

Approved: January 26, 1994  
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE  
APPORTIONMENT AND GOVERNMENTAL STANDARDS

The meeting was called to order by Chairperson Barbara Lawrence at 1:30 p.m. on January 11, 1994 in  
Room 529-S of the Capitol.

All members were present except: Senator Richard Bond, excused  
Senator Janice Hardenburger, excused

Committee staff present: Dennis Hodgins, Legislative Research Department  
~~Mary Galligan, Legislative Research Department~~  
~~Raney Gilliland, Legislative Research Department~~  
Arden Ensley, Revisor of Statutes  
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Brad Bryant, Office of the Secretary of State

Others attending: See attached list

Dennis Hodgins, Legislative Research Department, briefed the committee on the interim Committee meeting which was held on October 21 and 22, 1993, in the Statehouse. Mr. Hodgins stated the purpose of the interim Committee meeting was to acquire information concerning the National Voter Registration Act (NVRA). The Act establishes mandates for Congressional elections held at the state level. This interim meeting also had a hearing on a proposed bill concerning restrictions on gifts or contributions to state officers and employees. The contents of this proposed bill are the same as the 1993 S.B. 44 except for the section concerning restrictions on honoraria. S.B. 44 was vetoed by the Governor during the 1993 Legislative Session. (Attachment 1).

Arden Ensley, Revisor of Statutes, furnished the committee with copies of proposed legislation pertaining to restrictions on gifts or contributions to state officers and employees. (Attachment 2).

Senator Ranson made a conceptual motion to introduce a bill with contents the same as former S.B. 44. Senator Wisdom seconded the motion. Motion carried.

The Chair announced that hearings will be held on the former S.B. 44 on Thursday, January 13, 1994.

Brad Bryant, Office of the Secretary of State, appeared before the committee requesting introduction of a package of legislation, one bill, to bring the state into compliance with the National Voter Registration Act of 1993.

Senator Brady made a conceptual motion to introduce such legislation. Senator Wisdom seconded the motion. Motion passed.

Senator Ranson voted "no" on the conceptual motion.

The meeting adjourned at 1:55 p.m.

The next meeting is scheduled for January 12, 1994.

GUEST LIST

SENATE ELECTIONS COMMITTEE

DATE: January 11, 1994

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

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## COMMITTEE MEETINGS

The Senate Elections, Congressional and Legislative Apportionment, and Governmental Standards Committee met for two days on October 21 and 22, 1993, in the Statehouse.

## COMMITTEE ACTIVITIES

The purpose of the interim Committee meeting was to acquire information concerning the National Voter Registration Act (NVRA). The Act establishes mandates for Congressional elections held at the state level. This interim meeting also had a hearing on a proposed bill concerning restrictions on gifts or contributions to state officers and employees. The contents of this proposed bill are the same as the 1993 S.B. 44 except for the section concerning restrictions on honoraria. S.B. 44 was vetoed by the Governor during the 1993 Legislative Session.

### National Voter Registration Act

Committee members were briefed by representatives of the Secretary of State's Office regarding the federal mandates of NVRA. Compliance with the Act would require a state to change its election laws as they apply to congressional elections. In complying with NVRA, the State of Kansas would have to rewrite the majority of its election laws at all levels. Changes to Kansas election laws would include: registration, petition, and purging requirements; designation of party affiliation; fail-safe voting procedures; and canvassing procedures. To accomplish these changes, the state would have to implement a standardized computer data format for registering voters throughout the state. NVRA also would require the state to determine which state agencies will be designated as a mandatory agency or a designated agency for voter registration. NVRA also may affect S.B. 160, which passed in the 1993 Kansas Legislative Session. This bill would allow voter registration when an individual applies for a driver's license or a renewal of a license. S.B. 160 will become law in July, 1994, whereas NVRA will be effective January, 1995. The fiscal impact of implementing NVRA at the state level would be extensive but has not as yet been determined.

The Committee heard from the following conferees: the Assistant Secretary of State; the Deputy Assistant Secretary of State; General Counsel, Secretary of State's Office; a representative of United We Stand America organization; and a representative of the Kansas Association of Counties. A notebook explaining NVRA is available from the Secretary of State's Office or the Kansas Legislative Research Department. The conferees' testimony is attached to the Committee minutes and is available from the Division of Legislative Administrative Services.

### Proposed Bill Concerning Restrictions on Gifts and Contributions

The bill would place restrictions on gifts and contributions to candidates, state officers, or employees by lobbyists and persons with special interests and persons licensed, inspected, or regulated by a state agency.

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Under this bill, hospitality in the form of recreation, food, and beverages would be exempt from restrictions on gifts and contributions when it is given by lobbyists, persons with special interests, and persons licensed, inspected, or regulated by a state agency to state officers and employees or candidates. "Recreation" would not include the provision or payment of transportation or lodging. In addition, complimentary registration or tuition for a meeting, conference, seminar, or other educational programs offered by trade associations, professional associations, or tax-exempt organizations would be exempt unless continuing education credits are awarded to the state officer or employee or candidate for purposes of professional licensure or registration.

The bill would exempt complimentary subscriptions or publications published primarily for the benefit of members by trade associations, professional associations, foundations, or tax-exempt organizations.

This bill also would prohibit persons licensed, inspected, or regulated by an agency from giving gifts in excess of \$40 to state officers or employees of that agency only if their purpose is to influence the official or employee in the performance of official duties.

Under this bill, lobbyists, people with special interests, and people licensed, inspected, or regulated by a state agency would be restricted from *ex parte* (only one party) communication with presiding officers and state agencies conducting adjudicative proceedings.

This bill would prohibit a state officer or employee from accepting an honoraria for a speaking engagement except a member of the state legislature or a part-time officer or employee of the executive branch of government shall be allowed to receive an honorarium if it is: not in excess of the value of the services rendered and not in excess of the actual expenditure for travel and reasonable subsistence; and not accepted from a person known to have a special interest when the officer or employee knows or should know that the person paying the honorarium is trying to influence that officer or employee in the performance of that person's official duties. Under this bill, an officer or employee would have to properly file a disclosure statement provided by the Kansas Commission on Governmental Standards and Conduct with the Secretary of State's Office within ten days of that officer or employee accepting the honorarium. State officers or employees may file an amended disclosure statement with the Secretary of State's Office any time after the original disclosure statement was filed. Copies of the disclosure statement shall be sent to: the Commission; the chief clerk of the House of Representatives if the person is a member of the House of Representatives; the secretary of the Senate if the person is a member of the Senate; and the chief executive officer of the department or agency of which the person is an officer or employee of the executive branch of government. Under this bill, the state officer or employee must provide correct information by stating the name of the person from whom the honorarium is received, the service provided, and the amount received for these services or for the expenses incurred in providing these services. Failure to file a correct disclosure statement is a class B misdemeanor.

Finally, the bill would allow contribution moneys received by a candidate or by a candidate committee of any candidate to be used for contributions to the party committee of which the candidate is a member.

The Committee heard from the following conferees: the Executive Director, Kansas Commission on Governmental Standards and Conduct; the General Counsel, Kansas Bar Association; the General Counsel, State Corporation Commission; the Chairman, Government Affairs Committee, Kansas Society of Association Executives; the Executive Director, Kansas Motor Carriers Association; a representative of the Christian Science Committee on Publications for Kansas; a representative from Pete McGill and Associates; the Legislative Co-Chairman of the League of Woman Voters of Kansas; a representative from United We Stand America; an attorney of Hein, Ebert, and Weir, Chartered; and a representative of the Governor's Office.

The conferees' testimony is attached to the Committee minutes and is available from the Division of Legislative Administrative Services.

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## CONCLUSIONS AND RECOMMENDATIONS

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### National Voter Registration Act

After the briefing by the Secretary of State's Office, the Committee concluded that the fiscal cost to implement the federal mandate would be extensive. The Committee discussed the following methods to respond to the federal mandates at the state level:

The Committee directed the Secretary of State's Office to provide the Committee, as soon as possible, with an estimate of the fiscal cost of implementing NVRA. After the fiscal costs have been provided, the Committee recommends that the chairperson request the Legislative Coordinating Council (LCC) to make a grant application to Congress and the President for funding to implement the state's obligation under the federal legislation.

The Committee also recommended that the chairperson request the LCC's permission to pay an election official from one of the exempted states to testify before the Committee in January or February, 1994, concerning that state's election laws which permitted that state to be exempted under NVRA. The Committee then could investigate ways to change Kansas election laws that may allow the State of Kansas to be exempted under this Act.

### Proposed Bill Concerning Restrictions on Gifts and Contributions

The Committee made no recommendations and plans further discussions on this bill during the 1994 Legislative Session.

## SENATE BILL NO. \_\_\_\_\_

By Committee on Elections, Congressional and Legislative  
Apportionment and Governmental Standards

AN ACT relating to state officers and employees and candidates for such offices; concerning gifts, loans, favors, services, economic opportunities and campaign contributions; amending K.S.A. 25-4157a, 46-237 and 46-271 and repealing the existing sections.

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

Section 1. K.S.A. 46-271 is hereby amended to read as follows: 46-271. (a) No lobbyist shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year to any state officer or employee or candidate for state office with a major purpose of influencing such officer or employee in the performance of official duties or prospective official duties. Hospitality--in---the---form---of recreation,--food--and--beverages--are--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--official--action--is--to--be--followed--as--a condition--thereon.

(b) The following are 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 official action is to be followed as a condition thereon:

(1) Hospitality in the form of (A) food and beverages, (B) recreation, or (C) 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, provided at no charge or at a reduced charge, unless continuing education credits are

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awarded to the state officer or employee or candidate for state office for purposes of professional licensure or registration; or

(2) gifts in the form of subscriptions or other publications published by trade associations, professional associations, foundations or tax exempt organizations, provided at no charge or at a reduced charge, when such publications are published primarily for the benefit of members or subscribers.

For the purposes of this subsection, the term recreation shall not include the providing or the payment of the cost of transportation or lodging.

Notwithstanding the foregoing presumptions, ex parte communications with presiding officers and agencies conducting adjudicative proceedings subject to K.S.A. 77-525, 77-545, 77-546, 77-548, and amendments thereto, and other applicable law and administrative regulations are expressly prohibited and are not excepted under this act.

(c) Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to (1) any contribution reported in compliance with the campaign finance act as amended, or (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business.

Sec. 2. K.S.A. 46-237 is hereby amended to read as follows: 46-237. (a) No state officer or employee or candidate for state office shall accept, or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year from any one person known to have a special interest, under circumstances where such person knows or should know that a major purpose of the donor is to influence such person in the performance of their official duties or prospective official duties.

(b) No person with a special interest shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$40 or more in any calendar year to any state officer or

employee or candidate for state office with a major purpose of influencing such officer or employee in the performance of official duties or prospective official duties.

(c) No person licensed, inspected or regulated by a state agency shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year to such agency or any state officer or employee of that agency with a major purpose of influencing such agency or any state officer or employee of such agency in the performance of official duties or prospective official duties.

(d) ~~Hospitality--in--the--form--of--recreation,---food---and beverages--are--presumed--not--to--be--given-to-influence-a-state officer-or-employee-in--the--performance--of--such--officer's--or employee's-official-duties-or-prospective-official-duties,--except when--a-particular-course-of-official-action-is-to-be-followed-as a-condition-thereon.--For-the-purposes--of--this--subsection,--the term-recreation-shall-not-include-the-providing-or-the-payment-of the--cost--of--transportation--or--lodging.~~ The following are 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 official action is to be followed as a condition thereon:

(1) Hospitality in the form of (A) food and beverages, (B) recreation, or (C) 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, provided at no charge or at a reduced charge, unless continuing education credits are awarded to the state officer or employee or candidate for state office for purposes of professional licensure or registration; or

(2) gifts in the form of subscriptions or other publications published by trade associations, professional associations, foundations or tax exempt organizations, provided at no charge or at a reduced charge, when such publications are published



primarily for the benefit of members or subscribers.

For the purposes of this subsection, the term recreation shall not include the providing or the payment of the cost of transportation or lodging.

Notwithstanding the foregoing presumptions, ex parte communications with presiding officers and agencies conducting adjudicative proceedings subject to K.S.A. 77-525, 77-545, 77-546, 77-548, and amendments thereto, and other applicable law and administrative regulations are expressly prohibited and are not excepted under this act.

(e) Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to (1) any contribution reported in compliance with the campaign finance act; or (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business.

(f) No state officer or employee shall accept any payment of honoraria for any speaking engagement except that a member of the state legislature or a part-time officer or employee of the executive branch of government shall be allowed to receive ~~reimbursement--in--the--preparation--for--and--the--making--of--a presentation-at-a-speaking-engagement-in-an-amount-fixed-by-the Kansas--commission-on-governmental-standards-and-conduct-prior-to the-acceptance-of-the-speaking-engagement;~~ an honorarium if such honorarium: (1) is not in excess of the usual and customary value of the services rendered and actual expenditures for travel and reasonable subsistence incurred in connection therewith; (2) is not accepted from a person known to have a special interest, under circumstances where such officer or employee knows or should know that a major purpose of the person paying such honorarium is to influence such officer or employee in the performance of their official duties or prospective duties; and (3) such officer or employee has properly filed the disclosure statement required by this subsection. Any officer or employee accepting an honorarium hereunder shall not later than 10 days after the acceptance of such honorarium, file in the office of

the secretary of state on a form prescribed and provided by the commission a disclosure statement as herein provided. Such officer or employee may file an amended statement (or, if permitted by the secretary of state, amend the original filing) at any time after the statement is originally filed. Copies of each statement filed shall be transmitted to: The commission; the chief clerk of the House of Representatives if the person filing such statement is a member of the house of representatives; the secretary of the senate if the person filing such statement is a member of the senate; and the chief executive officer of the department or agency of which the person filing the statement is an officer or employee if such person is an officer or employee of the executive branch of government. The disclosure statement shall be signed by the officer or employee making the same and shall state the name of the person from whom the honorarium is received, the service for which the honorarium is received and the amount received for services rendered or for expenses incurred in providing the service. Failure to file a correct disclosure statement is intentionally failing to file a disclosure statement when required or filing a disclosure statement which contains any material misrepresentation or false or fraudulent statement. Failure to file a correct disclosure statement is a class B misdemeanor.

(g) Nothing in this section shall be construed to prohibit the reimbursement of state officers and employees by the state of Kansas, for reasonable expenses incurred in attending seminars, conferences and other speaking engagements.

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

~~(h)~~ (i) No legislator shall solicit any contribution to be made to any organization for the purpose of paying for travel,

subsistence and other expenses incurred by such legislator or other members of the legislature in attending and participating in meetings, programs and activities of such organization or those conducted or sponsored by such organization, but nothing in this act or the act of which this act is amendatory shall be construed to prohibit any legislator from accepting reimbursement for actual expenses for travel, subsistence, hospitality, entertainment and other expenses incurred in attending and participating in meetings, programs and activities sponsored by the government of any foreign nation, or any organization organized under the laws of such foreign nation or any international organization or any national, nonprofit, nonpartisan organization established for the purpose of serving, informing, educating and strengthening state legislatures in all states of the nation, when paid from funds of such organization and nothing shall be construed to limit or prohibit the expenditure of funds of and by any such organization for such purposes.

Sec. 3. K.S.A. 25-4157a is hereby amended to read as follows: 25-4157a. (a) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for legitimate campaign purposes ~~or~~, for expenses of holding political office or for contributions to the party committees of the political party of which such candidate is a member.

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

(b) No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for

local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution. The provisions of this subsection shall not be construed to prohibit a candidate or candidate committee from accepting moneys from another candidate or candidate committee if such moneys constitute a reimbursement for one candidate's proportional share of the cost of any campaign activity participated in by both candidates involved. Such reimbursement shall not exceed an amount equal to the proportional share of the cost directly benefiting and attributable to the personal campaign of the candidate making such reimbursement.

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

Sec. 4. K.S.A. 25-4157a, 46-237 and 46-271 are hereby repealed.

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