



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 81-26

The Honorable Paul Feleciano, Jr.  
State Senator, Twenty-Eighth District  
State Capitol, Room 126-S  
Topeka, Kansas 66612

Re: State Departments; Public Officers, Employees--  
Open Meetings Act--Political Caucuses of Legislature

Synopsis: Although the Kansas Open Meetings Act generally applies to a prearranged meeting of a majority of a quorum of the Kansas legislature, certain gatherings may be excepted from the Act by house or senate rule. Cited herein: K.S.A. 75-4317 and K.S.A. 1980 Supp. 75-4318.

\* \* \*

Dear Senator Feleciano:

You inquire regarding the applicability of the Kansas Open Meetings Act to party caucuses of the Kansas Legislature.

Without knowing the precise nature of the subject matter discussed at any particular meeting, categorical statements regarding application of the Act are impossible. If the purpose of a prearranged gathering of a majority of a quorum of the legislature is held to discuss legislative matters, we believe that the gathering is a meeting subject to the provisions of the Kansas Open Meetings Act. K.S.A. 75-4317 et seq. This conclusion reaffirms the finding of former Attorney General Schneider in Attorney General Opinion No. 75-362. However, we call your

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attention to the language of K.S.A. 1980 Supp. 75-4318 wherein the legislature has declared that all meetings of bodies subject to the Act are required to meet in the open, "[e]xcept as otherwise provided . . . by rules of the house or senate."

The 1981 Kansas Senate has adopted rule 23 which states: "Caucuses May Be Closed. -- Caucuses of Senate majority and minority parties may be closed." Journal of the Senate, January 15, 1981 at 29. Hence, in our judgment, a political caucus conducted by either party of the 1981 Kansas Senate may be closed without violating the Kansas Open Meetings Act.

We note in passing that the position of the Kansas legislature in its defense of Burnett v. Doyen, 220 Kan. 400 (1975), that the party caucus of either party is not subject to the Act, seems to continue as the policy of the upper chamber. Although this position is contra to Kansas Attorney General Opinion No. 75-362, it is taken on the advice of legislative counsel and has never been judicially rejected. Of course, as previously stated, this juxtaposition of legal opinion loses all significance when Senate rules authorize the closure of such caucuses.

In sum, although the Kansas Open Meetings Act generally applies to a prearranged meeting of a majority of a quorum of the Kansas legislature, certain gatherings may be excepted from the Act by house or senate rule.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Bradley J. Smoot  
Deputy Attorney General

RTS:BJS:phf