

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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REC'D - LEGAL SERVICES

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia Ethics Commission TITLE NUMBER: 158

CITE AUTHORITY: West Virginia Code §6B-3-4(g), 6B-3-4(a)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED:

TITLE OF RULE BEING AMENDED: N/A

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 6

TITLE OF RULE BEING FILED AS AN EMERGENCY:

Lobbyist Activities Report Rule

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

(SEE ATTACHED SHEET)

Use Additional Sheets If Necessary.

Lynne Ranson



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

Chuck Polan
Secretary

February 13, 1990

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1990 FEB 13 PM 3:06
OFFICE OF THE SECRETARY OF STATE

Mr. Richard M. Alker
Executive Director
West Virginia Ethics Commission
Litton Building, 4th Floor
1207 Quarrier Street
Charleston, West Virginia 25301

Re: Emergency Rules

Dear Rick:

Approval is hereby given for filing of the Lobbyist Activities Report Emergency Rules for the West Virginia Ethics Commission, Series 6, as enclosed, in accordance with West Virginia Code Section 29-12-1 et seq.

Sincerely,

Chuck Polan
Secretary

CP/lm

Enclosure: 1

DATE: February 13, 1990

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Ethics Commission

EMERGENCY RULE TITLE: 158

1. Date of filing: February 13, 1990
2. Statutory authority for promulgating the emergency rule: 6B-3-4(g), 6B-3-4(a)
3. Date of filing of proposed legislative rule: February 13, 1990
4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

The emergency Rule adopts new language

5. Has the same or similar emergency rule previously been filed and expired?

NO

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

(See attached letter)

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

(See attached letter)

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

(See attached letter)

Section 158-6-1 Lobbyist Activities Report

1.1 Scope - this proposed emergency regulation seeks other relevant lobbying information.

1.2 Authority - West Virginia 6B-3-4(g), 6B-3-4(a)

1.3 Filing date

1.4 Effective Date

158-6-2

Beginning with the second reporting period of 1990 a lobbyist shall report the amount expended and the name of the government officer or employee whenever a lobbyist makes expenditures in one of the following categories: meals and beverages, living accommodations, advertising, travel, contributions, gifts and other expenditures which total more than \$25.00 per category to or on behalf of any particular government officer or employee during the period covered by the report.



STATE OF WEST VIRGINIA
WEST VIRGINIA ETHICS COMMISSION
4TH FLOOR — LITTON BUILDING
1207 QUARRIER STREET
CHARLESTON, WEST VIRGINIA 25301
(304) 348-0664

RICHARD M. ALKER
EXECUTIVE DIRECTOR

February 13, 1990

Robert E. Wilkinson
Deputy Secretary of State
State Capitol Building
Charleston, WV 25305

Dear Mr. Wilkinson,

Pursuant to the provisions of West Virginia Code sections 29A-3-15 and 15(a), I am submitting to you an emergency legislative rule which was filed today in order to implement the West Virginia Ethics Commission's directive that certain other relevant information be identified on the lobbyist's second activities report.

It is the Commission's position that the promulgation of fair rules of conduct and the exposure to public light of important information under disclosure requirements will be beneficial to all. For a state which has at long last begun demonstrating its desire to solve chronic problems, nothing is more important than having a government in which its citizens can place their trust and confidence, knowing their officials and employees to be honest and ethical.

A. The statutory authority for this rule is found in the following provisions:

1. Subsection 6B-3-4(a) of the West Virginia Code states in pertinent part that a lobbyist shall file with the Commission reports of his lobbying activities, signed under oath or affirmation by the lobbyist...The reports shall be made in the form and manner prescribed by legislative rule of the commission...

2. Subsection 6B-3-4(g) of the West Virginia Code states that lobbyists are required to report such other information relevant to lobbying activities as the Commission shall by legislative rule prescribe. Information supporting such activities as are required to be reported is subject to audit by the Commission.

It is relevant information for a lobbyist to disclose to the Ethics Commission and citizens of the State the name of a public officer or employee for whom a lobbyist makes expenditures over \$25 (in any one of the listed financial categories) during a reporting period.

WHY SUCH OTHER INFORMATION IS RELEVANT TO LOBBYING ACTIVITY:

3. The information sought by emergency legislative rule would not otherwise be available. Subsection 6B-3-4(b)(1) requires a lobbyist to report the total amount of all expenditures for lobbying made or incurred by a lobbyist or his employer (on behalf of such lobbyist). The report also requires the subtotals to be segregated according to financial category including: meals and beverages; living accommodations; advertising; travel; contributions; gifts to government officers or employees (or to members of the immediate family of such persons) and other expenses or services.

In essence, subsection 6B-3-4(b)(1) only requires a lobbyist to report the "total" amount spent and "subtotal" amounts in each of the above listed categories without providing a specific breakdown of expenditures or naming recipients.

It is relevant for the public and the Ethics Commission to know the specific amount expended and the name of the lobbyist's recipient of expenditures (over \$25) per financial category as identified above in subsection (b)(1). This information is not available from any other source.

Subsection 6B-3-4(E) does not sufficiently provide for disclosure of this information since it requires the lobbyist to disclose the amount spent by him or her over \$500, the name of the recipient and the subject matter of the lobbying activity, if any and does not require disclosure over \$25 in each of the financial categories.

4. The emergency legislative rule would provide other relevant lobbying activity information, such as:

a. the exact amount of a lobbyist's expenditures over \$25 for or on behalf of a public official or public employee (that is, for example whether the expenditure was \$25.01 or \$500),

b. the name of each recipient of the lobbyist's expenditures over \$25 (the current report requires the total or subtotal to be listed but, does not identify the recipient),

c. to assist the Commission with its auditing responsibilities as set forth in subsection 6B-3-4(g) (with the current report it is not possible to ascertain whether such expenditures were legitimately made during the course of lobbying activities, without the exact amount or name of the public official or employee identified for which the expenditures were made).

5. The emergency legislative rule is not inconsistent with existing statutory provisions. The proposed emergency legislative rule is not in direct contradiction to and not inconsistent with the existing statutory provisions relating to lobbyist reporting. Subsection 6B-3-4(b)(2)(E) provides the only limitation regarding expenditures that the Legislature specifically directed that lobbyists were not required to report.

That provision (6B-3-4(b)(2)(E)) specifically states that lobbyists are not required to report separate expenditures to or on behalf of a government officer or employee in an amount of less than five (\$5) dollars.

As previously noted, another subsection (6B-3-4(e)) requires disclosure by the lobbyist of any expenditures over \$500 made to or on behalf of such government officer, the recipient's name, and the subject matter of the lobbying activity. The emergency legislative rule does not seek the same lobbying information (such as the subject matter of the lobbying activity) but seeks other relevant information (such as expenditures over \$25 per financial category) and therefore is not inconsistent nor is it being offered as a substitute for subsection 6B-3-4(e).

6. This emergency legislative rule is not unduly burdensome for lobbyists. Subsection 6B-3-7(1) of the West Virginia Code states in pertinent part that a person required to register as a lobbyist under this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, verifies, or confirms any such act, to other civil liabilities, as provided by this chapter.

Such persons shall obtain and preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the financial reports required to be made under this article for a period of at least five years from the date of the filing of the statement containing such items, which accounts, bills, receipts, books, papers and documents shall be made available for inspection by the Commission at any time.

Therefore, the emergency legislative rule does not impose an additional unreasonable burden on lobbyists in requiring them to report an individual's name when more than twenty-five (\$25) dollars has been expended on behalf of or for such individual, since lobbyists (or their employers) are already required to preserve and maintain for five years all records to substantiate expenditures. Furthermore, in order for a lobbyist to know when he or she has expended more than \$500 and disclose such on the report (as currently required in subsection 6B-3-4(e) of the Ethics Act) he or she must keep a record of all expenditures made for or on behalf of government officers or employees.

The Commission in issuing its directive to promulgate a legislative rule was cognizant of the need to give fair and adequate notice to lobbyists that they would be required to identify individuals for whom they expended more than twenty-five (\$25) dollars. Therefore, such emergency legislative rule will not be in effect until the second reporting period (beginning February 21, 1990).

The Commission will be immediately sending a letter to all registered lobbyists specifically advising them of the additional information being sought in their reporting requirements for the second reporting period.

Also, the West Virginia Ethics Commission will be providing notice to all other unregistered individuals through the news media.

B. The emergency has arisen because of the following circumstances:

1. West Virginia Code subsections 6B-3-4(a)(2)(A) and (B) require a lobbyist who engages in lobbying activities with respect to legislation to file two lobbying reports during a legislative session describing his lobbying activities. The first report must be filed with the Ethics Commission between the 40th and the 45th day of the regular session (with this reporting period ending February 20, 1990). The second Lobbyist Activities Report must be filed with the Ethics Commission within twenty-one days following the adjournment of any regular or extraordinary session (which includes the time period of February 21, 1990 through the remainder of the legislative session).

2. Currently, subsection 6B-3-4(b)(1) only requires that the lobbyist report "total" expenditures in the seven categories listed. However, that section does not require the lobbyist to report the name, nor the amount or itemization of expenditures over \$25 for or on behalf of a public official or employee.

3. Although, subsection 6B-3-4(e) of the West Virginia Code currently requires a lobbyist to identify on the Activities Report a public official or employee's name, the amount expended and the subject matter of the lobbying activity when certain expenditures totalling over \$500 are made to or on behalf of such government officer or employee, the Commission believes that some public disclosure should occur prior to the time the lobbyist reaches \$500 in expenditures.

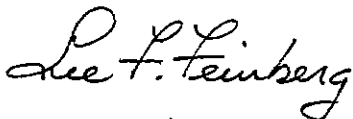
4. At its general meeting on February 1, 1990 the West Virginia Ethics Commission determined that it was in the public's best interest and voted to promulgate a legislative rule that would: (1) require a lobbyist to provide more specific information (exact amount) for each subcategory regarding expenditures of more than \$25 and (2) require a lobbyist to name the recipient of expenditures of more than \$25.

5. The second lobbyist activity reporting period begins February 21, 1990 and the report must be filed with the West Virginia Ethics Commission within twenty-one days following the legislative session (which would be March 31, 1990 if there was no extraordinary legislative session).

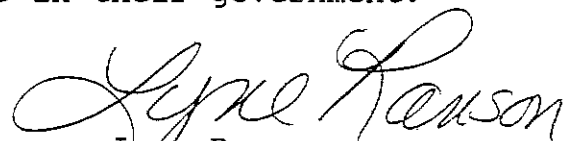
6. The legislative rule-making procedures require an agency at the time it files its proposed legislative rules to file a notice of public hearing with the Secretary of State's office on the rule. The notice of a public hearing must be filed not less than thirty days (which would be after the commencement of the February 21, 1990 reporting period) before the date of the public hearing. A public hearing must be held before a legislative rule can be promulgated.

7. Therefore, it would be impossible to implement the legislative rule as directed by the West Virginia Ethics Commission on February 1, 1990 prior to the commencement of lobbyist's second reporting time period (February 21, 1990). Therefore, it is necessary to carry out the West Virginia Ethics Commission's directive by emergency legislative rule given the time requirements necessary to proceed by legislative rule-making.

8. The Commission believes that such other relevant information that is being sought pursuant to the emergency legislative rule is material to lobbying activity and the Commission as well as the public have a right to view such information. Furthermore, it is imperative that this information be disclosed at this time (beginning with the second lobbyist reporting period) and that the public and Commission not be required to wait until the 1991 legislative session to promulgate such legislative rule. If the Commission is required to proceed through the regular legislative rule-making process then neither the Commission nor the public would have the benefit of such information in 1990. Therefore, this emergency legislative rule is necessary to allow the public to have access to such relevant lobbying information and restore confidence in their government.



Lee Feinberg
Chairman, Ethics Commission



Lyle Ranson
Legal Counsel

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

RICHARD O. HARTMAN
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

OFFICE OF THE
SECRETARY OF STATE

1990 FEB 16 AM 11:55

FILED

February 14, 1990

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: West Virginia Ethics Commission

RULE: New Rule, Series 6; Lobbyist Activities Report Rule

DATE FILED AS AN EMERGENCY RULE: February 13, 1990

DECISION NO. 2-90

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

A handwritten signature in cursive script that reads "Ken Hechler".

KEN HECHLER
Secretary of State

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



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(Plus all the volunteer
help we can get)

DECISION EMERGENCY RULE DECISION (ERD 2-90)

AGENCY: West Virginia Ethics Commission
RULE: New Rule, Series 6, Lobbyist Activities Report Rule
FILED AS AN EMERGENCY RULE: February 13, 1990

- par. 1 The Ethics Commission has filed a new rule as an emergency.
- par. 2 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Ethics Commission has filed this emergency rule with supporting documents with the Secretary of State on February 13, 1990 and with the LRMRC on February 13, 1990.

par. 7 It is the determination of the Secretary of State that the Ethics Commission has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §6B-3-4(a) reads:

§6B-3-4(a). Reporting by lobbyists.

(a) A lobbyist shall file with the commission reports of his lobbying activities, signed under oath of affirmation by the lobbyist. Lobbyists who are required under this article to file copies of their registration statements with the clerks of the respective houses of the Legislature shall also contemporaneously file copies of all reports required under this section with the clerks. The reports shall be made in the form and manner prescribed by legislative rule of the commission.

par. 9 WV Code §6B-3-4(g) further states:

(g) Such other information relevant to lobbying activities as the commission shall by legislative rule prescribe. Information supporting such activities are required to be reported is subject to audit by the commission.

par. 10 It is the determination of the Secretary of State that the Ethics Commission has not exceeded its statutory authority in promulgating this emergency rule.

par. 11 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 12 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 13 The facts and circumstances as presented by the Ethics Commission are as follows:

It is the Commission's position that the promulgation of fair rules of conduct and the exposure to public light of important information under disclosure requirements will be beneficial to all. For a state which has at long last begun demonstrating its desire to solve chronic problems, nothing is more important than having a government in which its citizens can place their trust and confidence, knowing their officials and employees to be honest and ethical.

A. The statutory authority for this rule is found in the following provisions.

1. Subsection 6B-3-4(a) of the West Virginia Code states in pertinent part that a lobbyist shall file with the Commission reports of his lobbying activities, signed under oath or affirmation by the lobbyist...The reports shall be made in the form and manner prescribed by legislative rule of the commission...

2. Subsection 6B-3-4(g) of the West Virginia Code states that lobbyists are required to report such other information relevant to lobbying activities as the Commission shall by legislative rule prescribe. Information supporting such activities as are required to be reported is subject to audit by the Commission.

It is relevant information for a lobbyist to disclose to the Ethics commission and citizens of the State the name of a public officer or employee for whom a lobbyist makes expenditures over \$25 (in any one of the listed financial categories) during a reporting period.

WHY SUCH OTHER INFORMATION IS RELEVANT TO LOBBYING ACTIVITY:

3. The information sought by emergency legislative rule would not otherwise be available. Subsection 6B-3-4(b)(1) requires a lobbyist to report the total amount of all expenditures for lobbying made or incurred by a lobbyist or his employer (on behalf of such lobbyist). The report also requires the subtotals to be segregated according to financial category including: meals and beverages; living accommodations; advertising; travel; contributions; gifts to government officers or employees (or to members of the immediate family of such persons) and other expenses or services.

In essence, subsection 6B-3-4(b)(1) only requires a lobbyist to report the "total" amount spent and "subtotal" amounts in each of the above listed categories without providing a specific breakdown of expenditures or naming recipients.

It is relevant for the public and the Ethics Commission to know the specific amount expended and the name of the lobbyist's recipient of expenditures (over \$25) per financial category as identified above in subsection (b)(1). This information is not available from any other source.

Subsection 6B-3-4(E) does not sufficiently provide for disclosure of this information since it requires the lobbyist to disclose the amount spent by him or her over \$500, the name of the recipient and the subject matter of the lobbying activity, if any and does not require disclosure over \$25 in each of the financial categories.

4. The emergency legislative rule would provide other relevant lobbying activity information, such as:

a. the exact amount of a lobbyist's expenditures over \$25 for or on behalf of a public official or public employee (that is, for example whether the expenditure was \$25.01 or \$500).

b. The name of each recipient of the lobbyist's expenditures over \$25 (the current report requires the total or subtotal to be listed but, does not identify the recipient),

c. to assist the Commission with its auditing responsibilities as set forth in subsection 6B-3-4(g) (with the current report it is not possible to ascertain whether such expenditures were legitimately made during the course of lobbying activities, without the exact amount or name of the public official or employee identified for which the expenditures were made).

5. The emergency legislative rule is not inconsistent with existing statutory provisions. The proposed emergency legislative rule is not in direct contradiction to and not inconsistent with the existing statutory provisions relating to lobbyist reporting. Subsection 6B-3-4(b)(2)(E) provides the only limitation regarding expenditures that the Legislature specifically directed that lobbyists were not required to report.

That provision (6B-3-4(b)(2)(E)) specifically states that lobbyists are not required to report separate expenditures to or on behalf of a government officer or employee in an amount of less than five (\$5) dollars.

As previously noted, another subsection (6B-3-4(e)) requires disclosure by the lobbyist of any expenditures over \$500 made to or on behalf of such government officer, the recipient's name, and the subject matter of the lobbying activity. The emergency legislative rule does not seek the same lobbying information (such as the subject matter of the lobbying activity) but seeks other relevant information (such as expenditures over \$25 per financial category) and therefore is not inconsistent nor is it being offered as a substitute for subsection 6B-3-4(e).

6. This emergency legislative rule is not unduly burdensome for lobbyists. Subsection 6B-3-7(1) of the West Virginia Code states in pertinent part that a person required to register as a lobbyist under this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, verifies or confirms any such act, to other civil liabilities, as provided by this chapter.

Such persons shall obtain and preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the financial reports required to be made under this article for a period of at least five years from the date of the filing of the statement containing such items, which accounts, bills, receipts, books, papers and documents shall be made available for inspection by the Commission at any time.

Therefore, the emergency legislative rule does not impose an additional unreasonable burden on lobbyists in requiring them to report an individual's name when more than twenty-five (\$25) dollars has been expended on behalf of or for such individual, since lobbyists (or their employers) are already required to preserve and maintain for five years all records to substantiate expenditures. Furthermore, in order for a lobbyist to know when he or she has expended more than \$500 and disclose such on the report (as currently required in subsection 6B-3-4(e) of the Ethics Act) he or she must keep a record of all expenditures made for or on behalf of government officers or employees.

The Commission in issuing its directive to promulgate a legislative rule was cognizant of the need to give fair and adequate notice to lobbyists that they would be required to identify individuals for whom they expended more than twenty-five (\$25) dollars. Therefore, such emergency legislative rule will not be in effect until the second reporting period (beginning February 21, 1990).

The Commission will be immediately sending a letter to all registered lobbyists specifically advising them of the additional information being sought in their reporting requirements for the second reporting period.

Also, the West Virginia Ethics Commission will be providing notice to all other unregistered individuals through the news media.

B. The emergency has arisen because of the following circumstances:

1. West Virginia Code subsections 6B-3-4(a)(2)(A) and (B) require a lobbyist who engages in lobbying activities with respect to legislation to file two lobbying reports during a legislative session describing his lobbying activities. The first report must be filed with the Ethics Commission between the 40th and the 45th day of the regular session (with this reporting period ending February 20, 1990). The second Lobbyist Activities Report must be filed with the Ethics Commission within twenty-one days following the adjournment of any regular or extraordinary session (which includes the time period of February 21, 1990 through the remainder of the legislative session).

2. Currently, subsection 6B-3-4(b)(1) only requires that the lobbyist report "total" expenditures in the seven categories listed. However, that section does not require the lobbyist to report the name, nor the amount or itemization of expenditures over \$25 for or on behalf of a public official or employee.

3. Although, subsection 6B-3-4(e) of the West Virginia Code currently requires a lobbyist to identify on the Activities Report a public official or employee's name, the amount expended and the subject matter of the lobbying activity when certain expenditures totalling over \$500 are made to or on behalf of such government officer or employee, the Commission believes that some public disclosure should occur prior to the time the lobbyist reaches \$500 in expenditures.

4. At its general meeting on February 1, 1990, the West Virginia Ethics Commission determined that it was in the public's best interest and voted to promulgate a legislative rule that would: (1) require a lobbyist to provide more specific information (exact amount) for each subcategory regarding expenditures of more than \$25 and (2) require a lobbyist to name the recipient of expenditures of more than \$25.

5. The second lobbyist activity reporting period begins February 21, 1990 and the report must be filed with the West Virginia Ethics Commission within twenty-one days following the legislative session (which would be March 31, 1990 if there was no extraordinary legislative session).

6. The legislative rule-making procedures require an agency at the time it files its proposed legislative rules to file a notice of public hearing with the Secretary of State's office on the rule. The notice of a public hearing must be filed not less than thirty days (which would be after the commencement of the February 21, 1990 reporting period) before the date of the public hearing. A public hearing must be held before a legislative rule can be promulgated.

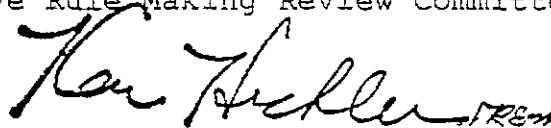
7. Therefore, it would be impossible to implement the legislative rule as directed by the West Virginia Ethics Commission on February 1, 1990 prior to the commencement of lobbyist's second reporting time period (February 21, 1990). Therefore, it is necessary to carry out the West Virginia Ethics Commission's directive by emergency legislative rule given the time requirements necessary to proceed by legislative rule-making.

8. The Commission believes that such other relevant information that is being sought pursuant to the emergency legislative rule is material to lobbying activity and the Commission as well as the public have a right to view such information. Furthermore, it is imperative that this information be disclosed at this time (beginning with the

second lobbyist reporting period) and that the public and Commission not be required to wait until the 1991 legislative session to promulgate such legislative rule. If the Commission is required to proceed through the regular legislative rule-making process then neither the Commission nor the public would have the benefit of such information in 1990. Therefore, this emergency legislative rule is necessary to allow the public to have access to such relevant lobbying information and restore confidence in their government.

par. 14 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in 29A-3-15(g) . . . "to comply with a time limitation" and "to prevent substantial harm to the public interest".

par. 15 This decision shall be cited as Emergency Rule Decision 2-90 or ERD 2-90 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the West Virginia Ethics Commission, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE

Entered February 16, 1990

FILED
1990 FEB 16 AM 11:55
OFFICE OF THE SECRETARY OF STATE