

MINUTES

**SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL AND LEGISLATIVE
APPORTIONMENT, AND GOVERNMENTAL STANDARDS**

October 21-22, 1993
Room 521-S -- Statehouse

Members Present

Senator Barbara Lawrence, Chairperson
Senator Janice Hardenburger, Vice-Chairperson
Senator Dick Bond
Senator Bill Brady
Senator Phil Martin
Senator Mark Parkinson
Senator Pat Ranson
Senator Don Sallee

Member Absent

Senator Bill Wisdom

Staff Present

Arden Ensley, Revisor of Statutes Office
Dennis Hodgins, Kansas Legislative Research Department
Jackie Breymeyer, Secretary

Conferees

Ron Thornburgh, Assistant Secretary of State
Brad Bryant, Deputy Assistant Secretary of State
John R. Wine, Jr., General Counsel, Secretary of State's Office
Paul Hess, United We Stand America
Linda Schreppel, Kansas Association of Counties
Carol Williams, Commission of Governmental Standards and Conduct
Ron Smith, Kansas Bar Association
Brian Moline, General Counsel, State Corporation Commission
Harold Riehm, Kansas Society of Association Executives
Mary Turkington, Kansas Motor Carriers Association
Keith Landis, Christian Science Committee on Publications for Kansas
Pete McGill, Pete McGill and Associates

Edward Rowe, League of Women Voters of Kansas
Jim Shetlar, United We Stand America
Ron Hein, Hein, Ebert and Weir, Chartered
Gary Reser, Governor's Office

Chairperson Lawrence called the meeting to order at 10:10 a.m. She welcomed Committee members, conferees, and thanked staff for preparing the meeting. Chairperson Lawrence began discussion of the National Voter Registration Act (NVRA), commonly referred to as the "Motor Voter Act." She said the Act passed Congress in May after the Kansas Legislature had adjourned. Since the Act recently had become law, she had asked the Secretary of State's Office to brief Committee members on the contents of the Act and its ramifications on the registration of voters in the State of Kansas. To help Committee members understand the requirements that Kansas will have to comply with in NVRA, Ron Thornburgh, John Wine Jr., and Brad Bryant, representing the Secretary of State's Office, presented an overview of the Act and the compliance standards which are required.

Ron Thornburgh, Assistant Secretary of State, said the purpose of the Secretary of State's Office presentation before the Committee would be educational. Representatives from the Office would discuss the contents of the Act, what the Act is trying to accomplish, what the impact on the State of Kansas will be, and what the State of Kansas will have to implement to comply with this federal legislation.

Mr. Thornburgh stated that although the federal government had passed NVRA earlier this year, clarification of the Act was not immediately available for states. The Federal Elections Commission (FEC), which is responsible for interpretation of the Act, proposed to hold a series of meetings in different regions of the country to mainly work with state and local election officials on the interpretation of NVRA. A representative of the Secretary of State's Office attended one of these regional meetings as well as other national meetings to acquire information concerning the impact of NVRA at the national, state, and local levels. Mr. Thornburgh explained that NVRA is different from the Federal Voting Rights Act (FVRA). FVRA specifies what mandates states must follow to allow individuals their voting rights, whereas, NVRA not only establishes state mandates but also specifies how these mandates should be implemented. According to Mr. Thornburgh, problems arise because there are different election laws which apply to each state and, therefore, Kansas would have to adapt its election laws to comply with the federal mandates.

Mr. Thornburgh explained to Committee members that the Secretary of State's Office has formed an advisory panel at the state level which consists of local and state officials, representatives of the U.S. Postal Service, representatives of Kansas Congressional Offices, and state legislators (Attachment 1). According to Mr. Thornburgh, the Secretary of State's Office tried to include representatives or officials from every group that may be impacted by the Act to be represented on the committee. Mr. Thornburgh explained that the mission of the advisory panel is to study the impact of NVRA and to recommend draft rules and regulations and legislation so that the State of Kansas complies with these federal mandates. Mr. Thornburgh stated that the advisory panel would have to examine and recommend budgetary requirements for implementation of NVRA at the state and local levels and would have to examine and recommend ways voter registration can be implemented. He explained to Committee members that a second advisory committee of county election officers had been established in May, 1992 and its goal is to assess the impact of NVRA at the county level.

Mr. Thornburgh said that the Secretary of State's Office has been working with the Division of Vehicles, State Department of Revenue, for about 15 months to allow voter registration in conjunction with driver's license applications. S.B. 160 which was passed in the 1993 Legislative Session would promote an electronic voter registration system when an individual registers for a driver's license. S.B. 160 would become law in July, 1994.

Mr. Thornburgh explained that for the State of Kansas to comply with NVRA, legislators would have to virtually rewrite Chapter 25 of the *Kansas Statutes Annotated*, which is the majority of election laws in the State of Kansas. For example, Mr. Thornburgh stated that under current Kansas law, when there is a change of address, a person is no longer registered to vote and has to re-register. However, under NVRA, an individual still is registered to vote even though that individual has changed address. According to Mr. Thornburgh, NVRA will increase the number of registered voters, and, therefore, mail registration, purging laws, and petition requirements will have to be examined and changed to comply with NVRA.

Mr. Thornburgh stated other state election laws will have to be examined and changed. These areas include: challenged ballots which are referred to as a provisional ballot in NVRA; questions such as to who will receive these ballots and how these ballots will be counted; and canvassing procedures. Mr. Thornburgh also stated that the Act mandates the State of Kansas to designate a chief election official and that designation will be a legislative decision. Mr. Thornburgh recommended that the Secretary of State be designated as the chief election officer. Finally, he said a decision will have to be made concerning which agencies will be designated as voter registration agencies. He stated that the Secretary of State's Office recommends that the chief election official be allowed the flexibility to determine which agencies will be designated as voter registration agencies.

One question Mr. Thornburgh thought would have to be addressed was whether voter registration should be allowed outside the county of residence. Under current law, voter registration is allowed only within the boundaries of the county in which the voter resides. However, with voter registration occurring at the Division of Vehicles, a driver's license and voter registration can be obtained at any motor vehicle outlet in the state. Mr. Thornburgh also explained that under current Kansas law, an individual must state party affiliation when registering to vote. However, under NVRA, an individual will be allowed to designate party affiliation on election day. This allowance would mean the State of Kansas would change from its present closed primary system to an open primary system under NVRA.

The next speaker representing the Secretary of State's Office was Mr. John Wine, Jr. He stated the purpose of NVRA was to increase the number of voters registered to vote and not to increase voter turnout at the polls. Mr. Wine proceeded to explain the Act, section by section, to Committee members. (Notebook on file in Office of Secretary of State and the Kansas Legislative Research Department.) According to Mr. Wine, Section 2 states that the purpose of the Act is to increase the number of registered voters; Section 3 is a definitions section; Section 4 is the grandfathering in of states who are exempted from mandates of the Act (those states that have permitted same-day voter registration or those states that do not have voter registration); Section 5 states that unless a person declines registration to vote by failing to sign an application or a renewal form for a driver's license or nondriver identification card, then that application or form will be considered as an application for voter registration. Also under this section, any change of address by an individual while applying for a motor vehicle license or renewal form will also change the address for voter registration purposes unless that individual indicates differently. Section 6 deals with mail registration and directs the Federal Election Commission (FEC) to devise a national mail

registration form which will be mandatory for the state to accept. These forms must be provided to voters by state election officials. Section 7 creates two new categories of agencies for voter registration purposes. They are mandatory voter registration agencies and designated voter registration agencies. Mandatory agencies are: (1) those that provide public assistance; (2) those that primarily provide services to persons with disabilities; and (3) armed forces recruitment offices. Mr. Wine explained that the category is mandated, but the determination of whether or not a particular agency or office fits that category will be determined by the state. The Act suggests some examples of agencies which should be defined as designated agencies. Designated agencies will be determined by the state. Mandatory and designated agencies must provide forms, applications, and assistance to individuals registering to vote. These agencies also must process applications and keep confidential records. Section 8 deals with administrative requirements which address: acceptance of applications if they are postmarked before the application deadline; procedures relating to purging an individual from the registered voters list if that individual failed to vote (these provisions will require changes to current Kansas laws relating to registration deadlines, purging, registration books, eligibility to vote if a voter moves, and many other sections); and a nonprofit postal rate. Section 9 concerns federal regulations which involve FEC's preparation of the national registration form and its reporting requirements to Congress every two years. Section 10 requires the designation of the chief election official which will be determined by the Legislature. Section 11 empowers the Attorney General of the United States to enforce the Act. Section 12 explains criminal penalties for intimidation, threats and coercion of individuals concerning voting registration. Section 13 states that the effective date of the Act in affected states is January 1, 1995. Mr Wine stated that the 1994 Kansas Legislative Session would be the only session the state has to formulate and implement legislation.

A discussion period ensued and the question was asked which states are grandfathered in under NVRA. Mr. Wine stated that the four states that were grandfathered in are: Minnesota and Wisconsin, because both allow election day registration at the polls; North Dakota, which does not require voters to register; and Wyoming, which enacted election day registration during its 1993 Legislative Session. A request to staff was made to provide Committee members with a copy of the election laws from these four states.

Brad Bryant, Deputy Assistant Secretary of State, was the next conferee and explained the changes that the State of Kansas would have to implement to comply with the federal mandate. Mr. Bryant explained to Committee members the method used by the Secretary of State's Office in the collection and transmission of data concerning existing voter registration. He said that there will have to be a standardized data format for agencies, election officials, and the Secretary of State's Office because agencies will be collecting registration information to be sent to county election officers; county election officers will be sending information to the Secretary of State's Office; and there will be information going from the Secretary of State's Office to the county election officers.

Mr. Bryant explained what the general procedures the Department of Motor Vehicles (DMV), and the mandatory and designated agencies would use to register voters under the NVRA mandate. He also stated that a standardized computer system would have to be used.

A question was asked concerning the necessity of computer compatibility in agencies, election offices, and the Secretary of State's Office. Cathy Martin, Secretary of State's Office, explained that specific hardware or software will not be required, but the parameters for the computerized data will have to be defined and standardized.

Mr. Bryant continued his testimony by briefly explaining how a voter registration list would have to be maintained by the county election officer under the new Act. According to Mr. Bryant, NVRA requires the state to have a program for systematic and regular removal of the names of ineligible voters from the roles to keep lists up to date, to prevent fraud, and to preserve the integrity of the electoral process. NVRA will allow removal of voters' names from a voter registration list because of death, felony conviction, or mental incapacity. Names can no longer be removed simply because the registered voters failed to vote in an election. Mr. Bryant stated that the purging provision, under NVRA, would be more limited than the existing purging process in Kansas. Other concerns, according to Mr. Bryant, are that registration lists will be longer because more individuals will be registered, there will be a greater increase in duplication of registered voters, an increase in mailing for registration purposes will be required, and the limited purging requirements will mean longer registered voters' lists. Mr. Bryant explained that county election officers do a lot of mailings to verify registration information. NVRA requires acknowledgment notices to notify registrants of the disposition of their applications. NVRA also requires the states to accept and use the FEC designed registration applications. However, the state can design its own application if it meets the federal requirements. The Act also requires the chief state election official to make those registration applications available "to governmental and private entities with particular emphasis on making them available for organized voter registration programs." This availability would include door to door registration drives which will change Kansas law.

Another area Mr. Bryant stated would change under this new Act was the fail-safe voting procedures. He said that if an individual was not on the registered voters list, the individual would not be denied the right to vote. Furthermore, as long as an individual resides in the county, then that individual will be allowed to vote with the provisional or challenged ballot. Once registered, an individual can vote unless that individual moves out of the county. Mr. Bryant stated that this fail-safe system would require a change of policy in the election laws of Kansas.

Mr. Bryant also stated that training programs of county election officers, election board workers, and agencies' officials who will be affected by NVRA will have to be implemented. For example, two agencies in which individuals will have to have training to provide registration services for voters are the Division of Vehicles and the Social Rehabilitation Services. According to Mr. Bryant, this training probably will be the responsibility of the chief state election official.

Committee members discussed the possibility of applying for a federal grant to pay for the cost of implementing NVRA in the State of Kansas, since this is a major unfunded mandate. Mr. Bryant, in response to a question concerning the fiscal impact of implementing NVRA, stated that there was no fiscal statement available at this time. However, the Secretary of State's Office will have some budgetary estimates from various affected agencies at the next meeting of the Secretary of State's Office and the advisory panel. Mr. Bryant said the fiscal impact also depends on some of the decisions made by the Legislature.

Committee members requested the Secretary of State's Office to provide them with the fiscal impact to agencies and counties.

Mr. Bryant concluded his testimony by discussing the implications of 1993 S.B. 160 which will require the Division of Vehicles to offer voter registration to an individual when that individual registers for a motor vehicle driver's license or a renewal. This bill will become law on July 1, 1994, which is six months before NVRA will become law. Mr. Bryant questioned the necessity to implement S.B. 160 six months prior to the implementation of NVRA. He said that the implementation of the Act may require changes in S.B. 160.

Discussions centered around the grandfathering clause in NVRA. A Committee member asked if Kansas can be exempted from the Act if it had no registration of voters or had election day voter registration. Committee directed staff to ask an official from a grandfathered state to come before the Committee to explain how its election system functions. A question was asked if there were any other states that were upset with the federal mandate to implement NVRA.

Paul Hess, United We Stand America, was the next conferee (Attachment 2). He stated that his organization supports easy access to registration by qualified voters as mandated by NVRA. He voiced several concerns about implementing the Act, such as duplication of operations, costs, and the potential for election fraud. He ended his presentation by stating the hope that the legislators will continue to share any options they consider and that they will continue to encourage participation by interested groups such as United We Stand America.

Staff distributed testimony by David Plotkin, Program Associate, Human Serve, which is a nonpartisan voter registration reform organization (Attachment 3). This organization is interested in how states will be complying with the Act.

The Chairperson recessed the meeting until the afternoon session.

Afternoon Session

Chairperson Lawrence called the meeting to order.

Staff distributed a copy of a National Conference of State Legislatures (NCSL) LEGISBRIEF entitled *The National Voter Registration Act* (Attachment 4).

Senator Bond moved that as soon as the Secretary of State's Office can provide the Chairperson with an estimate of the fiscal cost of implementing the federal legislation that the Chairperson request the Legislative Coordinating Council (LCC) to make a grant application to the Congress and President for funding to implement the state's obligation under the federal legislation. Senator Ranson seconded the motion. The motion carried.

Chairperson Lawrence requested the Secretary of State's Office to provide that fiscal information as soon as possible.

Senator Ranson moved to request the LCC permission to pay an election official from one of the grandfathered states to testify early in January or February, 1994. Senator Hardenburger seconded the motion. The motion carried.

Linda Schreppel, President-elect of the County Clerks Association, spoke to Committee members concerning the effects of NVRA on counties in Kansas. She stated that a federal mandate has occurred and the county clerks are going to try and implement the mandates of NVRA at the county level and she hopes that those individuals involved at the state level also proceed to implement the Act in the 1994 Legislative Session.

She said elections have always been an important part of the clerks' duties and they are concerned about duplication from mail registration cards and also concerned about fiscal costs to the

counties which are transferred from the federal to the state government which in turn passes on the expenses to the counties.

Ms. Schreppel was asked if added personnel would be required to fulfill the federal mandate. She replied that there would be no additional staff required in her county, however, overtime may be required. Ms. Schreppel thought that larger counties would be affected differently than smaller counties because these larger counties employ staff that only deal with elections. In response to a question concerning standardization of the county computer database system, Ms. Schreppel was concerned with the fiscal costs associated with such a system. She stated information is being collected from county election officers about their data bases and they are trying to find out if they can use systems already in place with some changes in software.

Another question centered on the percentage of Kansans over the age of 18 who are not registered to vote. According to a document from NCSL, 77 percent of Kansans are registered to vote and 23 percent not registered.

A comment was made concerning the necessity for the State of Kansas to comply with the federal NVRA. Discussion centered around the possibility of Congressional elections at the state level being nullified or the state being sued if the mandates stated in the federal election laws are not followed. The Revisor stated that the State of Kansas is not authorized to interpret the law or authorized to decide which form of the federal election law is better. The Attorney General of the United States is the only one with that authority.

Further discussion noted that there are 1.5 million eligible voters in Kansas and the State Motor Voter law will allow 90 percent of the eligible voters to register. Therefore, 150,000 eligible voters will not be registered. The highest expected statistical percentage of registered voters is 95 percent of the electorate and therefore, other methods of registering voters only would involve 75,000 additional eligible voters. The fiscal cost of implementing a mandated federal election law to ensure 75,000 additional eligible voters seems to be a very expensive proposition. Some members of the Committee urged the Committee to proceed cautiously in the implementation of election laws to comply with NVRA mandates.

A Committee member questioned whether S.B. 160 (State Motor Voter bill) should be implemented by the July, 1994 date if it has to be amended when NVRA becomes effective (January, 1995). After further discussion and debate regarding motor voter and NVRA, Senator Sallee moved to introduce legislation to delay implementation of the for State Motor Voter bill to coincide with the 1995 implementation of the federal law. Senator Hardenburger seconded the motion.

Debate as to the pros and cons of the motion ensued. One Committee member stated that although motor voter is only a small part of NVRA, it could help the state to comply with the federal law. Senator Sallee withdrew his motion and Senator Hardenburger withdrew her second to that motion.

A spokesperson from the Division of Vehicles, Department of Revenue, stated that there is a provision in the State Motor Voter law allowing the Secretary of State's Office to promulgate rules and regulations concerning the implementation of the Motor Voter bill. According to this spokesperson, this provision creates a problem because no other state agency or entity has been given regulatory authority over another state agency. Depending on how that authority is implemented, there is a possibility that business could be mandated to be undertaken contrary to the way business has been conducted by that agency in the past. The spokesperson said that two or three

years ago, the drivers licensing system was completely rewritten to comply with the commercial driver's license system which was federally mandated. This process cost several million dollars and required thousands of hours of programming, analyzing and consulting time. What the Division will be told to do under the rules and regulations from the Secretary of State's Office, could affect the way the driver's license system operates and also the federal money which the agency receives as a result of being in compliance with federal regulations. The spokesperson explained that it was important for the Division of Vehicles to focus on its primary objective which is the issuance of motor vehicle licenses and to insure that the process of registering voters does not interfere with the issuance of these licenses. In addition, the spokesperson said that discussions are still continuing between the Department of Revenue and the Secretary of State's Office.

The Chairperson requested the Secretary of State's Office to investigate the need for federal government preapproval of any plan concerning changes in the implementation of NVRA at the state level.

One Committee member requested the history of the Act. It was noted that the House and Senate Conference Committee reports are available from the Federal Elections Commission.

The Chairperson adjourned the meeting and announced that the Committee would reconvene at 10:00 a.m., October 22, 1993.

**October 22, 1993
Morning Session**

Chairperson Lawrence called the meeting to order at 10:15 a.m. She announced that the Committee would have hearings on a new bill which was replacing 1993 S.B. 44. This bill concerns restrictions on gifts and contributions to state officers or employees or candidates for elected office. The Chairperson explained to Committee members that 1993 S.B. 44 passed the House and Senate during the 1993 Legislative Session but was vetoed by the Governor.

Staff provided Committee members with a history of 1993 S.B. 44 as it passed through each Committee. The Revisor gave a new bill (3 RS 1419) to Committee members and he stated that everything in the bill draft is identical to 1993 S.B. 44 which was vetoed by the Governor except for the section on honoraria. He proceeded to explain the changes in the section on honoraria in the bill.

Carol Williams, Commission on Governmental Standards and Conduct, was the first conferee to provide testimony concerning the new S.B. 44. She stated that the Commission was satisfied with the bill in its new form because there were no substantial changes in the bill from the time the Commission had sponsored it in the 1993 Legislative Session except for changes to the section on honoraria.

Ron Smith, Kansas Bar Association, appeared in support of the new bill (Attachment 5). He said the Association has no position concerning the new language on honoraria and that the Association supported the bill when it was passed out of Committee during the 1993 Legislative Session.

Brian Moline, General Counsel, State Corporation Commission, explained that he had examined the laws in other states concerning the restrictions on gifts and contributions to state officers and employees. He said that the State of Texas was the most stringent state because officers or employees could not accept any gifts whatsoever during their employment or for a period of one year after employment as a state official or employee. Mr. Moline said that state officials or employees should avoid any action which might result in or create a conflict of interest or an appearance of impropriety. He stated that most statutes in other states are similar to those in the State of Kansas. Mr. Moline informed the Committee members that the State Corporation Commission supports the new S.B. 44.

Mr. Moline was asked by a Committee member what "*ex parte* communication" meant and he explained that it is impermissible for a judge or commissioner to talk about a case with any party without the opportunity for other parties to be present.

Harold Riehm, Kansas Society of Association Executives (KSAE) spoke as a proponent of the new S.B. 44 and he distributed copies of his testimony (Attachment 6). He also distributed a balloon of H.B. 2495 with recommendations for changes in new S.B. 44 (Attachment 7). He stated that his organization is firmly in support of the new bill and the two primary provisions in this bill concerning subscriptions and registration for meetings are important.

Mary Turkington, Kansas Motor Carriers Association (KMCA), submitted her comments on the new S.B. 44 (Attachment 8). Tom Whitaker, KMCA Governmental Relations Director, also appeared before the Committee. Ms. Turkington said that her organization strongly supports the new S.B. 44 with its exemptions on hospitality and recreation along with the \$40 limit. Also, she stated that her organization supported exemptions for subscriptions, publications and registration, or tuition as specified in this new bill. She urged the Committee to recommend these provisions for passage by the 1994 Legislature. Ms. Turkington expressed concern with the investigations of the Governor's Task Force on Ethics Reform and she contends the day to day operations of Kansas government are clean and Kansas citizens should be justly proud.

Keith Landis, Christian Science Committee on Publications for Kansas, explained that the reduction in the gift limit from \$100 to \$40 in 1991, caused his Committee to reduce its complimentary subscription to three months. The new S.B. 44 would allow it to return to the former practice of offering a complimentary year-long subscription. He voiced concern with reporting requirements as specified in the bill (Attachment 9). Mr. Landis also read and distributed a poem about new S.B. 44 (Attachment 10).

Pete McGill, Pete McGill and Associates, the next conferee, endorsed the preceding comments on new S.B. 44 and also shared the concerns about the investigations of the Governor's Task Force. Mr. McGill provided Committee members with a history of ethics and politics as a legislator and as a lobbyist. Mr. McGill stated he had never been approached in an irregular manner, nor does he know of anyone else who has been approached. Mr. McGill stated that the State of Kansas has the best system, although it may need fine tuning and updating.

Edward Rowe, Legislative Co-Chairman for the League of Women Voters of Kansas, appeared as the next conferee and copies of his testimony were distributed (Attachment 11). Mr. Rowe explained that his organization adopts positions on issues after studying them thoroughly. He said the League of Women Voters supports provisions in the new bill that forbid lobbyists from giving aggregate gifts worth more than \$40. The League questions the specific exemption in the form of hospitality and recreation from the \$40 limit. Mr. Rowe also stated his organization supports the

provisions that prohibit contributions from one candidate to another. Mr. Rowe ended his testimony by stating that the League of Women Voters was disappointed that the Committee did not discuss the comprehensive proposals of the Governor's Task Force on Ethics Reform, rather than limiting discussion to the provisions in the new S.B. 44.

Chairperson Lawrence recessed the Committee until 1:30 p.m.

Afternoon Session

Chairperson Lawrence called the meeting to order and continued the hearing on new S.B. 44.

Jim Shetlar, United We Stand America, was the first conferee. He stated that his organization is not a political organization, but a service organization. Mr. Shetlar stated that the recommendations from his organization are a lot stronger than the Governor's Task Force on Ethics Reform. He referred to the prohibition of one year for lobbying by legislators after their legislative term ends. This prohibition is contained in the new bill, whereas the Governor's Task Force recommends two years. Mr. Shetlar said that his organization recommended a five-year prohibition. He also stated that his organization recommended that a candidate whose term has ended would not have his campaign funds returned to his political party. He said funds should go into a nonprofit charitable organization, such as the Salvation Army. Another concern expressed by Mr. Shetlar was Political Action Committee (PAC) contributions to candidates. He thought the voting public should have as much opportunity to contribute to a candidate's fund as PACs do. In closing, Mr. Shetlar reiterated that his organization's concern is voter accountability and fiscal responsibility by the government.

Ron Hein, Hein, Ebert and Weir, appeared in support of the provisions in the new S.B. 44 (Attachment 12). He commented on a golf tournament held for legislators in 1991 which resulted in problems arising from the awarding of prizes. Mr. Hein does not believe that it was the intent of the Legislature to prohibit any legislator or state employee or spouse from winning prizes as part of contests open to other people, but the interpretation of statutes by the Commission, in his opinion, would prohibit a legislator from participating in a charitable golf tournament for a hospital or a charity, and winning any prize over \$40. Mr. Hein believes the solution is to amend K.S.A. 46-237(a) which is part of the new S.B. 44.

Gary Reser, Governor's Office, was the next conferee to address the bill. Mr. Reser stated that he received a copy of the new draft of S.B. 44 (3 RS 1419) the previous day and that he did not have the opportunity to confer with the Governor concerning the changes in this new draft. He told Committee members that he attempted to compare the 1993 S.B. 44 which was vetoed by the Governor to the new draft (3 RS 1419) to determine why the Governor had vetoed the 1993 Legislative bill. Mr. Reser explained that during the 1993 Session the ten-day deadline for the Governor to veto a bill was fast approaching when the Governor's Office received a call from a legislator who was concerned about the wording in the section on honoraria and how this wording would apply to professionals at the University level. He thought the new draft attempts to address the problem of honoraria by adding some additional language which strengthens the reporting requirements of those people who accept an honorarium. Mr. Reser suggested that the Committee

consider some type of language that would require a prior review of invitations to events which may involve an honorarium.

Mr. Reser commented concerning the usage of "usual" and "customary" in the new draft of S.B. 44. He said this new language could be a problem for the Governor and perhaps the Commission on Governmental Standards and Conduct could construct some rules and regulations to strengthen the language and make it clearer. The Revisor stated he used the "usual" and "customary" language because it was used in other states.

With regard to the Governor's Task Force Report on Ethics Reform, Mr. Reser thought that it was in the final draft stage. Mr. Reser did not think the Task Force specifically addressed the new draft of S.B. 44, but he was sure the Task Force dealt with topics that were in this new bill.

Mr. Reser stated that everything possible and reasonable should be done to tighten ethics in such a way that elected public officials, not just legislators, but key policy individuals in the Executive Branch and policy and decision makers, will be above reproach.

Chairperson Lawrence closed the hearing on the new draft of S.B. 44. She stated that discussion on the bill would resume in January during the 1994 Legislative Session. She asked the Committee members to read any material they receive on the National Voter Registration Act. She explained that the Secretary of State's Office will be coming out with new information and an estimate on the fiscal cost of implementation of NVRA.

The meeting was adjourned.

Prepared by Dennis Hodgins

Approved by Committee on:

December 6, 1993

(Date)

GUEST LIST

SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL AND
COMMITTEE: LEGISLATIVE APPORTIONMENT, AND
GOVERNMENTAL STANDARDS

DATE: October 21, 1993

NAME	ADDRESS	COMPANY/ORGANIZATION
Sandra Dexter	1077 1077 50th	Dept of Rev.
John W. Smith	Topeka	D. J. R.
Steve Neske	Topeka	K DOR
Paul H. Haas	Lawrence	UW SA.
Mike Brungardt	Top. KS	K HRC
Edward Rowe	EMPORIA	LEAGUE OF WOMEN VOTERS
Elaine Mann	Overland Park	League of Women Voters
Maryna Struiger	Walter KS	
Frank Lee	Topeka	
Kathy Martin	Topeka	Secretary of State
Gennie Stewart	Topeka	ISS AFL-CIO
Ron Hurnburg	"	Sec. of State
Tom Whitaker	"	KS Motor Carriers Assn.
Jennifer Annelle West	"	Sec. of State
RANDALL J. FOSTER	"	S of S
Andy Schuppel	Osage	Tabitha Co. Clerk
David M. Warr	Lawrence	Senate President
Brandon L. Myers	Topeka	K HRC
Michael J. Brungardt	Topeka	
Lancy Darrish	Ks. Dept of Revenue	

GUEST LIST

SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL AND
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GOVERNMENTAL STANDARDS

DATE: October 22, 1993

[illegible]

Office of the Secretary of State
National Voter Registration Act of 1993
Advisory Panel

Brian Baier	Kansas House of Representatives Office of the Minority Leader
Louis Chabira	Kansas Division of the Budget
Marilyn Chapman	Sedgwick County Election Commissioner
Laura Epler	Kansas Dept. of Health & Environment
Mike Glassner	Office of Senator Robert Dole
Nancy Hempen	Kansas County Treasurers Association
Rochelle Henderson	U.S. Postal Service
Mike Hutfles	Kansas House of Representatives Office of the Speaker
Stephanie Isenhour	Kansas Senate Office of the Minority Leader
Jacque Kimbrough	Office of Senator Nancy Kassebaum
Phil Kirk	Office of Representative Jim Slattery
Jane Knight	ADA State Coordinator
Mike Leeper	U.S. Postal Service
Betty McBride	Kansas Department of Revenue
Brandon Myers	Kansas Human Rights Commission
Kandy Shortle	Social and Rehabilitation Services
Richard Wagner	Kansas Department on Aging
Kevin Walker	Kansas Senate Office of the President

*Senate Elections
Attachment 1
10/21/93*

Chairperson Lawrence, Senators:

United We Stand America appreciates this opportunity to participate with you on this important matter. We support easy access to registration by qualified voters as mandated by the National Voter Registration Act of 1993 also known as the "Motor Voter" Bill.

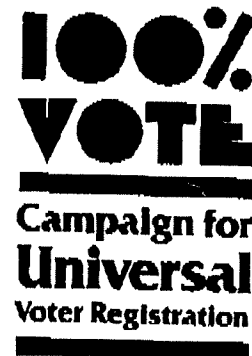
After talking with people, and reading the Act, there are some concerns I would like to share with you. Most important in this sluggish economy is the cost of implementing this legislation. Every effort should be made to keep things as simple and efficient as permitted under this Act. It may be necessary not to utilize every potential registration site allowed in the Act, while still complying with it. Duplication of operations must be avoided. For example, the use of a centralized computer system linked with the minimum necessary hardware in each jurisdiction or registration site.

Other concerns are multiple registration and the potential for election fraud. Who will be responsible for getting registration information to the proper jurisdiction? If someone registers at a site outside the jurisdiction where they vote, how will that registration information get to the correct election official? In addition, an overly expanded bureaucracy should be avoided not only for its cost, but because of its potential to depersonalize the electorate to numbers to be processed. With this could also come invasion of privacy, and the possible loss of confidentiality required by the Act.

Right now you are at a preliminary stage in the planning. There are many problems to be solved. We hope you will continue to share the options you consider, and continue to encourage participation by interested groups such as United We Stand America.

Thank you for your time.

*Senate Elections
Attachment 2
10/21/93*



October 21, 1993

TESTIMONY TO THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT AND GOVERNMENT STANDARDS

PREPARED BY DAVID PLOTKIN, PROGRAM ASSOCIATE, HUMAN SERVE

Thank you for the opportunity to present testimony to you on behalf of Human SERVE, a national, non-partisan voter registration reform organization. Human SERVE specializes in the design and implementation of voter registration in government agencies. We are very pleased that Kansas has taken the initiative of assembling an advisory panel to assist in the effective implementation of the National Voter Registration Act (NVRA) of 1993.

Introduction

Effective implementation of the NVRA will have a great impact on voter registration rates in Kansas. Currently, 77.1 percent¹ of Kansas's voting age population is registered to vote, yet of those registered, 93.2 percent actually voted. Once registered, people vote. The data shows that the principal reason for the lack of voter participation is registration. If effectively implemented, Kansas registration rates may reach 95 percent.

Kansas has already made a giant leap forward by enacting "Motor Voter" legislation in April 1992. We know that the Kansas Department of Motor Vehicles (DMV) is already working on implementation of the NVRA. The fully computerized system that the DMV is now considering will not only ensure higher registration rates, it will provide for an effective and efficient program. Because Kansas is familiar with and already preparing for motor voter, we would like to take this opportunity to discuss agency-based voter registration.

Agency-Based Registration

The NVRA requires that states provide voter registration services in public assistance agencies, state-funded agencies primarily serving those with disabilities, armed forces recruitment offices, and discretionary agencies. While motor voter will reach approximately 90% of the eligible electorate, there remains a significant population that will not be offered voter registration. Therefore, providing voter registration in these agencies is critical.

Agencies must provide voter registration forms when citizens apply for services, recertifications, renewals, and changes of address. Agency personnel must provide the same level of assistance in completing voter registration forms as in completing any agency forms. Agencies must collect completed registration forms and forward them to the appropriate

¹ U.S. Bureau of the Census, Current Population Records, p 25, *Voting and Registration in the Election of November 1992*. U.S. Government Printing Office, Washington, DC, 1993.

*Senate Elections
Attachment 3
10/21/93*

A Project of Human SERVE • 622 West 113 Street • Suite 410 • New York, New York 10025 • 212 854 4053

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election officials. Agency personnel must perform all duties in a non-coercive and nonpartisan manner, and may not question an applicant as to reasons for declining to register. The NVRA also requires that specific language be included with voter registration forms.

Public Assistance Agencies

The Explanatory Statement of the Conference Committee defines public assistance agencies as those agencies which provide Aid to Families with Dependent Children (AFDC), Food stamps, Medicaid and Special Supplemental Food Program for Women, Infants and Children (WIC). The Act gives the states substantial latitude to design their agency-based registration programs. We believe that there are several critical elements that public assistance voter registration programs should incorporate. First, agencies should integrate voter registration applications with applications for agency services. Experience in other states shows us that a combined application process yields higher voter registration rates while minimizing staff time and agency costs. By creating a user-friendly application which serves as both voter registration and agency application, Kansas will minimize confusion and questions in the agencies. Second, public assistance agencies should collect all completed voter registration forms at the agency site. And finally, a comprehensive initial and ongoing training program for agency personnel will facilitate an effective program.

As with motor voter, Kansas should consider the level of computerization and paper use in the agencies before designing the voter registration program. With a highly computerized program, voter registration forms can be generated by computer using the same information entered for agency application purposes. For paper-intensive systems, the voter registration applications should be attached to agency forms, perhaps by using pressure-sensitive paper, thereby limiting duplicate information required.

Agencies serving people with disabilities

The requirements for voter registration services in agencies with disabilities are basically the same as for public assistance agencies. The breadth of these agencies is large, and Kansas should work with the governor's appointee for the American with Disabilities Act, the Development Disabilities Councils and the governor's commission on disabilities.

Discretionary agencies

According to the NVRA, the states must designate several agencies to provide voter registration services as they do in public assistance agencies. To best determine which agencies to designate, Kansas should consider which populations are not reached through the mandated agencies. Some agencies to consider include unemployment offices, public housing agencies and public schools.

Thank you again for the opportunity to testify on behalf of Human SERVE. As you consider implementing the National Voter Registration Act of 1993, we hope that you will make the requirements for voter registration applicable to all federal, state, and local elections. We would welcome the opportunity to further discuss any issues, questions, or concerns you may have with implementation. We can be reached at: Human SERVE, 622 West 113th Street, Suite #410, New York NY, 10025. (212) 854-4053.

THE NATIONAL VOTER REGISTRATION ACT

By Tommy Neal

*A choice:
apply federal
mandates to
state elections
or maintain a
dual
registration
system.*

Registering to vote will be more convenient under the terms of legislation recently enacted by Congress. But complying with the federal voter registration mandate will require states to change existing election laws and increase spending to comply with the National Voter Registration Act. While the act applies only to federal elections, states would have to maintain a much more costly dual system if they chose not to implement the requirements for state as well as federal elections.

Major provisions of the law require states to establish procedures to permit voter registration:

- simultaneously with an application for a driver's license,
- by mail,
- at public assistance offices,
- at state funded offices that serve people with disabilities, and
- at recruitment offices of the armed services.

States have the option of offering voter registration at other agencies, including unemployment offices, public libraries, public schools, and fishing and hunting license bureaus.

Motor voter provisions require that each state application for a driver's license, including a renewal, also serve as an application for voter registration. Applicants may decline to register to vote, but they must do so in writing.

The Federal Election Commission (FEC) is required to prescribe a uniform mail registration form. States must accept the FEC form, but may develop and use their own form if it is in compliance with the act. In states that develop their own mail registration application, an applicant may use—and the state must accept—either the national or state form.

*Purging
registration
lists is
restricted.*

Another major provision of the legislation addresses administration of voter registration programs, especially with regard to purging registration lists. A voter's name may not be removed for not voting. Names may be removed only at the request of the registrant or because of mental incapacity, criminal conviction, death or a change in the voter's residence. Names may not be removed because of a change of address unless the registrant confirms the change in writing or fails to respond to a notice and does not vote within two general federal elections after the date of the notice.

Voters who have moved within the same registrar's jurisdiction and the same congressional district must be allowed to update their addresses and to vote on election day—at the state's choice of either the old or new polling place.

The federal mandates are effective January 1, 1995. In states that must amend their constitutions to comply with the law, the effective date is January 1, 1996, or 120 days after it is legally possible for their constitutions to be amended without requiring special elections.

*Four are
home free.*

Four states will not have to comply with any provisions of the federal law: **MINNESOTA** and **WISCONSIN**, because both allow election day registration at the polls; **NORTH DAKOTA**, which does not require voters to register; and **WYOMING**, which enacted election day registration during its 1993 session. **MAINE** is a candidate for exemption from the federal legislation since it allows election day

NATIONAL
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*Senate Elections
Attachment 4
10/21/93*

registration. It may not qualify, however, because the Maine statutes provide for registration at the town clerk's office, rather than at the polling place as the federal act stipulates.

Complying with the federal requirements will cost money, but nobody knows how much, and no federal funding is provided. The Congressional Budget Office estimates compliance will cost the states an average of about \$20 million a year for the first five years—for staff, postage and printing expenses. One-time costs to computerize registration lists would amount to less than \$25 million, according to the CBO. Mailings mandated under the new legislation can qualify for nonprofit postal rates, which will save the states an estimated \$4 million annually.

No funding is provided.

Some state election officials maintain that costs will be significantly more than the Congressional Budget Office projects, but no other estimates are available. For example, the legislation does not require states to establish computerized lists, but election officials maintain that computers would be necessary to meet federal mandates. Costs should be lower in states that already have some of the registration requirements in place. States with none of the federally mandated systems are likely to find compliance more costly.

There is disagreement about what it will cost states.

Another item not included in any projections is what it will cost the states to record, assemble and transmit required reports to the federal government. To satisfy reporting requirements, the states will have to compile data regarding the number, method and disposition of registration applications received; the method, frequency and consequences of confirming the voter registration lists; the number and reasons for deletions from voter registration lists; the number of people of voting age and the percentage of those who are registered; and the number, types and costs of various mailings required under the bill.

Selected References

Conference Report No. 103-66, 103d Cong., 1st Sess. (1993) [To accompany H.R. 2].

House Report No. 103-9, 103d Cong., 1st Sess. (1993) [To accompany H.R. 2].

Contacts for More Information

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Senate Elections Committee

Testimony by
Ron Smith,
General Counsel,
Kansas Bar Association
October 22, 1993

Thank you, Madam Chair, and committee members, for an opportunity to discuss SB 44.

The KBA supported this legislation. Generally, we felt it was inconsistent for state law to allow unlimited hospitality of state officials, but artificially make the transfer of information to lawmakers a "gift" with a \$40 limit. Information is what you process in order to make public policy decisions. There should be no barrier to the provision of information.

In the Senate Committee, the issue was raised about lawmakers attending conventions of certain organizations or attending continuing education sessions of an organization. SB 44 basically adopts the theory that if there is an "information transfer" between the lawmakers/public officials and a host organization, that information should not be *presumed* to be attempting to influence the lawmaker. *Information is what lawmakers use to make public policy decisions.* There is a logical exception in SB 44 for when lawmakers get continuing education credits at the function which are required for that *lawmaker's* trade, professional or business license.

SB 44 was vetoed because of the Ballard Amendment on the House floor. We have no position on that issue.

*Senate Elections
Attachment 5
10/22/93*



October 22, 1993

To: Chairperson Lawrence and members Senate Committee on Elections, Congressional and Legislative Apportionment, and Government Standards

From: Harold Riehm, Representing the Kansas Society for Association Executives (KSAE), as Chairman, Government Affairs Committee

Subject: KSAE Recommendations to the 1993 Legislature - S.B. 44 & H.B. 2495

Thank you for this opportunity to present views of KSAE regarding selected provisions of S.B. 44 and other recommendations KSAE made to the Legislature in its 1993 Session.

Two recommendations made by KSAE were added to S.B. 44 during House Committee Hearings. Much of the new language was adopted from language suggestions offered by KSAE. In addition, KSAE recommended three other changes that took the form of H.B. 2495. These, too, are noted below.

We do not plan to address the draft report and recommendations of the Ethics Task Force at this time, though KSAE will have a response when that report is officially released.

IT SHOULD BE NOTED, THOUGH, THAT ALL FIVE OF THE RECOMMENDATIONS KSAE SUGGESTED AND THAT WERE SUBSEQUENTLY INCORPORATED INTO S.B. 44 AND H.B. 2495, WERE INCLUDED IN RECOMMENDATIONS DEALING WITH LOBBYING, IN THE DRAFT REPORT OF THE TASK FORCE. This followed testimony by KSAE similar to that which I am presenting today, at a public hearing of the Task Force.

I, or other members of KSAE attending this Hearing, will be pleased to respond to questions you may have regarding these recommendations.

S.B.44 - Support of SB 44 and suggested Amendments by KSAE to SB 44.

- (1) Provide that in both the Statutes addressed in SB 44 provision be made that any professional or trade organization may waive a meeting registration fee for any legislator or State officer or employee. If, however, the legislator or employee is awarded continuing education credits as required by that legislator's or employee's occupation, then such fees must be paid by the legislator or employee. This would in effect, add such registration or tuition fees to the list of those things presumed not to be given to influence a state officer or employee or candidate for state office in the performance of official duties, except when a particular course of actions is to be followed as a condition thereon.
- (2) Provide gifts in the form of complimentary subscriptions or other publications published by trade associations, professional associations, foundations or tax exempt organization, when such publications are published primarily for the benefit of members or subscribers, shall not be presumed to be given to influence a state officer or employee or candidate for state office (thus not subject to the \$40 limitation). (This provision was not at the request of the KSAE, but was endorsed by the Society).

Note - KSAE did not recommend language dealing with compensation and/or honoraria to state officers or employees, which was one of the reasons stated by Governor Finney for her veto of SB 44.

KANSAS SOCIETY OF ASSOCIATION EXECUTIVES

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*Senate Elections
Attachment 6
10/22/93*

HB 2495 - Introduced by the House Committee on Governmental Organization and Elections at the Request of KSAE.

- (1) Amendment to language of K.S.A. 1992 Supp. 46-265. This would require additional information to be provided by each registered lobbyist when registering with the Secretary of State. In addition to name, address and address of the person compensating the lobbyist, the lobbyist would also be required to provide " . . . the full name and address of the chief officer of the person employing the lobbyist for lobbying, together with names and addresses of persons or organizations with which such individual is affiliated".
- (2) Amendment to K.S.A. 1992 Supp. 46-268. This would permit lobbyists who do not anticipate spending a reportable amount in each reporting period, to file an affidavit of such intent and thus be exempt from filing such reports. If, in any reporting period, the reportable amount was exceeded, a report would be required. The language is as follows:

"For any calendar year in which a lobbyist expects to expend an aggregate amount of less than \$100 for lobbying in each reporting period, a lobbyist shall file an affidavit of such intent with the Secretary of State. Such lobbyist shall not be required to file the reports required under subsection (a) for the year for which such affidavit is filed. If in any reporting period a lobbyist filing such affidavit expends in excess of \$100 in reportable expenses, a report shall be filed for such period in the manner prescribed by subsection (a)." (Subsections refer to K.S.A. 46-268).

- (3) Amendment to K.S.A. 1992 Supp. 46-271. This would prohibit a lobbyist or person employing a lobbyist from making a contribution to any political committee or party committee. Currently, the law precludes contributions to legislators or candidate committees during the legislative session, but permits contributions by lobbyists (and solicitations of lobbyists) to any political committee or party committee as defined by law. The language in HB 2495 is:

K.S.A. 46-271 (to be amended as follows) "(b) No lobbyist or person employing or compensating a lobbyist for lobbying shall make any contribution, as the same is defined by K.S.A. 25-4143, and amendments thereto, to any legislator, candidate for membership in the state legislature, candidate committee for any such legislator or candidate, any political committee or party committee as defined by K.S.A. 25-4143, and amendments thereto, or any agent or person acting on behalf of any such candidate, person or committee after January 1 and prior to May 15 in any year or at any time in which the legislature is in session".

Session of 1993

HOUSE BILL No. 2495

By Committee on Governmental Organization and Elections

2-17

8 AN ACT relating to lobbying and lobbyists; amending K.S.A. 1992
9 Supp. 46-265, 46-268 and 46-271 and repealing the existing
10 sections.

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

12 Section 1. K.S.A. 1992 Supp. 46-265 is hereby amended to read
13 as follows: 46-265. Every lobbyist shall register with the secretary
14 of state by completing and signing a registration form prescribed and
15 provided by the commission. Such registration shall show the name
16 and address of the lobbyist, the name and address of the person
17 compensating the lobbyist for lobbying, *the full name and address*
18 *of the chief officer of the person employing the lobbyist for lobbying*
19 *together with names and addresses of persons or organizations with*
20 *which such individual is affiliated*, the purpose of the employment
21 and the method of determining and computing the compensation of
22 the lobbyist. If the lobbyist is compensated or to be compensated
23 for lobbying by more than one employer or is to be engaged in
24 more than one employment, the relevant facts listed above shall be
25 separately stated for each employer and each employment. Whenever
26 any new lobbying employment or lobbying position is accepted by
27 a lobbyist already registered as provided in this section, such lobbyist
28 shall report the same on forms prescribed and provided by the
29 commission before engaging in any lobbying activity related to such
30 new employment or position, and such report shall be filed with
31 the secretary of state. When a lobbyist is an employee of a lobbying
32 group or firm which contracts to lobby and not an owner or partner
33 of such entity, the lobbyist shall report each client of the group,
34 firm or entity whose interest the lobbyist represents. Whenever the
35 lobbying of a lobbyist concerns a legislative matter, the secretary of
36 state shall promptly transmit copies of each registration and each
37 report filed under this act to the secretary of the senate and the
38 chief clerk of the house of representatives.

39 On or after October 1, in any year any person may register as a
40 lobbyist under this section for the succeeding calendar year. Such
41 registration shall expire annually on December 31, of the year for
42 which the lobbyist is registered. In any calendar year, before en-

1 gaging in lobbying, persons to whom this section applies shall register
2 or renew their registration as provided in this section. Except for
3 employees of lobbying groups or firms, every person registering or
4 renewing registration who anticipates spending \$1,000 or less for
5 lobbying in such registration year on behalf of any one employer
6 shall pay to the secretary of state a fee of \$15 for lobbying for each
7 such employer. Except for employees of lobbying groups or firms,
8 every person registering or renewing registration who anticipates
9 spending more than \$1,000 for lobbying in such registration year on
10 behalf of any one employer shall pay to the secretary of state a fee
11 of \$125 for lobbying for such employer. Any lobbyist who at the
12 time of initial registration anticipated spending less than \$1,000, on
13 behalf of any one employer, but at a later date spends in excess of
14 such amount, shall, within three days of the date when expenditures
15 exceed such amount, file an amended registration form which shall
16 be accompanied by an additional fee of \$110 for such year. Every
17 person registering or renewing registration as a lobbyist who is an
18 employee of a lobbying group or firm and not an owner or partner
19 of such entity shall pay an annual fee of \$250. The secretary of state
20 shall remit all moneys received under this section to the state treas-
21 urer, and the state treasurer shall deposit the same in the state
22 treasury to the credit of the Kansas commission on governmental
23 standards and conduct fee fund.

24 Any person who has registered as a lobbyist pursuant to this act
25 may file, upon termination of such person's lobbying activities, a
26 statement terminating such person's registration as a lobbyist. Such
27 statement shall be on a form prescribed by the commission and shall
28 state the name and address of the lobbyist, the name and address
29 of the person compensating the lobbyist for lobbying and the date
30 of the termination of the lobbyist's lobbying activities.

31 Sec. 2. K.S.A. 1992 Supp. 46-268 is hereby amended to read as
32 follows: 46-268. (a) Every lobbyist shall file with the secretary of
33 state a report of employment and expenditures on a form and in the
34 manner prescribed and provided by the commission. *Except as oth-*
35 *erwise provided in subsection (b)*, a report shall be filed on or before
36 the 10th day of the months of February, March, April, May, Sep-
37 tember and December. Reports shall include all expenditures which
38 are required to be reported under K.S.A. 46-269, and amendments
39 thereto, or a statement that no expenditures in excess of \$100 were
40 made for such purposes, during the preceding calendar month or
41 months since the period for which the last report was filed.

42 (b) *For any calendar year in which a lobbyist expects to expend*
43 *an aggregate amount of less than \$100 for lobbying in each reporting*

*Senate & Election
Attachment #7
10/22/93*

1 period, a lobbyist shall file an affidavit of such intent with the
2 secretary of state. Such lobbyist shall not be required to file the
3 reports required under subsection (a) for the year for which such
4 affidavit is filed. If in any reporting period a lobbyist filing such
5 affidavit expends in excess of \$100 in reportable expenses, a report
6 shall be filed for such period in the manner prescribed by subsection
7 (a).

8 Sec. 3. K.S.A. 1992 Supp. 46-271 is hereby amended to read as
9 follows: 46-271. (a) No lobbyist shall offer, pay, give or make any
10 economic opportunity, gift, loan, gratuity, special discount, favor,
11 hospitality, or service having an aggregate value of \$40 or more in
12 any calendar year to any state officer or employee or candidate for
13 state office with a major purpose of influencing such officer or em-
14 ployee in the performance of official duties or prospective official
15 duties. Hospitality in the form of recreation, food and beverages are
16 presumed not to be given to influence a state officer or employee
17 or candidate for state office in the performance of official duties,
18 except when a particular course of official action is to be followed
19 as a condition thereon.

20 Except as otherwise provided by subsection (b) or when a par-
21 ticular course of official action is to be followed as a condition
22 thereon, this section shall not apply to: (1) any contribution reported
23 in compliance with the campaign finance act as amended; or (2) a
24 commercially reasonable loan or other commercial transaction in the
25 ordinary course of business.

26 (b) No lobbyist or person employing or compensating a lobbyist
27 for lobbying shall make any contribution, as the same is defined by
28 K.S.A. 25-4143, and amendments thereto, to any legislator, candidate
29 for membership in the state legislature, candidate committee for any
30 such legislator or candidate, any political committee or party com-
31 mittee, as defined by K.S.A. 25-4143, and amendments thereto, or
32 any agent or person acting on behalf of any such candidate, person
33 or committee after January 1 and prior to May 15 in any year or
34 at any time in which the legislature is in session.

35 Sec. 4. K.S.A. 1992 Supp. 46-265, 46-268 and 46-271 are hereby
36 repealed.

37 Sec. 5. This act shall take effect and be in force from and after
38 its publication in the statute book.

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

Concerning lobbying guidelines
proposed in Senate Bill 44.

Presented to the Senate Committee on Elections,
Congressional and Legislative Apportionment, and
Government Standards, Sen. Barbara Lawrence, Chair-
man; Statehouse, Topeka, Friday, October 22, 1993.

MADAM CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Mary E. Turkington, Executive Director of the Kansas Motor Carriers Association with offices in Topeka. I appear here today, along with Tom Whitaker, KMCA Governmental Relations Director; representing our member-firms and the highway transportation industry. We wish to submit these comments relating to the provisions of Senate Bill 44.

Our organization strongly supports provisions of this legis-
lation that:

1. Continue to exempt hospitality in the form of food and beverages from the \$40 aggregate value "gift" which a lobbyist may provide any state officer or employee or any candidate for state office.
2. Continue to exempt recreation from the \$40 limit with the further provision that such recreation shall not include the cost of transportation or lodging.

*Senate Elections
Attachment 8
10/22/93*

3. Exempt gifts in the form of complimentary subscriptions or other publications published by trade associations, professional associations, foundations or tax exempt organizations when such publications are published primarily for the benefit of members or subscribers.
4. Exempt complimentary registration or tuition for attendance at a meeting, conference, seminar or other educational program conducted by a trade association, professional association, foundation or tax exempt organization, unless continuing education credits are awarded to the state officer or employee or candidate for state office for purposes of professional licensure or registration.

While the \$40 gift limitation may be painfully conservative in terms of annual gift-giving, the provisions of Senate Bill 44 are most helpful in allowing normal hospitality courtesies to be extended to any state officer or employee or candidate for state office.

We urge this committee to recommend these provisions for passage by the 1994 Kansas Legislature.

It is my personal belief that citizen participation in government should be encouraged at all levels from the election process to the development and adoption of sound public policies by elected public officials, including implementation and execution of those policies by the Executive and administrative branch of government. Artificial barriers to such citizen participation should not be created by anyone.

I have watched the process of state government at work since 1951. Kansas is and has been a "clean" government state. The environment for clean government reflects the expectations of its citizens and the quality, by and large, of its public officials.

I sat through many of the sessions of the Governor's Task Force On Ethics Reform during this past summer. I feel confident that Gov. Joan Finney expected the work of that Task Force to be thorough, to address areas where problems might exist, and to develop reasonable, workable solutions to any problem the Task Force might identify.

Unfortunately, in my opinion, that Task Force worked overtime to create the impression that there is something "evil" at work in our governmental process and, for the most part, performed a real disservice to those who have worked diligently over the years to preserve the integrity and the quality of the Kansas governmental process.

Some mistakes well may have been made but there are processes through which such errors, intentional or otherwise, can be corrected. Those corrective steps should be taken when such action becomes necessary. I strongly contend that the day-to-day operations of this process we call "government" in Kansas is a clean ball game and is one of which we should indeed be proud.

By and large, I believe the laws requiring registration and reporting of expenditures for lobbyists are NOT problem areas for the Kansas Commission on Governmental Standards and Conduct. The provisions of Senate Bill 44 clarify areas where improvements need to be made. I sincerely hope this Committee will adopt those provisions and recommend them to the 1994 Legislature. We ask your help accordingly.

####

8-3

Christian Science Committee on Publication For Kansas

820 Quincy Suite K
Topeka, Kansas 66612

Office Phone
913/233-7483

To: Senate Committee on Elections, Congressional and Legislative
Apportionment, and Governmental Standards

Re: 1993 Senate Bill 44

For several years prior to 1991, we offered a complimentary six-months' subscription to The Christian Science Monitor to legislators. Reduction in the gift limit from \$100 to \$40 in 1991 caused us to reduce the length of the subscription to three months.

Of course, this reduction in the length of the subscription saves us money; but some legislators prefer the longer subscription.

Senate Bill 44 would have allowed us to return to the former practice.

My concern with changes in the laws regulating lobbying is not so much with the giving of gifts but with the possibility that reporting requirements might be increased. It is very difficult for small groups, with little or no staff assistance available, to assemble the information which has sometimes been suggested for inclusion in lobbyists' reports.



Keith R. Landis
Committee on Publication
for Kansas

*Senate Elections
Attachment 9
10/22/93*

I tried to write a poem about S. B. 44,
With hopes it would be humorous and wouldn't be a bore.

But the issue is quite serious for those who are concerned
with resolving ethics questions some say they have discerned.

There's growing speculation that votes are being bought,
That if the laws were tightened some crooks would soon be caught.

But, it's been my observation, as year succeeded year,
That a lobbyist must be honest if he would gain your ear,

That a gift or contribution might gain a friendly "Hi!"
But if a lobbyist's not trustworthy, he'll soon be told good-bye.

And, you always must remember how you got beneath the dome,
Or the folks who sent you up here will tell you to stay home.

I've come to the conclusion that whatever laws you write,
There'll be a way around them if someone shady's also bright.

So, you add to the requirements and make the law detailed;
There is hope that those dishonest will thereon be impaled.

When you've covered all the loopholes, done everything you can,
The one who's governed by it will be the honest man.

Laws don't make men honest and they sometimes don't catch crooks,
But they certainly look impressive when in the statute books.

From: Keith Landis
Senate Elections
Attachment 10
10/22/93

SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL AND LEGISLATIVE
APPORTIONMENT, AND GOVERNMENTAL STANDARDS

Senator Barbara Lawrence, Chair

October 22, 1993

Senator Lawrence and members of the committee, I'm Edward Rowe, Legislative Co-Chairman for the League of Women Voters of Kansas, which is a nonpartisan political organization. The League, while not supporting or opposing any political candidate or party, does promote political responsibility through informed and active participation of citizens in government.

We support Former 1993 SB 44: Concerning the Restrictions on Gifts or Contributions to State Officers or Employees or Candidates for Elected Office.

The League adopts positions after studying issues thoroughly and adopted the following position on election finance in 1982:

"The League of Women Voters of the United States believes that the methods of financing political campaigns should ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office, and allow maximum participation in the political process".

We support the provisions of SB 44 that forbid lobbyists from making aggregate gifts and other considerations worth more than \$40 in any one calendar year to a legislator or candidate for the legislature. These provisions would help eliminate the public perception that well-funded special interest lobbyists exert undue influence. We do question one specific exemption from the \$40 limit, "hospitality in the form of recreation," unless that hospitality is extended to all members of the legislature.

We also support the provisions that prohibit passing on contributions from one candidate to another (so-called "soft money"). At present it is easy for long-term incumbents who have accumulated large war-chests to spread the wealth selectively to candidates in their own party. Closing this loophole in state election laws would enable candidates to compete more equitably for public office (help "level the playing field").

We register disappointment that this committee does not have before it now the comprehensive proposals of the Governor's Task Force on Ethics, rather than the limited provisions of Former SB 44.

Thank you for allowing me to appear before you today.

*Senate Elections
Attachment 11
10/22/93*

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SENATE ELECTIONS COMMITTEE

TESTIMONY RE: SB 44

Presented by Ronald R. Hein
on behalf of

Hein, Ebert and Weir, Chtd.

October 22, 1993

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am an attorney in the firm of Hein, Ebert, and Weir, Chtd., and we do contract lobbying on behalf of numerous clients.

My purpose for testifying today is to support the provisions of SB 44 which have been previously endorsed by other representatives of the Kansas Society of Association Executives.

In addition, I would also like to request consideration of a change in the law so as to deal with a problem which results from an interpretation of existing law by the Kansas Commission on Governmental Standards and Conduct.

In response to a request by me to what was then the Kansas Public Disclosure Commission, the Kansas Commission on Governmental Standards and Conduct stated that any prize or award constitutes an economic opportunity, and that the value of such economic opportunity is the value of the award or prize. Thus, such prize or award cannot exceed \$40.00 if received by an elected official, a state employee, or such official's or employee's spouse.

When the question was presented to the Commission, it related to a golf tournament where prizes might be awarded for competition such as closest to the pin, or even for team prizes. I had argued to the Commission that the "economic opportunity" was "the chance to win the prize" and it should be valued not by the value of the prize, but by valuing the chance to win. The Commission disagreed with my argument, and left the ruling as recommended by their attorney, Dennis Prater.

Based upon the opinion that has been rendered, it is possible that, if I give a state legislator a \$1 lottery ticket prior to the drawing, when the winner is still not known, and that ticket wins the lottery, the legislator and I both have committed a crime, and the legislator cannot win the prize.

*Senate Elections
Attachment 12
10/22/93*

October 22, 1993

Page 2

If I read the opinion correctly, current interpretation by the Commission might also would prohibit a Topeka representative who belongs to the Topeka Chamber of Commerce from winning a door prize at a Chamber of Commerce breakfast where the value of the door prize exceeds \$40.00.

In fact, it raises the question whether or not it would be legal for a state legislator or state employee to even purchase a \$1 lottery ticket, and have that lottery ticket be a winner for \$100,000, because they would have then purchased an economic opportunity worth \$100,000 for the sum of \$1, which clearly would not be a valuable consideration transaction.

I don't believe that the intent of the Legislature was to prohibit any legislator or state employee or their spouses from winning prizes as part of contests which are open to other people. But the interpretation put on the statutes by the Commission, in my opinion, would prohibit a legislator from participating in a charitable golf tournament for a hospital or a charity, and winning any prize over \$40.00.

I believe the solution to the problem is to amend K.S.A. 46-237(a), and any other relevant statutes, by adding the following language:

"For purposes of this section, a prize awarded as a result of a competition or drawing shall be deemed to be an economic opportunity. The value of such prize or award shall be determined by dividing the total value of the prize awarded by the number of participants. In the event that it can be demonstrated that the competition or drawing was manipulated so as to influence the outcome of such competition or drawing, then, and in that event, the value of the prize or award shall be the aggregate value of such prize or award."

Thank you very much for permitting me to testify, and I will be happy to yield to questions.