictive campaign finance rules through a charter ordinance. At least one such government, the Unified Government, has, we believe, already adopted an ordinance prohibiting such transfers. If a local government wishes to prohibit transfers contemplated by Senate Bill 376, it may do so. We do not believe it is the State Legislature's responsibility to speculate as to what local governments believe to be in their best interest. Rather, in the realm of campaign finance, we believe it is the State Legislature's responsibility to draft general provisions applicable to every entity, and every candidate, subject to the CFA and, if a local entity wishes to enact more restrictive provisions, it is that local entities prerogative to do just that.

Most local governments that are subject to the CFA do not, however, have any ordinances or regulations regarding campaign finance. Most local governments rely exclusively on the CFA as the source of governance of campaigns for local office. To prohibit the transfers contemplated in Senate Bill 376 to local campaigns from a State campaign would be a disservice to all former State office-holders and all former candidates for State office who choose to run for local office in the next election cycle. Despite the fact the money for those campaigns would have been raised under the same rules as applied locally, those former candidates and State office-holders would be disadvantaged if transfer of funds was prohibited, especially in situations where they are running locally against an incumbent who has amassed a war chest of funds over several terms. We, therefore, urge that Senate Bill 376 be passed in its current form allowing such transfers between State and local campaigns.

The Honorable Barbara Allen
January 28, 2004
Page 3

Thank you in advance for considering these comments. We are fully appreciative of your time and attention to this matter. Should you have any questions or concerns regarding our position, please do not hesitate to contact us. We respectfully request that Senate Bill 376 be passed in its present form and be enacted into law as quickly as possible.

Very truly yours,

/s/ Richard A. Olmstead 01/28/04

Alan L. Rupe

Richard A. Olmstead

cc: Mr. Carlos Mayans, Mayor of the City of Wichita, Kansas

SENATE BILL No. 292

By Senators Barnett and Schmidt

12-22

9 AN ACT concerning fire protection; authorizing payment for acquisition,
10 installation or maintenance of fire hydrants by fire districts and town-
11 ships; amending K.S.A. 2003 Supp. 12-3915, 19-3601a, 19-3612e, 19-
12 3616, 19-3620, 80-1501, 80-1514a, 80-1904, 80-1913, 80-1917 and 80-
13 1921 and repealing the existing sections.

14
15 Be it enacted by the Legislature of the State of Kansas:

16 Section 1. K.S.A. 2003 Supp. 12-3915 is hereby amended to read as
17 follows: 12-3915. The governing body of any fire district created pursuant
18 to this act shall have the authority to:

- 19 (a) Levy taxes and special assessments as provided by law. Except as
- 20 provided by K.S.A. 12-3913, and amendments thereto, the governing
- 21 body shall fix the amount of the tax, not to exceed 11 mills, to be levied
- 22 upon all taxable tangible property in the consolidated fire district;
- 23 (b) enter into contracts;
- 24 (c) acquire and dispose of real and personal property;
- 25 (d) acquire, construct, reconstruct, equip, operate, maintain and fur-
- 26 nish buildings to house fire-fighting equipment;
- 27 (e) acquire, operate and maintain fire-fighting equipment;
- 28 (f) issue general obligation bonds and no-fund warrants;
- 29 (g) pay compensation and salaries to fire district employees;
- 30 (h) exercise eminent domain;
- 31 (i) pay the operation and maintenance expenses of the fire district
- 32 and other expenses legally incurred by the district;
- 33 (j) select regular employees, provide for their compensation and fur-
- 34 nish quarters for such employees if deemed desirable;
- 35 (k) provide for the organization of volunteer members who may be
- 36 compensated for fighting fires, responding to emergencies or attending
- 37 meetings;
- 38 (l) provide special clothing and equipment for such employees and
- 39 volunteers;
- 40 (m) insure such employees and volunteers against accidental death
- 41 and injury in the performance of their duties;
- 42 (n) pay for the acquisition, installation or maintenance of one or more
- 43 fire hydrants including any necessary equipment, services or supplies re-

, or other similar devices for fighting fires,

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1 lated thereto; and
2 (n) (o) do all things necessary or desirable to maintain and operate
3 such department so as to furnish fire protection for the inhabitants of the
4 district and otherwise effectuate the purposes of this act.

5 Sec. 2. K.S.A. 2003 Supp. 19-3601a is hereby amended to read as
6 follows: 19-3601a. Upon the creation of a fire district under the provisions
7 of K.S.A. 19-3601 et seq., and amendments thereto, the governing body
8 shall have the authority to:

- 9 (a) Enter contracts;
- 10 (b) acquire and dispose of real and personal property;
- 11 (c) acquire, construct, reconstruct, equip, operate, maintain and fur-
- 12 nish buildings to house fire fighting equipment;
- 13 (d) acquire, operate and maintain fire fighting equipment;
- 14 (e) issue bonds as provided in this act;
- 15 (f) pay compensation and salaries to fire district employees;
- 16 (g) pay compensation to volunteer members of the fire district for
- 17 fighting fires, responding to emergencies or attending meetings;
- 18 (h) exercise eminent domain;
- 19 (i) pay the operation and maintenance expenses of the fire district
- 20 and any other expenses legally incurred by the fire district;

21 (j) pay for the acquisition, installation or maintenance of one or more
22 fire hydrants including any necessary equipment, services or supplies re-
23 lated thereto; and

24 (k) do all other things necessary to effectuate the purposes of this
25 act.

26 Sec. 3. K.S.A. 2003 Supp. 19-3612e is hereby amended to read as
27 follows: 19-3612e. (a) The governing body of Reno county fire district
28 No. 2 and the governing body of Sedgwick county fire district No. 1, both
29 created under K.S.A. 19-3601 et seq., and amendments thereto, shall have
30 the power to levy a tax in an amount to be determined by such governing
31 body upon all taxable tangible property in the district for the purpose of
32 paying:

- 33 (1) Compensation to fire district employees;
- 34 (2) The expenses of operating and maintaining the fire district;
- 35 (3) compensation to volunteer members of the fire district for fight-
- 36 ing fires, responding to emergencies or attending meetings;

37 (4) for the acquisition, installation or maintenance of one or more fire
38 hydrants including any necessary equipment, services or supplies related
39 thereto; and

40 (4) (5) other legal expenses of the fire district.

41 (b) Whenever the governing body of the fire district determines it is
42 necessary to increase the amount levied in the next preceding year, the
43 governing body shall give notice of its intent to increase such levy by

The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the governing body of the fire district and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed

, or other similar devices for fighting fires,

The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the governing body of the fire district and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed

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The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the governing body of the fire district and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed

1 adopting a resolution which states the amount currently levied and the
 2 amount proposed to be levied. The resolution shall be published once
 3 each week for two consecutive weeks in a newspaper of general circula-
 4 tion in the fire district. If within 30 days after the last publication, a
 5 petition signed by not less than 5% of the qualified electors in the fire
 6 district is filed in the office of the county election officer requesting an
 7 election thereon no levy in an amount in excess of the amount levied in
 8 the next preceding year shall be made unless the question of the levy
 9 shall be submitted to and approved by a majority of the voters of the fire
 10 district voting at an election called by the governing body. Such election
 11 shall be called and held in the manner provided under the provisions of
 12 K.S.A. 10-120, and amendments thereto.

13 Sec. 4. K.S.A. 2003 Supp. 19-3616 is hereby amended to read as
 14 follows: 19-3616. Upon the creation of a fire district pursuant to K.S.A.
 15 19-3613, and amendments thereto, the governing body of the fire district
 16 shall have the authority to:

- 17 (a) Enter contracts;
- 18 (b) acquire, by lease or purchase, and dispose of real and personal
 19 property;
- 20 (c) acquire, by lease or purchase, construct, reconstruct, equip, op-
 21 erate, maintain and furnish buildings to house fire-fighting equipment;
- 22 (d) acquire, by lease or purchase, operate and maintain fire-fighting
 23 equipment;
- 24 (e) issue bonds, if approved by the board of county commissioners,
 25 as provided in K.S.A 19-3601b, and amendments thereto;
- 26 (f) pay compensation and salaries to fire district employees;
- 27 (g) pay compensation to volunteer members of the fire district for
 28 fighting fires, responding to emergencies or attending meetings;
- 29 (h) issue no-fund warrants;
- 30 (i) exercise eminent domain;
- 31 (j) pay the operation and maintenance expenses of the fire district
 32 and any other expenses legally incurred by the fire district;
- 33 (k) prepare and adopt a budget, subject to the approval of the board
 34 of county commissioners;
- 35 (l) ~~pay for the acquisition, installation or maintenance of one or more~~
 36 ~~fire hydrants including any necessary equipment, services or supplies re-~~
 37 ~~lated thereto;~~ and
- 38 (m) do all other things necessary to effectuate the purposes of this
 39 act.

40 Sec. 5. K.S.A. 2003 Supp. 19-3620 is hereby amended to read as
 41 follows: 19-3620. The governing body shall have full direction and control
 42 over the operation of such district fire department. The governing body
 43 shall have the power to:

[, or other similar devices for fighting fires,
 ¶ The acquisition, installation or maintenance of any
 fire hydrant, or other similar device for fighting
 fires, shall be subject to the mutual agreement of the
 governing body of the fire district and the governing
 body of the entity which owns, operates or
 maintains the water line on which the fire hydrant,
 or other similar device for fighting fires, is to be
 installed

1 (1) Select regular employees, provide for their compensation and fur-
 2 nish quarters for such employees if deemed desirable;
 3 (2) provide for the organization of volunteer members of such de-
 4 partment and pay compensation to such members for fighting fires, re-
 5 sponding to emergencies or attending meetings;
 6 (3) provide special clothing and equipment for such employees and
 7 volunteers;
 8 (4) insure such employees and volunteers against accidental death
 9 and injury in the performance of their duties;
 10 (5) ~~pay for the acquisition, installation or maintenance of one or more~~
 11 ~~fire hydrants including any necessary equipment, services or supplies re-~~
 12 ~~lated thereto; and~~
 13 (6) do all things necessary or desirable to maintain and operate
 14 such department so as to furnish fire protection for the inhabitants of
 15 such district. ~~1~~

16 Sec. 6. K.S.A. 2003 Supp. 80-1501 is hereby amended to read as
 17 follows: 80-1501. (a) Any township or county may join with a municipality
 18 in the maintenance of a fire department for the prevention and fighting
 19 of fires within their boundaries. The cost of equipment and maintenance,
 20 ~~the cost of the acquisition, installation or maintenance of one or more fire~~
 21 ~~hydrants, including any necessary equipment, services or supplies related~~
 22 ~~thereto, the payment of compensation to employees of the fire depart-~~
 23 ~~ment, the rent or purchase of buildings shall be paid in such proportion~~
 24 ~~as agreed upon by the parties. The supervision and control of the depart-~~
 25 ~~ment shall be with the governing body of the municipality if the mu-~~
 26 ~~nicipality joins with a township or county. The fire department members~~
 27 ~~may be paid or may be volunteers and shall be subject to the limitations~~
 28 ~~of this section and such rules and regulations as the municipalities adopt.~~
 29 Volunteer members may be paid compensation for fighting fires, re-
 30 sponding to emergencies or attending meetings. Such departments, when
 31 organized, may incorporate as firefighters' relief associations, and such
 32 associations shall come within the purview and be subject to the provi-
 33 sions of and entitled to the rights under article 17, chapter 40, of the
 34 Kansas Statutes Annotated and amendments thereto.
 35 (b) When a municipality and a township join, the agreements shall
 36 be entered into by the municipality by ordinance and by the township or
 37 county by resolution, and the agreement as set out in the ordinance and
 38 resolution shall be signed by the mayor of the city and attested by the
 39 city clerk and, in the case of a township shall be signed by the township
 40 trustee and attested by the township clerk and, in the case of a county
 41 shall be signed by the chairperson of the board of county commissioners
 42 and attested by the county clerk. The agreement shall state the amount
 43 each party shall contribute, the rules and regulations governing the de-

, or other similar devices for fighting fires,

^{if} The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the governing body of the fire district and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed.

, or other similar devices for fighting fires,

The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the governing body of the municipality and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed.

1 partment, and such other matter as may be necessary to specify the duties
 2 and responsibilities of the parties. The agreement may be amended or
 3 changed or added to by mutual agreement of the parties in the same
 4 manner as that in which the original contract was entered. Such agree-
 5 ment may be terminated if one party passes or adopts an ordinance or
 6 resolution declaring its intention to carry out the agreement no longer.
 7 When an agreement is terminated, one party may pay the other for its
 8 share of the equipment or apparatus or the apparatus may be sold. Any
 9 money in the treasury shall be divided pro rata as it was paid into the
 10 treasury. No election shall be required to authorize the township board,
 11 board of county commissioners or governing body of any municipality to
 12 enter into such agreement, but the township board, board of county com-
 13 missioners or governing body of a municipality shall have the power to
 14 decide whether to enter into such contract.

15 (c) The governing body of any joint fire department created pursuant
 16 to this section may reorganize itself as a consolidated fire district in the
 17 manner provided for the consolidation of fire districts pursuant to K.S.A.
 18 12-3910 et seq., and amendments thereto.

19 Sec. 7. K.S.A. 2003 Supp. 80-1514a is hereby amended to read as
 20 follows: 80-1514a. Upon the creation of a fire district under the provisions
 21 of K.S.A. 80-1512 et seq., the governing body shall have the authority to:

- 22 (a) Enter contracts;
- 23 (b) acquire and dispose of real and personal property;
- 24 (c) acquire, construct, reconstruct, equip, operate, maintain and fur-
- 25 nish buildings to house fire fighting equipment;
- 26 (d) acquire, operate and maintain fire fighting equipment;
- 27 (e) issue bonds as provided in this act;
- 28 (f) pay compensation and salaries to fire district employees;
- 29 (g) pay compensation to volunteer members of the fire district for
- 30 fighting fires, responding to emergencies or attending meetings;
- 31 (h) exercise eminent domain;
- 32 (i) pay the operation and maintenance expenses of the fire district
- 33 and other expenses legally incurred by the fire district;
- 34 (j) ~~pay for the acquisition, installation or maintenance of one or more~~
- 35 ~~fire hydrants including any necessary equipment, services or supplies re-~~
- 36 ~~lated thereto; and~~
- 37 (j) (k) do all other things necessary to effectuate the purposes of this
- 38 act.

, or other similar devices for fighting fires,

^P
 The acquisition, installation or maintenance of any
 fire hydrant, or other similar device for fighting
 fires, shall be subject to the mutual agreement of the
 governing body of the fire district and the governing
 body of the entity which owns, operates or
 maintains the water line on which the fire hydrant,
 or other similar device for fighting fires, is to be
 installed.

39 Sec. 8. K.S.A. 2003 Supp. 80-1904 is hereby amended to read as
 40 follows: 80-1904. The township board shall have full direction and control
 41 over the operation of such township fire department. The governing body
 42 shall have the power to:

- 43 (1) Select regular employees, provide for their compensation, and

1 furnish quarters for such employees and their families if deemed
2 desirable;

3 (2) provide for the organization of volunteer members of such de
4 partment and pay compensation to such members for fighting fires, re-
5 sponding to emergencies or attending meetings;

6 (3) provide special clothing and equipment for such employees and
7 volunteers;

8 (4) insure such employees and volunteers against accidental death
9 and injury in the performance of their duties;

10 (5) ~~pay for the acquisition, installation or maintenance of one or more~~
11 ~~fire hydrants including any necessary equipment, services or supplies re-~~
12 ~~lated thereto; and~~

13 ~~(5) (6) do all other things necessary or desirable to maintain and op-~~
14 ~~erate such department so as to furnish fire protection for the inhabitants~~
15 ~~of such township.~~

16 Sec. 9. K.S.A. 2003 Supp. 80-1913 is hereby amended to read as
17 follows: 80-1913. The township board may organize a fire company and
18 prescribe rules of duty and the government thereof, and make all nec-
19 essary appropriations therefor and for the maintenance and operation of
20 its equipment from the general fund of the township and to compensate
21 employees of the fire company. The board may:

22 (a) Pay compensation to volunteer members of the fire company for
23 fighting fires, responding to emergencies or attending meetings; and

24 (b) ~~pay for the acquisition, installation or maintenance of one or more~~
25 ~~fire hydrants including any necessary equipment, services or supplies re-~~
26 ~~lated thereto.~~

27 Sec. 10. K.S.A. 2003 Supp. 80-1917 is hereby amended to read as
28 follows: 80-1917. The township board shall have full direction and control
29 over the operation of such township fire department. The board shall
30 have the power to:

31 (a) Select regular employees, provide for their compensation, and
32 furnish quarters for such employees and their families if deemed
33 desirable;

34 (b) provide for the organization of volunteer members of such de-
35 partment and pay compensation to such members for fighting fires, re-
36 sponding to emergencies or attending meetings;

37 (c) provide special clothing and equipment for such employees and
38 volunteers;

39 (d) insure such employees and volunteers against accidental death
40 and injury in the performance of their duties;

41 (e) ~~pay for the acquisition, installation or maintenance of one or more~~
42 ~~fire hydrants including any necessary equipment, services or supplies re-~~
43 ~~lated thereto; and~~

, or other similar devices for fighting fires,

¶
The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the township board and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed,

, or other similar devices for fighting fires,

The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the township board and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed

, or other similar devices for fighting fires,

1 (e) (f) do all other things necessary or desirable to maintain and op-
2 erate such department so as to furnish fire protection for the inhabitants
3 of such township.

4 Sec. 11. K.S.A. 2003 Supp. 80-1921 is hereby amended to read as
5 follows: 80-1921. (a) The township board of any such township shall have
6 full direction and control over the operation of such township fire de-
7 partment. The board shall have the power to:

8 (1) Provide for the organization of volunteer members of such de-
9 partment and pay compensation to such members for fighting fires, re-
10 sponding to emergencies or attending meetings;

11 (2) provide special clothing and equipment for such volunteers;

12 (3) insure such volunteers against accidental death and injury in the
13 performance of their duties;

14 (4) ~~pay for the acquisition, installation or maintenance of one or more~~
15 ~~fire hydrants, including any necessary equipment, services or supplies re-~~
16 ~~lated thereto;~~ and

17 (4) (5) do all other things necessary or desirable to maintain and op-
18 erate such department so as to furnish fire protection to the inhabitants
19 of such township.

20 (b) Such township board may levy an annual tax on all the taxable
21 tangible property in such township for the purpose of paying the expenses
22 of equipping, operating and maintaining such fire department. Any tax
23 levy authorized by this section shall be in addition to the tax levy made
24 to pay for no-fund warrants issued pursuant to K.S.A. 80-1920, and
25 amendments thereto. Except as otherwise specifically provided in this act,
26 the provisions of K.S.A. 80-1906 and 80-1907, and amendments thereto,
27 shall apply to townships adopting the provisions of this act.

28 (c) In addition to the tax levy authorized by subsection (b), the town-
29 ship board of Kickapoo, Tonganoxie, Easton, Fairmount, Sherman and
30 Delaware townships located in Leavenworth county may levy an annual
31 tax of not to exceed two mills on all the taxable tangible property in such
32 township for the purpose of purchasing additional equipment for such
33 fire department. If a petition in opposition to the tax levy authorized
34 herein, signed by not less than 5% of the qualified electors of such town-
35 ship is filed with the township board of such township, within 40 days
36 after July 1, 1971, the tax levy shall not be made unless first approved as
37 a question submitted at the next general election or at a special election
38 called for the purpose of submitting the question. If such a petition is
39 filed, the township board may cause to be placed on the ballot at the next
40 general election the question of whether such tax shall be levied. If a
41 majority of the votes cast and counted at such election are in favor of the
42 resolution, such governing body may levy the tax authorized herein.

43 Sec. 12. K.S.A. 2003 Supp. 12-3915, 19-3601a, 19-3612e, 19-3616,

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The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the township board and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed.

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The acquisition, installation or maintenance of any fire hydrant, or other similar device for fighting fires, shall be subject to the mutual agreement of the township board and the governing body of the entity which owns, operates or maintains the water line on which the fire hydrant, or other similar device for fighting fires, is to be installed.