

**ARKANSAS ETHICS COMMISSION  
ADVISORY OPINION 97-EC-004**

**ISSUE PRESENTED**

*Whether a legislator, who is provided a free trip to Washington D. C. to lobby members of Congress in relation to his private business, is required to report the trip as a gift on his annually filed Statement of Financial Interest?*

**BRIEF RESPONSE**

Yes. Since the legislator is receiving the trip because of his private job, and not his position as legislator, the value of the trip must be reported if the value equals or exceeds \$100.

**FACTS PRESENTED**

A state representative works as an independent insurance agent in private life. As such he is a member of the Independent Insurance Agents of Arkansas Association. Each year the Association travels to Washington D.C. to meet with the Arkansas members of Congress essentially to lobby for its concerns. The Association pays all of the agents' costs associated with the trip.

**DECISION**

As a member of the General Assembly, the representative is required to file an annual Statement of Financial Interest. One of the purposes of the Statement is the disclosure of gifts received by the legislator during the preceding year. Whether something is a "gift" and therefore subject to disclosure is not an easily identifiable matter, made more difficult by the statutory language of the laws listing the exceptions to the gift definition.

Ark. Code Ann. §21-8-402(5)(A) defines "gift" as any "payment, entertainment, advance, ... or anything of value." Under the law, its value must be at least \$100, which is easily met in these fact circumstances. §21-8-402(5)(B) states that the term "gift" does not include:

(i)(a) Informational material such as books, ...informing a public servant regarding his or her official duties.

(b) Payment for travel or reimbursement for any expenses are not informational material.

(ii) The giving or receiving of food, lodging, or travel which bears a relationship to the public servant's office and when appearing in his official capacity.

[Emphasis added.]

While the wording of §402(5)(B)(i)(b) is clumsy and, on its face, inconsistent with §402(5)(B) (ii), when read together, the meaning appears clear that the statute intended that reimbursements for expenses is not the same as informational materials even if the material was received during an otherwise properly reported business trip. The cost of the informational materials received during the trip is not a gift, but the receipt of the trip is.

In the present case, the statute must be read to mean that payments for travel would typically be considered a gift unless the payment bears a relationship to the servant's job as representative. Here the representative is being provided a trip, not because he is a representative, but because he works as an insurance agent in his private life. Therefore, the value and costs of this trip do not fall with the stated exceptions to the gift statute and must be reported as a gift on the Statement of Financial Interest.

  
Randall G. Wright  
Interim Executive Director