

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:38 a.m. on Wednesday, March 2, 2005, in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Representative Pat Colloton
Representative Kenny Wilk (written only)
Kimberly A. Baker, Director, Leavenworth Public Library (written only)
Pauline Graeber (written only)
Christopher Way, EMS Director, Labette County Emergency Medical Services
Tuck Duncan, American Medical Response (written only)
David Lake, Administrator of the Kansas Board of Emergency Medical Services
Senator Anthony Hensley
Elias Garcia, Executive Director, Kansas Hispanic & Latino American Affairs Commission
Carol Williams, Executive Director, Kansas Governmental Ethics Commission

Others attending:

See attached list.

Chairman Brungardt directed the Committee's attention to copies of the February 15 and 16 minutes presented for review and consideration. He also noted that each member had been given a copy of the response to Senator Vratil's questions of Jim Borthwick during his February 22 presentation on behalf of Blackwell Sanders Peper Martin LLP regarding constitutionality of proposed gaming legislation in Kansas. (Attachment 1)

Chairman Brungardt called for bill introductions. Dennis Hill, concerned citizen from Benton, Kansas, requested a bill introduced to define a level of impairment using .08 alcohol as a reference to other drug substances to get a similar level of impairment. He stated that this has been done in eleven other states so far across the U.S.

Senator Barnett moved to recommend a bill be drafted, seconded by Senator Brownlee, and the motion carried.

HB 2027 - Library boards; reduction of waiting period for reappointment

Chairman Brungardt opened the hearing on **HB 2027**. Representative Pat Colloton stated that she and Representative Kenny Wilk are sponsoring this bill that would amend the library board statute, Section 1, K.S.A. 12-1222. She testified that they were doing so because of a problem in finding and keeping well informed members of local library boards. There is a two year waiting period before a library board member can be reappointed to the board, and this bill would reduce the waiting period to one year. Representative Colloton said that by reducing the waiting period, it would maintain an opportunity for change on a library board, and also would encourage those with experience and passion for this service to stay involved. (Attachment 2)

Representative Kenny Wilk submitted written testimony in support of **HB 2027** as co-sponsor of the bill. (Attachment 3)

Written testimony in support of **HB 2027** was submitted by Kimberly Baker, Director of The Leavenworth Public Library, and Pauline Graeber, Leavenworth, Kansas. (Attachments 4 and 5)

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There being no other conferees to speak on **HB 2027**, Chairman Brungardt closed the hearing.

SB 263 - Administrators of ambulance services added to membership of emergency medical services board

Chairman Brungardt opened the hearing on **SB 263**. Christopher Way, Labette County Emergency Medical Services (EMS), testified in favor of **SB 263** relating to the make up of the Kansas Board of Emergency Medical Services. He explained the current Board of EMS is made up of thirteen members, nine of which are appointed by the Governor and four appointed by the Senate and House leadership.

Mr. Way stated that the current board does not include a representation of certified EMS attendants in Kansas, and the Kansas EMS Association feels that it is important to include two EMS Service Directors or Administrators from licensed ambulance services within the state on the Board of EMS. He explained that Kansas currently has a total of 175 licensed ambulance services, and many of the EMS Kansas Administrative Regulations affect the day-to-day operations of those EMS services and the individuals responsible for seeing that the regulations are followed. Mr. Way said that with the passage of **SB 263**, there would be an assurance that at least two of the Board of EMS members are administrators of ambulance services that must enforce and carry out the state regulations regarding ambulance operations and service. He concluded that he supported having at least one of the two new members come from a rural area for better representation of all the issues facing Kansans. (Attachment 6)

Senator Vratil questioned the fiscal note on **SB 263**, relating to adding two members at \$3,200 each, would add a total of estimated expenditures of \$6,400 from the EMS Fee Fund in FY2006. He asked how many board meetings were held during the year. Mr. Way responded that there are six board meetings or every other month. Mr. Way added that not all of the members show up at every meeting, and the funds cover the expenses in mileage, lodging, and subsistence. Discussion continued regarding the length of meetings and that the estimated figure is on the high end. The Chairman commented that a thirteen member board is a large board and fifteen members was more substantial. (Attachment 7)

Committee discussion continued regarding membership qualifications, challenge of getting a board appointed, and the overall representation ratio of EMS members to the remaining board members. The Chairman suggested that possibly the representation could be achieved by designating one of the EMS representatives to be an administrator. Mr. Way stated that it would be a step in the right direction.

Tuck Duncan, American Medical Response, submitted written testimony in support of **SB 263**. (Attachment 8)

David Lake, Kansas Board of Emergency Medical Services, testified as a neutral conferee on **SB 263**. He explained the additional cost to the state of adding two new members to the board, and that the cost associated with the meetings is in excess of \$500 per participant, per meeting. He said that as a fee-funded agency, this is not as detrimental to the agency as it would be if it were a State General Fund agency. He added that the meetings are for two days including committee meetings on one day and the board meeting on the second day. Mr. Lake stated that the fiscal note was estimated at the worst case scenario of the members attending that drive the longest distances to the meeting.

Mr. Lake recommended an amendment for consideration for at least one of the two added administrators represent a part-time or volunteer basic life support service. He explained that rural volunteer attendants and services, while not providing a majority of the patient care in the state, are a primary partner in the health-care delivery system in the rural communities of Kansas. (Attachment 9)

Committee discussion followed. Senator Brownlee suggested possible wording on page 1, new paragraph G, lines 36 and 37, state that at least one board member should be an administrator of ambulance services. She explained that by stipulating one of the existing member positions be an administrator, the number of members could be kept the same instead of adding two additional board members. It would keep a large board from getting larger, and also hold the line on expenses.

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Mr. Lake responded that he was "OK" with the way the board was now, and the classifications of attendants.

Senator Brownlee commented in regard to the fiscal note inquiry of the dollars paid for each board member's expenses to attend the six meetings per year; that typically for boards like this, only the legislators, who are not full time employees, receive subsistence allowances, mileage and other expenses for serving on such boards.

Chairman Brungardt closed the hearing on **SB 263**.

SCR 1608 - Honoring Cesar Chavez

Chairman Brungardt opened the hearing on **SCR 1608**. Senator Hensley explained that he had introduced this resolution three years ago, of which this Committee had approved as well as the Senate, but the House did not consider it. It is a Concurrent Resolution memorializing the Congress of the United States to designate a national holiday in honor of Cesar Chavez. He stated he considered Mr. Chavez to be one of the great citizens of the 20th century, who like other noted leaders, dedicated his life to the cause of civil rights, workers' rights, and human rights. He said that Cesar Chavez's birthday is on March 31, and copies of this resolution would be sent by the Kansas Secretary of State to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Kansas congressional delegation.

Elias Garcia, Kansas Hispanic and Latino American Affairs Commission, spoke in favor of **SCR 1608**. He stated this initiative would lend support to a national movement to establish a national holiday to be celebrated on March 31, in honor of a man who subscribed to the principals of non-violence and passive resistance to bring about social and cultural change to America's civil rights, workers rights and human injustices. He related the challenges of his own family and growing up as a migrant worker and the conditions in which they lived and worked. Mr. Garcia talked about Cesar Chavez's humble beginnings, quitting school after the eighth grade to work in the fields to help support his family, and joining the Navy where he served in the Western Pacific in the aftermath of WWII. He told about Mr. Chavez becoming a community organizer with a prominent Latino Civil Rights Organization, and then he became the National Director of the Community Service Organization. Mr. Chavez led successful strikes and boycotts that resulted in the first industry-wide labor contracts in the history of American agriculture. For three decades Mr. Chavez led the first successful farm-workers union, which came to be known as the United Farm Workers Union (UFW). Mr. Chavez was awarded posthumously, in 1993, the highest civilian honor in America, the Presidential Medal of Honor, and in 2003, he was honored with a U.S. postage stamp. He urged the Committee to support **SCR 1608**. (Attachment 10)

Chairman Brungardt closed the hearing on **SCR 1608**.

Final Actions:

SB 211 - Life insurance coverage for certain national guard members

Chairman Brungardt called for discussion and final action on **SB 211**. He explained the bill as it related to death benefits for guardsmen serving overseas. The Chairman referred to the Adjutant General's testimony during the hearing on this bill where he suggested that it might make better sense rather than indemnify through an insurance policy that the state self-insure at an amount of \$250,000 in the event of a guardsman being killed in the line of duty. The Revisor handed out a draft of the proposed Substitute for **SB 211**. (Attachment 11)

The Revisor explained that the substitute bill establishes a death benefit for a surviving spouse or any dependent children of a member of the Kansas National Guard that suffers a combat death after November 1, 2004, resulting in the award of the purple heart. The benefits would be paid from the State Emergency Fund, which is where current benefits are paid from. The bill also allows the Adjutant General to develop guidelines for carrying out the provisions of the subsection. The Revisor said she had cleared this revised draft with the Adjutant General, and he agreed to it.

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Chairman Brungardt stated that he also had a communication from the Adjutant General in which he had responded positively. He said that by doing the insurance in this form, it is less complex. The Chairman acknowledged that Col. Adam King, representing the Adjutant General, was in attendance and asked for any comments. Col. King stated that they had gone over the substitute bill with the Revisor on the

changes, and agreed with them completely. He expressed his appreciation for the Committee's consideration.

Senator Vratil made a motion to recommend Substitute SB 211 favorably for passage, seconded by Senator Reitz, and the motion carried.

SB 68 - Elections; establishing requirements for daily reporting of campaign contributions

Chairman Brungardt called for discussion and final action on **SB 68**. The Revisor distributed copies of the revised draft of the bill. (Attachment 12)

The Chairman asked Carol Williams to refresh the Committee on where it stood with regards to **SB 68**, and to also possibly cover two other campaign finance bills that did not survive turnaround that the Committee might want to take under consideration.

Carol Williams explained that **SB 68** would require party committees or registered political action committees to report those last eleven days before the primary and general election information within 48 hours of receipt of the contribution. She said on February 9, Senate Elections and Local Government held hearings on **SB 64** and **SB 66**. At those hearings, she stated that she testified on both bills, and that Robert Stern and Shelby Smith testified on **SB 64** only. Ms. Williams furnished copies of all the conferees' testimony in support of the two bills. She stated there were no conferees who testified in opposition to the two bills in that committee. The bills remained in committee at turnaround last week. (Attachment 13)

Ms. Williams stated that **SB 66** would require a party committee or a registered political action committee to report the name and address of each candidate for state or local office that either receives an in-kind contribution or is identified in an independent expenditure made by the committee which expressly advocates for or against the named candidate. The amount, date, and a detailed description of the service would also be required to be disclosed. She said the Ethics Commission believes that political action and party committees should be required to provide more detailed information concerning the in-kind contributions and independent expenditures made on behalf of or in opposition to Kansas candidates.

In regard to **SB 64**, Ms. Williams explained the bill requires, and the Ethics Commission recommended, the reporting of funding sources and the amounts expended by any individual, committee, corporation, or association that expends money on any issue ad (electioneering communication) that clearly identifies a candidate. She said an issue ad does not directly urge a voter to vote for or against a candidate, but the ad usually discusses an issue and provides a candidate's support or opposition on that issue. **SB 64** would require any individual, committee, corporation, organization, association, or partnership that spends \$300 or more per calendar year for any issue ads to file a report with the Secretary of State on the same date candidates, party committees, and political committees are required to file receipts and expenditures reports. Any issue ads that occur during the eleven days preceding the primary or general election will be required to be reported within 24 hours of making or contracting to make an expenditure for such communication. Ms. Williams gave examples of issue ads that occurred during the last election. She also stated that former Governor Bill Graves had recommended that issue ads become a part of the Campaign Finance Act. She talked about the 2003 case in which the U.S. Supreme Court, in the case of *McConnell v. FEC*, 124 S.Ct.619, upheld the constitutionality of disclosure of issue ads made right before an election.

Senator O'Connor asked if the Ethics Commission intended to include the electioneering that occurs in regard to public school bonds, that doesn't say vote for the bond, but it does say if the bond doesn't pass then the school won't have this, or that, or the other. Is the Ethics Commission intending to require the public schools to do reporting of their activities, where schools get their money from, and how much the schools are spending.

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Ms. Williams responded that the Commission and the Campaign Finance Act do not have anything to do with ballot questions. She stated that is about school bond issues which is out of the Commission's jurisdiction, and the Commission would not ask that it be brought under their jurisdiction. School bond issues do not have candidates, and the Commission only deals with issues that identify candidates. The Commission would have jurisdiction over issues identifying candidates that involve state-wide, State School Board, legislative races, first class city and county elections.

Senator O'Connor asked in regard to local school board members why those candidates are not included under the same regulations as the other candidates. Ms. Williams replied that the Commission cannot regulate them as they are not under the Campaign Finance Act. She added that if the school board candidates were brought under the Act, then it would absolutely impact that, but they are not currently under the Campaign Finance Act; therefore, this bill would not regulate them.

Senator O'Connor inquired why the Commission would not want to bring them under this Act. Ms. Williams said there would have to be an increase of about ten staff positions, and the Legislature would not want the fiscal note that would accompany that change for 650 school districts and the multiple school board candidates that would be involved.

Senator Reitz asked in regard to the postage issue whether that would include personal correspondence. Ms. Williams replied that **SB 66** doesn't address candidate campaigns, and the bill was addressing political action committees and party committees that do in fact do mailings.

Senator Brownlee asked Senator O'Connor, who is Vice Chair of the Elections and Local Government Committee, how that committee viewed **SB 66** and **SB 64**. Senator O'Connor said she thought the Chairman was not particularly satisfied with what the Committee was seeing, and it was his choice not to have it blessed and to allow it to sit in the committee until a later time.

Senator Brownlee asked about the four campaign finance bills on the floor last week, and asked what those bills were. Chairman Brungardt stated that there were a total of five campaign finance bills. One bill was assigned to this committee, Senate Federal and State Affairs. Four bills were assigned to Senate Elections and Local Government, two of which came out of that committee last week, and the remaining two, **SB 64** and **SB 66**, the committee is considering today.

Senator Brownlee expressed her concern as to why those bills are coming to this committee as she felt they should be in Elections and Local Government. Chairman Brungardt pointed out that those decisions are made by the Senate President.

Chairman Brungardt stated that his intent was to have the bill redrafted including the amendment as made by the Committee previously for **SB 68** changing the required reporting be within 24 hours to 48 hours, and consider the redrafted combined bills for final action at a later meeting.

Senator Vratil made a motion to amend **SB 68** by amending into it **SB 64** and **SB 66**, and seconded by Senator Reitz.

Senator O'Connor stated she wanted to formally oppose what this committee was doing in an effort to circumvent what the Elections and Local Government wanted to do regarding **SB 64** and **SB 66**. She said she would be voting no on the motion and requested her vote be recorded. The Chairman responded that if Senator O'Connor wished to submit her comments in writing to the Committee Secretary, that they would be entered into the minutes.

Chairman Brungardt called for a voice vote on the motion to amend **SB 64** and **SB 66** in to the amended **SB 68**. Chairman Brungardt announced that the affirmative votes carried. Division was requested, and the vote was five (5) for the motion, and four (4) against. The motion carried.

Those committee members requesting their "No" votes be recorded were: Senators O'Connor, Gilstrap, Brownlee, and Ostmeyer.

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MINUTES OF THE Senate Federal and State Affairs Committee at 10:38 a.m. on Wednesday, March 2, 2005, in Room 231-N of the Capitol.

Senator Hensley requested that the testimony from the public hearing in Elections and Local Government on **SB 64** and **SB 66** be furnished the Committee members since this committee did not have a public hearing on these two bills. The Chairman stated that copies of the testimony would be furnished the members.

Chairman Brungardt said the redraft would be in the form of a substitute bill.

Minutes for February 15 and 16, 2005, meetings were presented for approval. Senator Barnett made a motion to approve the minutes as written, seconded by Senator Reitz, and the motion carried.

The meeting was adjourned at 11:33 a.m. The next meeting scheduled is Thursday, March 3, 2005.

LAW FIRM

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February 23, 2005

Kickapoo Tribe in Kansas
Attn: Ms. Emily Conklin, Vice Chair
1121 Goldfinch Road
Horton, Kansas 66439

Sac and Fox Nation of Missouri in KS and NE
Attn: Ms. Fredia Perkins, Vice Chair
305 North Main Street
Reserve, Kansas 66434

Re: Constitutionality of Proposed Gaming Legislation in Kansas

Dear Ms. Conklin and Ms. Perkins:

In light of questions asked by Senator Vratil at the Senate committee hearing yesterday, we have decided to make two minor changes in the wording of our letter of February 21, 2005.

The first change is to add the words "on behalf of the State" to the next-to-last sentence of the paragraph which ends at the top of page five. The sentence will now read as follows:

But the Lottery Gaming Facility Manager purchases or leases all
lottery facility games on behalf of the State.

The second change is that in the third full paragraph on page five, the fourth and fifth sentences are deleted, and the last sentence of the paragraph is changed to read as follows:

These provisions further demonstrate the operation of the casino by
the private entity rather than the State because it is the Lottery
Gaming Facility Manager who pays the revenue to the State (after
generating the revenue from the gaming public), and it is the
Manager who pays all of expenses of the operation of the Lottery
Gaming Facility (Sec. 8(a)(b)).

In all other respects, the statements made and the opinions given in our letter dated February 21, 2005 remain unchanged.

We are enclosing a new opinion letter with today's date which incorporate these changes.

Senate Federal & State Affairs
Committee

3-02-05

Attachment 1

KC-1262164-1

KANSAS CITY, MISSOURI • ST. LOUIS, MISSOURI • OVERLAND PARK, KANSAS
SPRINGFIELD, MISSOURI • EDWARDSVILLE, ILLINOIS • WASHINGTON, D.C. • L

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LAW FIRM

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LLP

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Very truly yours,

Blackwell Sanders Pepper Martin, LLP

JB/cdc
Enclosure

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February 23, 2005

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Re: Constitutionality of Proposed Gaming Legislation in Kansas

Dear Ms. Conklin and Ms. Perkins:

You have asked us to give our opinion whether Senate Bills 168 and 170, which have been introduced into the 2005 session of the Kansas Legislature, and which would authorize certain gaming activities in the state, would, if enacted, violate the Kansas Constitution.

We believe that the provisions providing for casino gambling in Bills 168 and 170 are clearly unconstitutional. The video lottery terminal provisions of Senate Bill 168 raise some constitutional issues, but they may well pass the constitutional test.

In January 2004 we provided you with our opinion concerning the requirements of the Kansas Constitution relating to gambling activities. We attach a copy of that opinion to this letter for your reference.

In our earlier letter, we noted that the Kansas Constitution authorizes the Legislature to "provide for a state-owned and operated lottery." The Kansas Supreme Court has defined "lottery" to include any form of gambling containing the elements of consideration, prize and chance. The Supreme Court has said that the words "state-owned and operated" must be construed to mean what the words imply to the common understanding of the average person, and particular attention should be paid to the intent and understanding of the people at the time the constitutional language was adopted. We discussed in our letter what we believe is involved if the State "owns" and "operates" particular gambling activities.

Senate Bill 168 provides for the expansion of gaming in Kansas (a) through the establishment of Destination Casinos (Sec. 3 and 4), and (b) through the implementation of a video lottery program whereby video lottery terminals are placed at parimutuel licensee locations and club locations (Sec. 11). After a developer's plan for a Destination Casino is approved by the Executive Director of the Kansas Lottery, (Sec. 3), the Lottery Commission can authorize the Executive Director to enter into a management contract (Sec. 4) with a Destination Casino Manager (Sec. 5(a)(12)). A Destination Casino manager is defined as a person authorized to

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LLP

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“develop, construct and manage a Destination Casino” (Sec. 2(H)). A “person” is defined as a natural, person, association, corporation or partnership” (Sec. 36(H)). It is obvious that the bill contemplates a private individual or corporation, not the State, as the Destination Casino Manager (see also Sec. 4(5, 6)).

The bill provides that the Destination Casino Management Contract shall include a “comprehensive management plan” for “operation, oversight, and monitoring” of the Destination Casino. (Sec. 5(a)(12)). At the same time, the bill states that the plan shall place “full, complete and ultimate ownership and control of the gaming operation” with the Kansas Lottery Commission. (Sec. 5(a)(12)(c)(1) and 5(c)(1)). In Sections 7-9 of the bill, the Executive Director of the Kansas Lottery is given extensive regulation and oversight of the casinos’ operations.

Although the definition of a Destination Casino is given as “a gaming operation which is owned and operated by the State of Kansas, approved by the Commission and managed by the Destination Casino Manager,” (Sec. 2(d)) nothing in the text of the bill makes any provision for State ownership of gaming equipment or facilities and nothing provides for the State to operate the casino. Instead the Destination Casino Manager is given the responsibility to “manage” the casino. It is obvious that this is little more than a word meaning “operate” the casino.

The foregoing sections provide for extensive regulation of the casinos, but they do not appear to create an ownership interest in the State. Instead, ownership of the gaming operations (which are undefined in the bill) appears to be lodged with the Destination Casino Manager, a private entity.

In addition, the bill fails the test of State “operation” of the gambling activity. The definitions contained in the bill make it clear that “operation” of the casino will be in private hands, i.e., the Destination Casino Manager. All of the activities which we deemed important to the “operation” of a casino in our earlier letter are placed in the hands of the Manager, a private entity. Further, the officers, directors and “key employees” are all employed by and will apparently receive their paychecks from the Destination Casino Manager. In other words, hiring and firing will be in the hands of the private entity. These are critical factors in determining who “operates” the facility. We believe the Kansas Supreme Court will deem the “operation” of the casino to be by private entities, not the State, and thus Section 3c, Article 15 of the Kansas Constitution will be violated.

Perhaps the clearest indication in the bill that ownership and operation of the casino are in private hands, not the State, is the provision for the payment of casino revenues. Section 5 (b)(9) provides for not less than 22% of gaming revenues to go to the State, not less than 4% to the county and city where the casino is located, not less than 2% to an oversight fund, and not less than .5% to a problem gambling grant fund. The Casino Manager can therefore receive as much as 71.5% of the revenues, presumably to be used for purchases, payroll and profit.

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Another way of analyzing the Senate Bill 168 is to examine the role the State is given in the Destination Casino Management system. The role of the State is the following:

- a. Review and approve applications for developing a casino (Sec. 3).
- b. Enter into management contracts with Destination Casino managers (Sec. 4).
- c. Conduct security, fitness and background checks of key employees and other persons involved (Sec. 5(a)(12)(F) and (G)).
- d. Enforce personnel certification requirements (Sec. 5(a)(12)(I)).
- e. Certify which electronic gaming machines can be used in casinos (Sec. 7(d)).
- f. Purchase or lease equipment necessary to implement the communication system linking the gaming machines to the Kansas Lottery (Sec. 7(d)).
- g. Investigate violations of the Kansas Lottery Act (Sec. 8(a)).
- h. Investigate the violations of the Kansas Lottery Act (Sec. 8(a)).
- i. Audit the books of the Casino Manager (Sec. 8(b) and (g); Sec. 9)).
- j. Inspect and view all machines, equipment, systems, and facilities (Sec. 8(d)).
- k. Inspect and approve all advertising (e) requirement appropriate security (Sec. 8(f)).
- l. Enforce the applicable law and regulations (Sec. 8(h)).

These are not the duties of the owner or operator of a business enterprise. They are the duties of a regulator of a business enterprise. In spite of language to the contrary in the Bill, the State will neither own nor operate the Destination Casinos, and this portion of the Bill is therefore unconstitutional.

On the other hand, the Video Lottery Terminal sections of Senate Bill 168 do have the appearance of a state-owned and operated enterprise. In these sections it is the Kansas Lottery that implements a program to place video lottery terminals at pari-mutuel licensee locations and club locations (Sec. 11). It is the executive director of the Kansas Lottery who has the responsibility to perform the actions set out in Section 13, which are as follows.

- a. Establish a statewide network of video lottery terminals (Sec. 13(a)(1)).
- b. Review applications (Sec. 12(a)(2)).
- c. Collect fees (Sec. 12(a)(4)).
- d. Determine the payout percentage on machines (Sec. 13(a)(6)).
- e. Certify personnel involved (Sec. 13(a)(6)(C)).
- f. Determine the number of machines at each location subject to statutory maximum number (Sec. (a)(6)(E)).

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- g. Determine the type and location of machines in the facility. (Sec. 13(a)(6)(G)).
- h. Arrange for security (Sec. 13(a)(6)(H)).
- i. Perform auditing functions (Sec. 13(a)(6)(I) and (J)).
- j. Operate the video terminal network through a central computer system (Sec. 13(c)).
- k. Provide for electronic transfer of revenues (Sec. 13(d)).
- l. Enforce law and regulations (Sec. 14).

The provision for payment of revenue also gives some appearance of a state operation. Some of the costs of operation are borne by the State, and the State will apparently receive some of the profits. Section 19 provides for the following percentage allocations:

- 7.0% to a live horse racing purse (parimutuel licensee locations only)
- 7.0% to a live greyhound racing purse (parimutuel licensee locations only)
- 1.5% to the county
- 1.5% to the City
- 14.0% to the Veterans Benefit Fund (club locations only)
- 0.5% to a Problem Gambling Fund
- 47.5% Maximum payable to video lottery club sales agent.
- 35.0% Minimum payable to State (Sec. 10q)

The contract between the State and the sales agents will have an important bearing on the constitutional issue because it will state what the expenses are, who pays them, and who receives the profits.

A serious question about constitutionality arises in Section 21 where it is provided that the video terminals can be leased or owned by the State or by the sales agents operating the facilities. If the State owns the terminals, then ownership and operation of the video lottery system does appear to be in the hands of the State. If the sales agents owns the terminals, however, a question of doubt arises.

We believe that the Video Lottery Terminal portion of S.B. 168 could be carried out in a manner which would conform to constitutional requirements.

Senate Bill 170 is in many ways similar to the Destination Casino provisions of Senate Bill 168, but it uses different terminology. S.B. 170 does not have a separate section providing for video lottery terminals. S.B. 170 provides for casino gambling at Lottery Gaming Facilities (Sec. 1(s) and (z)). The Bill provides for the building in which gambling occurs to be owned by the State (Sec. 1(s)). Section 4(g)(1) of S.B. 170 states that the Kansas Lottery owns or licenses all

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software programs used in any lottery facility game. But the Lottery Gaming Facility Manager purchases or leases all lottery facility games on behalf of the State. That includes video terminals (Sub. Sec. 4(g)(2)). The ownership of the business enterprise which is carried on inside the building appears to be in the hands of the Lottery Gaming Facility Manager.

A Lottery Gaming Facility is operated by a Lottery Gaming Facility Manager (Sec. 1(u)). The Lottery Gaming Facility Manager is defined as "a corporation, limited liability company, or other business entity authorized to construct and manage, or manage alone, pursuant to a management contract with the Kansas lottery, and on behalf of the state, a lottery gaming enterprise and lottery gaming facility." (Sec. 1(u)).

Except for the foregoing, the Bill is silent regarding the ownership of assets and operation of a casino. Although some ownership interests are given to the State, the business enterprise is not. In addition to owning the enterprise, the Lottery Facility Manager has almost complete discretion in the management of the casino.

The statute provides in Section 8 that 50% of revenues shall be placed in an account for payment of expenses, and of the remaining 50%, the Lottery Gaming Facility Manager receives 25% and elementary, secondary and higher education receives 75%. Although Section 8(c)(ii) states that 75% of 50% (i.e. 37.5%) is to be used "exclusively" for education, the sentences which follow state that if it is necessary to pay principal on bonds issued to build the casino (Sec. 9), such amounts are to be paid from the education fund (Sec. 8(c)(ii)). The amount payable toward education could thus be substantially less than 37½ %. These provisions further demonstrate the operation of the casino by the private entity rather than the State because it is the Lottery Gaming Facility Manager who pays the revenue to the State (after generating the revenue from the gaming public), and it is the Manager who pays all of the expenses of operation of the Lottery Gaming Facility (Sec. 8(a)(b)).

We believe that because private entities, not the State, will own and operate the business enterprises constituting Lottery Gaming Facilities, Senate Bill 170 violates the Kansas Constitution.

Very truly yours,



JB/cdc

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

STATE CAPITOL
300 S.W. TENTH STREET
ROOM 174-W
TOPEKA, KS 66612
(785) 296-7631
colloton@house.state.ks.us



2513 W. 118TH STREET
LEAWOOD, KANSAS 66211
(913) 339-9246
pat@patcolloton.com

PAT COLLOTON
28TH DISTRICT

March 2, 2005

Chairman Pete Brungardt
Senate Federal and State Affairs Committee
Room 143 N
3001 SW 10th Avenue
Topeka, Kansas 66612

Dear Chairman Brungardt:

Re: HB 2027

Representative Kenny Wilk and I are seeking your approval of HB 2027 that amends the library board statute Section 1. K.S.A. 12-1222.

We are sponsoring this bill because of a problem in finding and keeping well informed members of local library boards. Currently there is a two year waiting period before a library board member can be reappointed to the board. This bill reduces the waiting period to one year.

In small communities across the state there are often only a few people who really want to serve on library boards. A two year waiting period is too long to wait so that these people go on to other activities. A one year period would encourage the board members to stay active and seek reappointment.

With the use of computers in libraries and new legislation such as the Patriot Act that affects libraries, there is much for a library board member to know in order to serve effectively. We believe reducing the waiting period would both maintain an opportunity for change on a library board and also would encourage those with experience and passion for this service to stay involved.

For these reasons we ask for your approval of HB 2027.

Respectfully submitted,

A handwritten signature in cursive script that reads "Pat Colloton".

Patricia Colloton
State Representative
District 28

Senate Federal & State Affairs
Committee

3-02-05

Attachment 2

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

KENNY A. WILK
715 Cottonwood Drive
Lansing, Kansas 66043
(913) 727-2453

State Representative
42nd District
State Capitol, Room 426-S
Topeka, Kansas 66612-1504
(785) 296-7660



CHAIRMAN
Taxation Committee
February 24, 2005

COMMITTEE ASSIGNMENTS
Federal and State Affairs

Website: kennywilk.com
Email: kenny@kennywilk.com

Chairman Pete Brungardt
Senate Federal and State Affairs Committee
Room 143-N
300 SW 10th Avenue
Topeka, Kansas 66612

Dear Chairman Brungardt:

I write in support of HB 2027- Library boards; reduction of waiting period for reappointment.

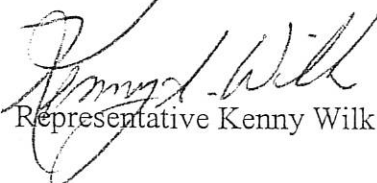
This Bill allows volunteers to continue their efforts on our local Library Boards. Volunteers some of our greatest assets in our libraries. They become experts in our facilities and we should covet them.

Currently, according to KSA 12-1222, members of our Library Boards may be appointed for two (2) consecutive four year terms. These members are then not eligible for re-appointment for another two (2) consecutive years. When a library has an interested person, willing to give the Board their time and attention, to the benefit of our communities, it seems a shame to deny or interrupt that interest for two (2) years and hope that there will be interest from another eligible person during those two (2) years. In this day, when we find people who have time and interest to volunteer, we should allow them to volunteer and serve as long as that time and interest allow.

This amendment calls for the two (2) year gap from serving on the Library Board be shortened to a one (1) year gap. This would give a greater opportunity for interested persons to return to volunteering at a more rapid rate than the current statute.

Thank you for your consideration. Again, I urge you to vote for HB 2027 and allow volunteers to local Library Boards to do exactly that; volunteer, not wait.

Respectfully Submitted,


Representative Kenny Wilk

Senate Federal & State Affairs
Committee
3-02-05
Attachment 3



HB 2 1

The Leavenworth Public Library

417 Spruce Street • Leavenworth, Kansas 66048-2729 • (913) 682-5666

February 24, 2005

Senator Pete Brungardt
Kansas State Capitol Room 143-N
300 S.W. 10th Street
Topeka, KS 66612

Dear Senator Brungardt,

I am writing this letter in support of a proposed change in KSA 12-1222 to eliminate the two-year wait, allowing library board members to continue to serve their communities after their second term.

In Leavenworth, it is becoming increasingly difficult to find individuals who have the time and the willingness to serve on the library board. People are busy with jobs and families and many are unable to find the time to attend a monthly meeting, let alone extra time that may be necessary during budget hearings or when other issues arise. When the library has a board member who can make the commitment, the two-year gap in service becomes inconvenient.

Today's libraries face a variety of increasingly difficult issues, including CIPA, the Patriot Act, and material challenges. Board members who are currently serving are aware of these issues and their impact on libraries. It is imperative that these members are still serving when decisions need to be made. Valuable time can be wasted on educating new members on these and possible other issues.

Thank you very much for your time and assistance with this matter. If you have any questions or would like to discuss it further, please do not hesitate to contact me.

Sincerely,

Kimberly A. Baker
Director

Senate Federal & State Affairs
Committee
3-02-05
Attachment 4

Dear Chairman,

My name is Pauline Graeber and I live in Leavenworth. I am writing to you today in support of the amendment to KSA 12-1222, which involves the forming of library boards for Cities, Counties and Townships.

This amendment pertains to that portion of the law regarding the re-appointment of people to such boards. Currently a person may be appointed for 2 consecutive 4-year terms then they are not eligible to be re-appointed for a period of two years.

In this day it is becoming extremely difficult to get citizens to volunteer to serve on boards such as these. When a library has a person who is interested it seems a shame to tell that person they must wait for 2 years before they may be re-appointed.

Also, there are many challenges ahead for libraries and it is extremely helpful to have continuity on the boards and have people with knowledge, interest, and dedication to the library.

The amendment calls for changing the 2-year gap to a 1-year gap. I support this proposal but would also highly support a proposal that eliminates any gap between appointments. Each term would still be 4 years and would require re-appointment by the Mayor to continue to serve.

I thank you for your time.



Pauline C. Graeber
2400 Kingman Street
Leavenworth, KS 66048

Senate Federal & State Affairs
Committee
3-02-05
Attachment 5

Christopher E. Way
EMS Director, Labette County EMS
03-02-2005
Senate Bill No. 263

This testimony is in support of Senate Bill No. 263, regarding the make up of the Kansas Board of Emergency Medical Services. The current Board of EMS, as it sits, is made up of thirteen members, nine of which are appointed by the Governor and four appointed by Senate and House leadership. The nine appointed by the Governor currently include; a physician, two county commissioners, one instructor/coordinator, one hospital administrator, one firefighter and three EMS attendants who are certified as attendants in Kansas.

While the current composition of the Board of EMS does include a representation of certified EMS attendants in Kansas we, the Kansas EMS Association, feel that it is important to include two EMS Service Directors or Administrators from licensed ambulance services within the State of Kansas on the Board of EMS.

The reason for this is simple; Kansas currently has a total of 175 licensed ambulance services. Many of the EMS Kansas Administrative Regulations affect the day-to-day operations of these EMS services and the individuals responsible for seeing that those regulations are followed are Kansas EMS Administrators and they are not currently represented by a designated position or positions on the Board.

With the educators of EMS, hospital administrators, the firefighters and EMS attendants being represented, we, as service directors or administrators, feel it is important to have representation on this very important governing body. This is particularly important with a primary responsibility of the Board of EMS being a regulatory agency rather than an advisory agency. This in itself is unique in Kansas as many other boards who oversee agencies in state government are of an advisory nature only. While this structure has served EMS in Kansas well in the past, we feel that will many national issues, such as expanded scope of practice and Medicare reimbursement issues, having EMS Service Directors on the Board of EMS would be in the best interest to both Kansas ambulance services and the State of Kansas.

Jim McClain, who is a current member of the Board of EMS, is a service director. While Mr. McClain has done an admirable job in his capacity on the Board of EMS he fills an attendant position on the board and serves at the will of the Governor. With the passage of this bill there will be an assurance that at least two of the Board of EMS members are administrators of ambulance services that must enforce and carry out the state regulations regarding ambulance operations and service.

Prior to the introduction of this bill, Dr. Dennis Allin, Chairman of the Board of EMS and Physician Director of the Emergency Room at the University Of Kansas Hospital, stated that it might be time to review the make up of the Board of EMS due to the fact that review is good for any organization and the business of Emergency Medical Services has changed since the original board selection process was implemented. In fact, the current process has gone unchanged for over fifteen years. The Kansas EMS Association would ask you to support and introduce this bill to the full senate for consideration.

Senate Federal & State Affairs
Committee

3-02-05
Attachment 6

February 25, 2005

The Honorable Pete Brungardt, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Brungardt:

SUBJECT: Fiscal Note for SB 263 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 263 is respectfully submitted to your committee.

SB 263 would increase the number of members on the Board of Emergency Medical Services from 13 to 15 members. The additional members would be appointed by the Governor from administrators of ambulance services.

Estimated State Fiscal Effect				
	FY 2005 SGF	FY 2005 All Funds	FY 2006 SGF	FY 2006 All Funds
Revenue	--	--	--	--
Expenditure	--	--	--	\$6,385
FTE Pos.	--	--	--	--

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The Honorable Pete Brungardt, Chairperson
February 25, 2005
Page 2—263

Enactment of HB 2227 would require estimated expenditures of \$6,385 from the Emergency Medical Services Fee Fund in FY 2006. The costs are for the additional board members' expenses in mileage, lodging, and subsistence. Any fiscal effect resulting from this bill would be in addition to amounts included in *The FY 2006 Governor's Budget Report*.

Sincerely,




Duane A. Goossen
Director of the Budget

cc: Mary Mulryan, Emergency Medical Services

7-2



AMERICAN MEDICAL RESPONSE

To: Senate Committee on Federal and State Affairs
From: R.E. "Tuck" Duncan 
RE: SB 263

American Medical Response supports SB263.

The bill provides that the EMS Board will also have as members as follows:

“(F) two shall be administrators of ambulance services for which current valid permits have been issued pursuant to K.S.A. 65-6127, and amendments thereto; ...

American Medical Response provides emergency transport services in Shawnee, Wabaunsee, Osage, Johnson and Wyandotte counties. The Board of EMS should number among its members the administrators of EMS services, who will provide practical day-to-day operational knowledge.

Thank you for your attention to and consideration of this matter.

Senate Federal & State Affairs
Committee

3-02-05
Attachment 8



KANSAS

DAVID LAKE, ADMINISTRATOR
DENNIS ALLIN, M.D., CHAIR

KATHLEEN SEBELIUS, GOVERNOR

KANSAS BOARD OF EMERGENCY MEDICAL SERVICES

Date: March 2, 2005
To: Senator Pete Brungardt, Chair and Members
Senate Committee on Federal and State Affairs
From: David Lake
RE: SB263

I wish to provide you with this information for the purpose of clarifying questions there may be regarding SB263. This bill, if passed, will increase the size of the current Board of Emergency Medical Services from thirteen to fifteen. The two additional members will be appointed by the Governor and "shall be administrators of ambulance services for which current valid permits have been issued pursuant to K.S.A. 65-6127."

As the administrator of the Board, there are a couple of issues with the proposed legislation that I wish to share with you. The first is one of additional cost to the State in adding these positions. The Board is required to meet six times each year and the meetings are two days in length. The cost associated with these meetings is in excess of \$500.00 per participant, per meeting. The fiscal note prepared for the Division of Budget on this bill indicates that adding two new members will cost the agency in excess of \$6,000 annually. As a fee-funded agency, this is not as detrimental to the agency as it would be should we be a State General Fund agency but we are very cognizant of our fiscal responsibility.

Another issue for consideration is, "what problem, either real or perceived, does this change in board composition address?" I believe the current process for soliciting, allowing, and receiving public input is much more liberal than most other State regulatory agencies. While the primary concern of the Board is to protect the public and do what we can to assure quality pre-hospital emergency care, I am not aware of any action it has taken that has been unreasonable or detrimental to the expected operation of a permitted ambulance service. Regulations are readily available for public

LONDON STATE OFFICE BUILDING, 900 SW JACKSON STREET, ROOM 1031, TOPEKA, KANSAS 66612

Voice 785-296-7296 Fax 785-296-6212 www.ksbems.org

Senate Federal & State Affairs
Committee

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Attachment 9

s. .iny and I believe the Board has demonstrated its desire to be amenable and open to any recommendations, suggestions or concerns shared by the administrators, attendants, and citizens of Kansas.

Should the committee decide to advance this bill, I would like to recommend an amendment for consideration. As written, the bill requests the addition of two administrators of currently permitted ambulance services. I believe the stipulation should be made that at least one of those administrators represent a part-time or volunteer basic life support service. Rural volunteer attendants and services, while not providing a majority of the patient care in our State, are a primary partner in the health-care delivery system in the rural communities of our State.

Thank You for the opportunity to provide you with this information. I will be glad to respond to any questions, comments or concerns you may have with regard to this testimony or our agency.

Testimony:
Senate Concurrent Resolution No. 1608 Cesar Estrada Chavez
**Elias L. Garcia, Executive Director, Kansas Hispanic & Latino American Affairs
Commission**

Thank you Mr. Chair and thank the committee for the opportunity to speak in favor of Senate Concurrent Resolution No. 1608 an initiative that would lend support to a national movement to establish a national holiday to be celebrated on March 31, in honor one of the greatest men in our American history, a man who subscribed to the principals of non-violence and passive resistance to bring about social and cultural change to America's civil rights, workers rights and human injustices, a true American Hero, the honorable Cesar Chavez.

As a member of the baby boom generation I was one of 75 million other boomers who grew up in an era of tremendous social change, the era of the power movements – Black power, Chicano power, American Indian Movement and of course, the Love Movement of the sixties. What came out of this decade were a plethora of remarkable social changes in the area of human rights, civil rights, voting rights, housing rights. Yet, it was also during this time that this nation witnessed the birth of a farm-worker movement that transformed the very structure of the American agricultural industry and in the process, secured workers rights for millions of families (my family included) who toiled in the hot sun for 16 hour days, harvesting crops, living in sub standard housing, working with make shift tools .. all for literally pennies a day.

Yet, I continue to be surprised that while many American's have come to know the American heroes that arose out of what has come to be known as the civil rights era (and their stories) like the plaintiffs of Brown v. Board, Rosa Parks, Medger Evers, Fred Shuttlesworth, Malcolm X and of course the great Martin Luther King, I wonder if all Americans will ever come to learn of the great contributions and sacrifices of other American civil rights heroes like Corky Gonzales, Jose Angel Gutierrez, Reis Tijerina, Willie Velasquez and in particular the man we are here to honor today, the great Cesar Estrada Chavez. While there is no doubt many have heard the name of Cesar Chavez, I wonder if Americans fully understand or appreciate the profound impact this man had on our American culture and society.

Much like other great leaders of his era, Cesar Chavez was not born into privilege, he was born into a humble farm worker family where along with his family he endured the hardships and injustices of farm worker life. After only reaching the eight grade , Cesar quit school to help lend support to his family on full time basis working in the fields. As a young man he joined the Navy and served in the Western Pacific in the aftermath of World War II.

Upon leaving military service Cesar returned to his home and he became a community organizer with a prominent Latino Civil Rights Organization where he coordinated voter registration drives and campaigns against racial and economic injustices. In the late 50's he became the national director of the Community Service Organization. In the sixties against insurmountable odds, Cesar led successful strikes and boycotts that resulted in the first industry-wide labor contracts in the history of American agriculture. For more than three decades thereafter Cesar Chavez led the first successful farm-workers union in American history and came to be known as the United Farm Workers Union (UFW). A union that stands to day, and continues to be a leader in the ongoing struggle for farm worker rights and justice.

Arguably, In the annals of history, few men stand out as giants of their day and in the sixties only one other can lay claim to equal stature of the honorable Martin Luther King, and that man is the humble Cesar Chavez. Known as a common man with an uncommon vision for humankind, his legacy is well chronicled and history will forever tell the tale of this gentle – man who in 1993 was posthumously awarded the highest civilian honor in America , the Presidential Medal of Honor and in 2003, America honored him again, by unveiling a Cesar Chavez postage stamp. Honorable members of this committee it is time we as Americans come together once again to honor this true American hero. Achieving dignity, respect, fair wages, medical coverage, pension benefits and humane living conditions for those of us who toiled in the sun working for pennies was the life goal of Cesar Chavez, yet what he accomplished was to bring us all together, heal wounds that had festered for generations and change a mindset of a nation regarding their treatment of its poor, its hungry and its weary. I encourage you to support Senate Concurrent Resolution No. 1608 and for those who question whether this holiday can ever be done... I will leave you with the Latino rallying call of my community and my generation..... Si Se Puede !! I thank you for allowing me this opportunity to speak this morning .

Senate Federal & State Affairs

Committee

3-02-05

Attachment 10

March 2, 2005

PROPOSED Substitute for SENATE BILL NO. 211

By Committee on Federal and State Affairs

AN ACT concerning the Kansas national guard; providing for certain death benefits; amending K.S.A. 75-3713b and repealing the existing section.

WHEREAS, The Kansas national guard has a proud tradition of military service with thousands of Kansans having answered the call of the nation and served in the national guard; and

WHEREAS, There have been instances in which the dependents of members of the Kansas national guard have been left without adequate financial resources when a national guard member has been killed while on federal active duty; and

WHEREAS, Members of the Kansas national guard are now being asked to serve extended periods of federal active duty in combat areas; and

WHEREAS, Members of the Kansas national guard provide Kansas and its citizens valuable benefits through their service inside this state and through their recently extended periods of federal active duty in combat areas outside of Kansas; and

WHEREAS, The state of Kansas should provide each member of the Kansas national guard on federal active duty in a combat area \$250,000 in life insurance coverage: Now, therefore,

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

New Section 1. (a) In addition to any other benefits provided to members of the Kansas national guard, the state of Kansas shall provide an aggregate death benefit of \$250,000 to the surviving spouse and any dependent child or children of any member of the Kansas national guard who, after November 1, 2004, has suffered a combat death resulting in the award of the purple heart.

(b) The death benefit provided by this section shall be paid from amounts allocated therefor from the state emergency fund in accordance with K.S.A. 75-3713b, and amendments thereto.

(c) For the purpose of carrying out the provisions of subsection (a), the adjutant general shall develop guidelines for payment of the death benefit provided by this section and may

Senate Federal & State Affairs
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adopt rules and regulations to carry out the provisions of this section.

Sec. 2. K.S.A. 75-3713b is hereby amended to read as follows: 75-3713b. (a) By unanimous vote of all of its members, the state finance council is hereby authorized and empowered to make allocations to, and authorize expenditures by, the adjutant general from the state emergency fund for the following purposes, subject to the limitations hereinafter imposed directly or by reference:

(1) The payment of claims for entitlements under K.S.A. 48-265, 48-266, 48-267 or 48-269, and amendments thereto, which accrue to members of the Kansas national guard or the Kansas state guard in accordance with and subject to the provisions of K.S.A. 48-261 to 48-271, inclusive, and amendments thereto; and

(2) the payment of any expenses or other amounts required to be paid which arise under the national guard mutual assistance compact in accordance with and subject to the provisions of said compact and K.S.A. 48-1701 to 48-1703, inclusive, and amendments thereto; and

(3) the payment of death benefits pursuant to section 1, and amendments thereto.

(b) The exercise of functions specified in subsection (a) are hereby declared to be matters characterized as legislative delegations. Such functions may be exercised by the state finance council only when the legislature is not in session and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto.

Sec. 3. K.S.A. 75-3713b is hereby repealed.

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

HOUSE BILL NO. _____

By Committee on Federal and State Affairs

AN ACT concerning campaign finance; relating to electioneering communications; relating to independent expenditures; relating to certain reporting requirements; relating to corrupt political advertising; amending K.S.A. 25-4148 and 25-4156 and repealing the existing sections.

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

New Section 1. (a) Any person who spends or contracts to spend an amount of \$300 or more per calendar year for any electioneering communication shall submit a report containing information as required by subsection (b). For each electioneering communication, the report shall include:

(1) The name of the clearly identified candidate mentioned in the electioneering communication.

(2) The name, street address, city, state and zipcode of each individual or other entity that contributes \$50 or more per year to such person for an electioneering communication.

(3) The name, street address, city, state and zipcode of the vendor to whom the expenditure for such electioneering communication is made or contracted to be made.

(4) The amount of the expenditure on such electioneering communication is made or contracted to be made. If the person making the electioneering communication is an individual, such reports shall also include the occupation and employer of such individual. Reports required by this section shall be in addition to any other reports required by law.

(b) (1) (A) For an electioneering communication concerning a candidate for state office, other than an officer elected on a state-wide basis, the report required by subsection (a) shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident.

(B) For an electioneering communication concerning a candidate for state-wide office, the report required by subsection (a) shall be filed only with the secretary of state.

(C) For an electioneering communication concerning a

candidate for local office, the report required by subsection (a) shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot.

(2) Except as required by paragraph (3), each report required by subsection (a) shall be filed in time to be received in the offices required in accordance with the times set forth in K.S.A. 25-4148 and amendments thereto.

(3) For any electioneering communication occurring during the 11 days preceding the election, the report required by subsection (a) shall be filed within 24 hours of making or contracting to make an expenditure for such electioneering communication.

(c) For the purposes of this section:

(1) "Electioneering communication" means any communication broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that:

(A) Unambiguously refers to any clearly identified candidate;

(B) is broadcast, printed, mailed, delivered or distributed within 30 days before a primary election or 60 days before a general election;

(C) is broadcast to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office.

(2) "Electioneering communication" does not include:

(A) Any news articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(B) any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(C) any communication by persons made in the regular course

and scope of their business or any communication made by a membership organization solely to members of such organization and their families;

(D) any communication that refers to any candidate only as part of the popular name of a bill or statute;

(E) any communication made solely to promote a candidate debate or forum that is made by or on behalf of the person sponsoring such debate or forum; or

(F) any communication made as part of a nonpartisan activity designed to encourage individuals to vote or register to vote.

(d) The provisions of this section shall be part of and supplemental to the campaign finance act.

New Sec. 2. (a) Every treasurer for a party committee or political committee shall file reports of independent expenditures as prescribed by this act. Reports shall be filed with the secretary of state. Reports required by this section shall be in additions to any other reports required by law.

(b) The report shall contain the name and address of each party committee or political committee which has made or contracted to be made independent expenditures in an aggregate amount or value in excess of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending upon the day before such election. Such report shall contain the amount, date and purpose of each such independent expenditure, as well as the name of the candidate whose nomination, election or defeat is expressly advocated. When an independent expenditure is made by payment to an advertising agency, public relations firm or political consultant for disbursement to vendors, the report of such independent expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each, as well as the name of the candidate whose nomination, election or defeat is expressly advocated. The report shall be made on or before the close of the second business day following the day in which any independent expenditure is made.

(c) Reports required by this section shall be filed by hand delivery, express delivery service, facsimile transmission or by any electronic method authorized by the commission.

(d) (1) "Expenditure" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(2) "Independent expenditure" means an expenditure that is not controlled by or coordinated with any candidate or agent of such candidate.

(3) "Party committee" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(4) "Political committee" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(e) The provisions of this section shall be part of and supplemental to the campaign finance act.

New Sec. 3. (a) Every treasurer for a candidate for state or local office shall file reports of campaign contributions as prescribed by this act. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Reports required by this section shall be in addition to any other reports required by law.

(b) The report shall contain the name and address of each person who has made one or more contributions in an aggregate amount or value of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending upon the day of such election. The report shall be made on or before the close of the next business day in which any contribution is received. The

report shall contain the amount and date of the contribution, including the name and address of every lender, guarantor and endorser when the contribution is in the form of an advance or loan.

(c) Reports required by this section shall be filed via e-mail, facsimile transmission, telegram or express delivery service.

(d) (1) "Local office" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(2) "State office" shall have the meaning ascribed to it in K.S.A. 25-4143 and amendments thereto.

(e) The provisions of this section shall be part of and supplemental to the campaign finance act.

New Sec. 4. (a) Every person, other than a candidate for the office of precinct committeeman or committeewoman, who spends an aggregate amount of \$100 or more to expressly advocate the nomination, election or defeat of a clearly identified candidate for precinct committeeman or committeewoman shall keep, or cause to be kept, a detailed account of all moneys received by such person and all expenditures made by such person to expressly advocate the nomination, election or defeat of any candidate for precinct committeeman or committeewoman and shall file a report thereof as required by subsection (b).

(b) (1) The report required by subsection (a) shall contain the following information:

(A) the name and address of each person who made any contribution in an amount of \$50 or more during the primary election period;

(B) the date such contribution was made; and

(C) an itemized listing of all expenditures made by such person to expressly advocate the nomination, election or defeat of any candidate for precinct committeeman or committeewoman.

(2) The report required by this subsection shall be filed with the county election official of the county of residence of the candidate for the office of precinct committeeman or

committeewoman whose candidacy was affected not later than 10 days after the date of the primary election.

(c) In addition to the requirements of subsection (b), each person who spends an aggregate amount of \$100 or more to expressly advocate the nomination, election or defeat of any candidate for precinct committeeman or committeewoman prior to the ninth day preceding the primary election shall file a report containing the information required by paragraph (1) of subsection (b). Such report shall be filed with the county election official of the county of residence of the candidate for the office of precinct committeeman or committeewoman whose candidacy was affected not later than the ninth day preceding the primary election. The report required by this subsection shall be in addition to, and not in lieu of, the report required by subsection (b).

(d) Any candidate for election to precinct committeeman or precinct committeewoman shall not be subject to the reporting requirements of subsections (b) and (c) if such candidate's total aggregate expenditures for such candidate's election are less than \$100.

(e) The terms "contribution," "expenditure," "expressly advocate the nomination, election or defeat of a clearly identified candidate" and "person" shall have the meaning ascribed to them in K.S.A. 25-4143 and amendments thereto.

(f) Violation of this section is a class C misdemeanor.

(g) The provisions of this section shall be part of and supplemental to the Kansas campaign finance act.

Sec. 5. K.S.A. 25-4148 is hereby amended to read as follows:
25-4148. (a) (1) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed only with the

secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot.

(2) Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

(1) (A) The eighth day preceding the primary election, which. Such report shall be for the period beginning on January 1 of the election year for the office the candidate is seeking and ending 12 days before the primary election, inclusive.

(2) (B) The eighth day preceding a general election, which. Such report shall be for the period beginning 11 days before the primary election and ending 12 days before the general election, inclusive.

(3) (C) January 10 of the year after an election year, which. Such report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive.

(4) (D) For any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year.

(5) A treasurer shall file only the annual report required by subsection (4) this subparagraph only for those years when the candidate is not participating in a primary or general election.

(b) Each report required by this section shall state:

(1) Cash on hand on the first day of the reporting period.

(2) Except as provided in subsection (c), the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan.

(3) The aggregate amount of all proceeds from bona fide

sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature.

(4) The aggregate amount of contributions for which the name and address of the contributor is not known.

(5) Each contribution, rebate, refund or other receipt not otherwise listed.

(6) The total of all receipts.

(7) The name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each.

(8) The name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate, candidate committee, party committee or political committee, if the contribution is in excess of \$50 and is not otherwise reported under subsection-(b)-(7) paragraph (7) of subsection (b), and the amount, date and purpose of the contribution.

(9) (A) The name and address of each candidate for state or local office for whom an expenditure in the form of an in-kind contribution has been made in an aggregate amount or having a fair market value in excess of \$300, with the amount, date and purpose of each. The report shall show in detail the specific service or product provided; and

(B) the name and address of each candidate for state or local office who is the subject of an expenditure which:

(i) Is made without the cooperation or consent of a candidate or candidate committee;

(ii) expressly advocates the nomination, election or defeat

of such candidate; and

(iii) is an aggregate amount or having a fair market value in excess of \$300.

The report shall state the amount, date and purpose of each. The report shall show in detail the specific service or product provided. The reporting requirements imposed by this paragraph shall be in addition to all other requirements required by this section. The provisions of this paragraph shall apply only to political committees and party committees.

~~(9)~~ (10) The aggregate of all expenditures not otherwise reported under this section~~7-and.~~

~~(10)~~ (11) The total of expenditures.

(c) Treasurers of candidates and of candidate committees shall ~~be required to itemize, as provided in subsection (b)(2),~~ only itemize the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.

(d) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, ~~name or a description sufficiently describing the affiliation or,~~ if of the connection to or affiliation with such organization. If the committee is not connected or affiliated with any one organization, the report shall state the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(e) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions~~7-and.~~ The

notice of the errors or omissions shall be part of the public record. The amended report shall be filed within 30 days after notice by the commission.

(f) The commission may require any treasurer to file a report for any period for which the required report is not on file ~~and~~. The notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the commission.

(g) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of the candidate's committee or by the treasurer of any party committee or political committee, the date of the convention or caucus shall be considered the date of the primary election.

(h) If a report is sent by certified or registered mail on or before the day it is due, the mailing shall constitute receipt by that office.

Sec. 6. K.S.A. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) Corrupt political advertising of a state or local office is:

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word "advertisement" or the abbreviation "adv." in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; or

(C) telephoning or causing to be contacted by any telephonic means, including but not limited to any device using a voice over internet protocol or wireless telephone, any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; or

(D) publishing or causing to be published any brochure, flier or other political fact sheet which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subsection ~~(E)~~ (D) requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year.

(2) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section

which can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable.

Sec. 7. K.S.A. 25-4148 and 25-4156 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

**GOVERNMENTAL ETHICS COMMISSION**

www.accesskansas.org/ethics

**Testimony before Senate Committee On
Elections and Local Government
in Support of Senate Bill 66**

by Carol Williams, Executive Director

February 9, 2005

Senate Bill 66 amends K.S.A. 25-4148, which is a provision of the Campaign Finance Act. This bill is a recommendation made by the Governmental Ethics Commission in its 2005 Annual Report and Recommendations.

The new language amending K.S.A. 25-4148 is found on page 2 lines 28-43 and on page 3 lines 1-2. Political action committees and party committees would be required to report the name and address of each candidate for state or local office that either receives an in-kind contribution or is identified in an independent expenditure made by the committee which expressly advocates for or against the named candidate. The amount, date, and a detailed description of the service would also be required to be disclosed.

Under current law, political action committees and party committees do not have to report the name of any candidate they make expenditures on behalf of when filing a receipts and expenditures report. The Committee's current responsibility is to list the vendor to whom the expenditure is made, not the candidate on whose behalf the expenditure is made. For example, if political committee ABC pays the postmaster \$2,500 for stamps which are donated in-kind to a candidate, the stated purpose is stamps. If the XYZ Printers is paid \$1,600 for an independent mailing which benefits candidate A, the committee is only required to show the expenditure to the printer with the stated purpose of political flyers. The public has no idea after viewing ABC PAC's report that candidate A was the recipient of an in-kind contribution, or that the committee made independent expenditures that expressly advocated for the election of candidate A.

The Commission believes that political action and party committees should be required to provide more detailed information concerning the in-kind contributions and independent

Senate Federal & State Affairs

Committee

3-02-05

Attachment 13

**GOVERNMENTAL ETHICS COMMISSION**

www.accesskansas.org/ethics

**Testimony before Senate Committee On
Elections and Local Government
in Support of Senate Bill 64**

by Carol Williams, Executive Director

February 9, 2005

Senate Bill 64 is a recommendation made by the Governmental Ethics Commission in its 2005 Annual Report and Recommendations.

The mission of the Kansas Governmental Ethics Commission is to provide the public with timely and accurate campaign finance information for knowledgeable participation in government and the electoral process. In fulfilling its mission, the Commission believes the public has a right to know the source of funding and the amount expended by any individual, committee, corporation, organization or association that expends money on any issue ad (electioneering communication) that clearly identifies a candidate. An issue ad does not directly urge a voter to vote for or against a candidate. The ad usually discusses an issue and provides a candidate's support or opposition on that issue. The United States Supreme Court, in the case of *McConnel v. FEC*, 124 S.Ct.619 (2003), upheld the constitutionality of disclosure of issue ads made right before an election.

Senate Bill 64 would require any individual, committee, corporation, organization, association, or partnership that spends \$300 or more per calendar year for any electioneering communication (issue ad) to file a report with the Secretary of State on the same date candidates, party committees, and political committees are required to file receipts and expenditures reports. Such report would include the name of the clearly identified candidate mentioned in the electioneering communication, the name and address of each individual or other entity that contributes \$50 or more per calendar year to such person for the communication, and the name and address of the vendor who is paid or contracted to be paid for such communication. Any electioneering communication that occurs during the eleven days preceding the primary or general election will be required to be reported within 24 hours of making or contracting to make an expenditure for such communication.

SENATE BILL No. 64

By Committee on Elections and Local Government

1-20

13-3

9 AN ACT concerning campaign finance; pertaining to electioneering
10 communications.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Any person who ~~makes or contracts to make an ex-~~
14 ~~penditure in an amount of~~ \$300 or more per calendar year for any elec-
15 tioneering communication shall submit as required by subsection (b). For
16 each electioneering communication, the report shall include:

spends or contracts to spend

17 (1) The name of the clearly identified candidate mentioned in the
18 electioneering communication.

19 (2) The name, street address, city, state and zipcode of each individ-
20 ual or other entity that contributes \$50 or more per year to such person
21 for an electioneering communication.

22 (3) The name, street address, city, state and zipcode of the vendor to
23 whom the expenditure for such electioneering communication is made
24 or contracted to be made.

25 (4) ~~The amount of the expenditure on such electioneering commu-~~
26 ~~nication, is made or contracted to be made.~~ If the person making the
27 electioneering communication is an individual, such reports shall also in-
28 clude the occupation and employer of such individual. Reports required
29 by this section shall be in addition to any other reports required by law.

spent or contracted to be spent

30 (b) (1) (A) For an electioneering communication concerning a can-
31 didate for state office, other than an officer elected on a state-wide basis,
32 the report required by subsection (a) shall be filed in both the office of
33 the secretary of state and in the office of the county election officer of
34 the county in which the candidate is a resident.

35 (B) For an electioneering communication concerning a candidate for
36 state-wide office, the report required by subsection (a) shall be filed only
37 with the secretary of state.

38 (C) For an electioneering communication concerning a candidate for
39 local office, the report required by subsection (a) shall be filed in the
40 office of the county election officer of the county in which the name of
41 the candidate is on the ballot.

42 (2) Except as required by paragraph (3), each report required by sub-
43 section (a) shall be filed in time to be received in the offices required in

5B64

TESTIMONY

Shelby Smith

I'm testifying on behalf of an Ad Hoc Lobbyist Campaign Finance Committee (John Bottenberg, Dina Fisk, Jim Maag, John Pinegar) in support for the recommendations of the Governmental Ethics Commission (GEC).

Our singular interest is disclosure.

We're especially emphatic in our support of Recommendations 2 and 3 in the Commission's 2004 Annual Report, recommendations which will at last plug the black hole of non-disclosure in the eleven days before primary elections and the eleven days preceding the general election. Under current Kansas law, contributions during the critical all important campaign days are not made public until 90 days after the primary or 75 days after the general election. Disclosure on this schedule is worthless. And, unfortunately, legislative attempts for timely disclosure have failed over the past two decades. If memory serves, I believe the House has passed legislation three times and the Senate twice.

We lobbyist are also strong in our support of Recommendation 5 which should remove the shadowy cash from Issue Ads which hide the identity of groups and individuals who seek to influence, anonymously, the election or defeat of a candidate. This reform requires the sponsors of Issue Ads which identifies a candidate by name, or picture or position to file a report as must all PACs. The intent here is not to restrict or eliminate 527s, but rather full disclosure of their politics and money.

Our support of the Commission's recommendations arises again and again from the fundamental need for disclosure, to wit: Recommendation 1 requires money spent on behalf of a candidate be identified in the Receipts and Expenditure Report. Then Recommendation 4 demands the disclosure of funding sources for recorded telephone bank messages in the same way that the monetary sponsors for television, radio, and print messages must be identified.

Additionally, we recommend mandatory campaign electronic filing. The Secretary of State and the Governmental Ethics Commission is encouraged to come forward with a Joint proposal to accept these filings and to make them accessible. Legislation needs to be passed in the upcoming session effective July 1, 2006 to provide necessary lead time for the next elections.

Governor Sebelius' State of the State address, January 10, 2005, clearly shows her solid support for an overhaul of our campaign finance laws. We commend her leadership.

Kansans enjoys a clean and otherwise open culture of responsible and responsive government. A big window of opportunity is now open to correct a glaring failure in our campaign finance laws. The fact is, current Kansas law is a bit of a joke. We owe Kansas taxpayers accurate and timely information about the election process, the basic exercise of our democracy.

SBC

**Statement of Robert M. Stern
President, Center for Governmental Studies, Los Angeles
February 9, 2005**

My name is Bob Stern, President and General Counsel of the Center for Governmental Studies, a nonpartisan research organization located in Los Angeles. The Center is funded by national foundations and has drafted a Model Campaign Disclosure Law that has been distributed throughout the country.

I helped write California's disclosure law in 1974, was the first general counsel to the California equivalent of your ethics commission, and was past Chair of the Council on Governmental Ethics Laws, an organization consisting of nearly all the ethics, campaign finance, and freedom of information agencies in the United States and Canada. Also I was a legislative staff person for two years.

I have been assisting agencies, public interest groups, and legislators in improving their state campaign disclosure laws. Last year I appeared before the Oregon Secretary of State's campaign finance Task Force; and a few weeks ago, I testified before the Senate Elections Committee in Washington State.

Electioneering communication or issue advertising is a relatively new tactic by groups that are trying to influence the outcome of an election but are not disclosing the source of their funding. These groups are spending thousands, sometimes hundreds of thousands of dollars, just before an election discussing the merits (but usually the demerits) of candidates. Many of these groups are reluctant to disclose who funds them and how much they spend in advertising. They claim that they don't have file disclosure statements because their ads do not use the magic words of "vote for," "vote against" or "elect."

13-5

4. On page 1, line 23, delete "the expenditure" and add "a payment of \$50 or more". You should again delete the expenditure term and also have the same threshold for a payment as is required for committee payments. Not every payment of \$1 or more should be reported.

I hope that my comments have been helpful to the committee, and of course, I am available to answer any questions about the bill or my suggested amendments.