

Approved 4-9-91
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS

The meeting was called to order by SENATOR DON SALLEE at
Chairperson

12:30 ~~xxx~~ p.m. on April 2, 1991 in room 519-S of the Capitol.

All members were present ~~except~~ or excused:

Committee staff present:

Pat Mah, Legislative Research Department
Ardan Ensley, Office of the Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Others attending: see attached sheet

The meeting was called to order shortly after 12:30 p.m.

HB-2454 - Comprehensive amendments to governmental ethics and campaign finance laws.

Staff reviewed the supplemental note on House Bill No. 2454 pointing out the changes made by the House Elections Committee as well as the House Committee of the Whole. Staff went through the bill pointing out changes as shown in Attachment 1.

New section 3 would establish a new fund which would be used for the operation of the commission. Individuals who would pay the new fees would be those falling under the campaign finance act.

Estimated fees would vary from \$55,000 to \$100,000 depending on whether or not it was an election year. These fees would be paid by those candidates now under the campaign finance law.

The question was posed as to how these fees would be paid and staff noted the bill does not address how the fee would be collected nor does it specify what would happen should the special fee not be paid but it could be a violation of the act and would be a misdemeanor.

It was noted the Senate would pay twice as much in fees and have the ability to receive half as much in contributions.

The issue of limiting cash contributions to \$100 was discussed and it was noted they were demanding contributions in some form other than cash. Staff noted that current law requires a receipt be issued for anything over \$10.00. It was noted the rationale was that there was not a trail on cash that there would be using checks. The comment was made that if an infraction of the law is occurring there will be no tracks.

Staff indicated there was some difficulty concerning the definition of "person" and it was noted there was a definite conflict in the bill. The bill sets up contribution limitations for both PACs and parties and then says they cannot contribute.

The question was raised as to whether one could pay themselves a salary from campaign funds noting campaigning was certainly an expense if you were away from one's regular job to campaign. Carol Williams of the Public Disclosure Commission told members that under current law one could certainly pay themselves a salary. Under HB-2454 it would depend on the ruling of the Public Disclosure Commission. It was further noted that mileage is a legitimate expense. A salary could be considered "personal use" and certain expenses could vary between candidates.

There was discussion concerning the new Section 16 which basically states that candidates cannot use state equipment nor state employees who are being compensated by the state for campaign purposes. There was some question as to the position of incumbents and how this section would apply.

New section 24 was modeled after the state of Washington.

There was considerable discussion concerning the definition of lobbying and lobbyist.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS

room 519-S, Statehouse, at 12:30 ~~xxx~~/p.m. on April 2, 1991.

The aggregate limitation on gifts or other items of value would be reduced from \$100 to \$20 per calendar year. Hospitality is not considered a gift which would come under this limit but would remain as it is under current law.

It was noted concerning Section 33 that only one part of the recommendation by the Select Commission concerning a statement of substantial interest.

The difference between a lobbyist's employer and a lobbyist's principal were noted with an employer being someone who hires a person to lobby for them rather than the entity on whose behalf one was lobbying.

The meeting was adjourned at 1:25 p m to move to Room 529-S for the Elections Committee's regularly scheduled meeting.

SESSION OF 1991

Revised
SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2454

As Amended by House Committee of the Whole

Brief*

H.B. 2454, as amended, changes current law in areas relating to state conflict of interest, campaign finance, and lobbying regulation. It also changes current law in regard to the administration and enforcement of these three areas. Several sections of the bill would change the name of the Kansas Public Disclosure Commission to the Kansas Governmental Ethics Commission. In addition, the bill would do the following:

1. The term of appointment for certain members who now serve on the Commission would be changed (Section 1). The member appointed by the Chief Justice of the Supreme Court would serve until the end of January of 1994 instead of 1991. The members appointed by the minority leader of each house would serve until the end of January of 1993 instead of 1992.
2. The Commission would be authorized to adopt rules and regulations fixing reasonable fees for persons who request copies of opinions, informational materials published by the Commission, and any public records filed in the office of the Commission (Section 1). All fees collected would be credited to the Kansas Governmental Ethics Commission Fee Fund that would be established by the bill. As in current law, the Secretary of State's Office would continue to serve as the repository for opinions issued by the Commission, along with continuing its duties for the publication of the opinions. The Secretary of State's Office also would continue to be responsible for making campaign finance reports and statements of substantial interest available for public inspection and copying during regular business hours. (A change from current law would specifically occur with regard to informational materials compiled by the Commission. Collected revenues by the Commission for selling copies of such materials would be credited to a fee fund established for the agency.)

* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

Senate Elections Committee
April 2, 1991
Attachment 1

3. The eligibility requirements for being appointed to or serving on the Commission would be changed (Section 2):
 - a. Persons would be prohibited from serving or being appointed to the Commission only if they are officers, not just employees, of a company that provides goods and services to the State of Kansas. (Current law prohibits a person from being appointed to or serving if three years prior to the appointment date, the person was employed by a vender of goods and services to the State of Kansas.)
 - b. Persons would be prohibited from serving or being appointed to the Commission if they provide services under contract to the State of Kansas rather than if they provide services under contract to any vendor of goods or services to the State of Kansas. (Current law prohibits a person from being appointed to or serving if three years prior to the appointment date, the person provided services under contract to any vendor of goods or services to the State of Kansas.)
4. A new fund called the Kansas Governmental Ethics Commission Fee Fund would be established by the bill (New Section 3). Expenditures from the Fund would be subject to appropriation acts and any moneys in the Fund would be for the operations of the Commission. The Fund would be credited with revenues collected for existing and additional fees which would be imposed by the bill and for penalties assessed against those who violate provisions of the laws administered by the Commission (New Section 4 and Sections 1, 8, 10, 18, 19, 37, 41, and 42). (Under current law, the fee imposed on lobbyists who are regulated by the Commission and all penalties or fines assessed against violators of the laws administered by the Commission are credited to the State General Fund. Current funding for the operations of the Commission is entirely from the State General Fund.)
5. In addition to payment of fees under current law for filing for elective offices, certain candidates would be required to pay

additional fees when filing for offices (New Section 4). Candidates for offices elected by statewide election would pay an additional \$250 each. Candidates for the state Senate, office of district attorney, the State Board of Education, and governing bodies of county offices or the Board of Public Utilities in Kansas City, Kansas would pay an additional \$20 each. Candidates for membership to the House of Representatives, elective offices in cities of the first class, and judges of the district court in judicial districts in which judges are elected would pay an additional \$10 each. Any fees collected would be credited to the Kansas Governmental Ethics Commission Fee Fund for the state operations of the Commission.

6. Candidates for election to local school boards would be placed under the Campaign Finance Act (Section 6). The candidates would have to file reports that are required by the Act. They also would be subject to campaign contribution limitations that are specified by the Act. (Under current law, these candidates must file an itemized statement of each contribution in excess of \$50 and an itemized statement of all expenditures for each primary, general, or special election unless an affidavit of exemption is filed and the candidate has received or expended an aggregate amount of less than \$500 for the primary and \$500 for the general election. Current state law does not establish limitations for campaign contributions to these local candidates.)
7. A registered lobbyist would be prohibited from serving as treasurer for a candidate or committee under the Campaign Finance Act (Section 7). (Under current law, a lobbyist or any individual may serve as treasurer for a candidate, candidate committee, party committee, political committee, or for any two or more of these entities.)
8. Each political committee (PAC) which anticipates receiving contributions would be required to register annually with the Commission (Section 8). Those political committees anticipating contribution receipts of \$2,501 or more in any calendar year would pay an annual registration fee of \$150. Political committees anticipating receipts of \$2,500 or less in any calendar year would pay \$10 annually and would have three days after receiving contributions of over \$2,500 to pay the additional \$140 for the year. Collected receipts would be

credited to the Kansas Governmental Ethics Commission Fee Fund. (Under current law, political committees must appoint a chairperson and treasurer. The chairperson then must file an statement of organization with the Secretary of State's Office not later than ten days after its establishment. These committees are not required to pay fees or register annually, but must file supplemental statements of organization when information contained in prior reports have changed.)

9. Current law would be amended to provide that accounts of the state committee of each political party must be audited annually in accordance with generally accepted accounting principles rather than by a certified public accountant (Section 9).
10. The campaign contribution limitation established under current law for office to the state Senate would be reduced from \$1,000 to \$500 for each primary or each general election (Section 11). The contribution limitation for a contested primary election that is established for a party committee to a candidate for the state Senate also would be reduced from \$1,000 to \$500 for each primary or each general election.
11. Contributions, under the Campaign Finance Act, by unemancipated children under 18 years of age would be considered contributions by their parents and attributed proportionately to each parent, 50 percent of the contributions to each parent or, in the case of a single custodial parent, the total amount to the custodial parent (Section 11). (Although it has been the policy of the Public Disclosure Commission to consider contributions by children under 18 years of age as attributable to their parents, this issue is not addressed by Kansas statutes or regulations.)
12. Language would be deleted that excludes a national party committee or a political committee from the \$15,000 per calendar year limitation for contributions to a state political party committee (Section 11). Current law also would be maintained by the bill which establishes limitations of \$25,000 per calendar year by a national party and \$5,000 per calendar year by a political committee to a state party committee.
13. In regard to party committees that are not state party committees, language also would be deleted that excludes a national

party committee or a political committee from the \$5,000 per calendar year limitation for contributions to one of these party committees (Section 11). Current law also would be maintained by the bill which establishes limitations of \$10,000 per calendar year by a national party and \$5,000 per calendar year by a political committee to these political party committees.

14. Contributions by a person that are made in the form of cash would be limited to \$100 or less for any one primary or general election (Section 11). (Restrictions on cash contributions are not addressed by Kansas statutes. Kansas administrative regulations do state that cash contributions in an amount of \$10 or more must be accounted for by a written receipt that is signed by the treasurer or treasurer's agent.)
15. New language would be added to provide that no "person," other than an individual, could give a campaign contribution to a candidate or candidate committee under the Campaign Finance Act (Section 12). The bill would maintain the current definition for the term "person." (Under current law, "person" as used for purposes throughout the Campaign Finance Act is defined as any individual, committee, corporation, partnership, trust, organization, or association.) Contribution limitations established under current law for corporations, partnerships, trusts, organizations, and associations would be removed (Section 11). Although the new language would prohibit committees such as a party or political committee from contributing to a candidate, the contribution limitations established under current law would be maintained.
16. New language would be added to current law to provide that no moneys collected under the Campaign Finance Act may be used for the "personal use" of the candidate (Section 13). The bill would maintain the definition under current law for the term "personal use." (Current law defines "personal use" as any expenditure that has no direct connection or effect upon the campaign or the holding of office by the candidate, including expenditures to defray normal living expenses for the candidate or candidate's family.) In addition, such funds could not be used by a candidate or the candidate's committee except for legitimate campaign purposes or for expenses of holding political office. (Under current law, any "unexpended balance" of a candidate under the Campaign Finance Act may not be made available for the personal use of the candidate

except for legitimate campaign purposes or for expenses of holding political office. The term "unexpended balance" is not defined by current law.)

17. Funds that are received by a candidate or the candidate's committee as a contribution under the Campaign Finance Act could not be given or contributed to any other candidate as a contribution (Section 13). In addition, when there is dissolution of funds collected under the Campaign Finance Act, prior to the filing of a termination report as required by law, the remaining funds that are not otherwise obligated for payment of expenses incurred in a campaign or the holding of office would have to be given to a charitable organization (as defined by law), a party committee, a contributor of the funds as all or part of a refund for the contribution, or paid to the State General Fund of Kansas. (Current law allows a candidate to collect funds under the Campaign Finance Act and then contribute the funds for the election of others who are seeking office. In regard to the use of remaining moneys when a campaign fund is dissolved, current law only prohibits the candidate's use of such funds for personal purposes.)
18. Investigative subpoena power would be established for the Commission (Sections 14 and 36) and language in current law with regard to the issuance of subpoenas for violation of the laws administered by the Commission would be stricken (Sections 15 and 35). The bill would provide that, for purposes of investigations or proceedings under the laws administered by the Commission, the Commission or its designated officer may subpoena witnesses and require the production of any documents or records deemed relevant to an inquiry. Prior to the issuance of a subpoena, the Commission would have to authorize it by not less than three-fourths vote of the Commission's members. (Under current law, the Commission has the following options with regard to the issuance of subpoenas:
 - a. After a verified complaint has been filed and a public hearing is to be held because of the finding of probable cause by the Commission, the Commission may issue subpoenas at the request of any party prior to the public hearing.

- b. After a verified complaint has been filed and the Commission decides to conduct an investigation of the complaint because it has determined probable cause, the Commission may apply to the administrative judge of the District Court of Shawnee County for issuance of a subpoena.
 - c. The Commission may request the issuance of a subpoena prior to the filing of a complaint relating to violation of the Campaign Finance Act. After the Commission determines by a two-thirds vote of its membership that violation of the law did occur, written application may be made to the administrative judge of the District Court of Shawnee County for issuance of a subpoena.)
19. Officers or employees of the state, county, city of the first class, or the Board of Public Utilities of Kansas City, Kansas would be prohibited from using or authorizing the use of public funds or public vehicles, machinery, equipment, or supplies of any such governmental agency for the purpose of influencing the nomination or election of a candidate for state or local election (New Section 16). In addition, these officers or employees would be prohibited from using their time or the time of another officer or employee of any such governmental agency, when compensation is paid by the governmental agency for the time, for the purpose of influencing the nomination or election of a candidate for state or local election. The prohibition on the use of time by officers and employees, however, would not apply to incumbent officers campaigning for nomination or reelection for a succeeding term to their office or to members of their personal staff. Those who are found to be in violation of this provision would be guilty of a class C misdemeanor. (Current law prohibits the misuse of public funds. "Misuse of public funds" is defined as using, lending, or permitting another to use public money in a manner that is not authorized by law. The law also prohibits an individual from using any form of postage paid for by state funds for personal purposes.)
20. An individual who has not paid a civil fine or who has failed to file a required report under the Campaign Finance Act

would not be eligible to become a candidate for state or local office until the fine has been paid or the report filed or both, if applicable (Section 19). (Current law does not prevent such individuals from repeatedly filing for office.)

21. A statement of fair campaign practices (code of conduct) would be established by the bill (New Section 24). The Commission would be responsible for mailing a copy of the statement to each candidate for office who is required to file reports under the Campaign Finance Act. Such candidates would have the option of signing and filing the statement with the Commission. Upon receipt of a written and signed complaint that alleges a violation of the code for candidates, the Commission would be required to forward a copy of the complaint to the complaine within 24 hours, along with a request for a response to the complaint within five days from the date the request is mailed. When the response is received, the Commission would be required to mail a copy of it to the complainant. A copy of the complaint and the response would be sent to the news media and made available for public inspection and copying. (If a response is not received within the five-day period, the complaint could be made public without the response.) The Commission would not be responsible for obtaining a reply or releasing a complaint that is received within eight days of an election. The Commission would be prohibited from releasing comments or opinions about the complaints or responses. The name of the complainant would be publicly disclosed unless the complainant requested otherwise. (Current law does not provide for specific standards of behavior during election campaigns by candidates.)
22. A statement of intent and purpose for the state conflict of interest laws would be established by the bill (Section 25). The statement would say that the proper operation of democratic government requires that a public official or employee be independent and impartial; that government policy and decisions be made through the established processes of government; that a public official or employee not use public office to obtain private benefits; that a public official or employee avoid action which creates the appearance of using public office to obtain a benefit; and that the public have confidence in the integrity of its government and public officials and employees. (A statement of intent and purpose

is not included in current state governmental ethics (conflict of interest) statutes.)

23. The term "lobbyist's principal" would be defined in the bill as the person or entity on whose behalf the lobbyist is lobbying (Section 26). "Lobbyist's principal" then would be substituted for the term "employer" throughout the lobbying regulation statutes (Sections 26, 37, and 39). In addition, a lobbyist's principal would be required to register with the Secretary of State's Office (Section 37). The registration would have to contain the name and address of the lobbyist's principal and the name and address of each lobbyist employed by the lobbyist's principal. The Chief Executive Officer of the lobbyist's principal would have to file the registration report annually and file supplemental registration reports within ten days following the employment or termination of a lobbyist. (Current law does not require employers of lobbyists or other such entities to register. A lobbyist is responsible for reporting any required information in regard to these entities on his or her reporting form.)
24. Technical amendments would be made to clarify the meaning of the term "lobbying," as defined under current law (Section 27). The term "lobbying" would include when an individual has a "financial interest in any contract with, or action, proceeding or other matter" before a state agency rather than a "case" before a state agency.
25. A legislator would be prohibited from being hired as a lobbyist to represent anyone before a state agency. In addition, a legislator would be prohibited from being employed as a lobbyist for one year after serving in the Legislature (Sections 27 and 52). (Current law provides that a legislator properly file a disclosure statement as specified by law before the acceptance of employment to represent a client before a state agency. The term "lobbyist" is defined under current law as any person employed to a significant extent for lobbying; an individual who is the formal representative of an organization or person and who lobbies in person on state-owned or leased property; or any person who makes expenditures in an aggregate amount of \$100 or more in any calendar year for lobbying (excluding personal travel and subsistence expenses). Those persons who are excluded from the definition of lobbyist are state officers or employees engaged in

carrying out official duties, employers of registered lobbyists, certain nonprofit organizations, members and employees of the judicial branch of government, and appointed members of advisory councils, commissions, or boards who serve without compensation except for expense allowances and are engaged in performing official duties.)

26. Current law would be amended to prohibit state officers or employees from not only participating in the making of certain state contracts, but also from having substantial involvement in the preparation of such contracts (Section 28). As under current law, this prohibition would not apply to contracts let on the basis of competitive bids or contracts that involve property or services that are subject to a price or rate fixed by law.
27. Current law would be amended to prohibit state officers or employees from activities in regard to making and participating in state contracts (other than contracts made on the basis of competitive bid or subject to a price or rate fixed by law) with businesses in which members of their immediate families hold substantial interest (Section 28). (Current law only prohibits state officers or employees from participation in the making of such contracts with businesses in which they themselves hold substantial interest.)
28. The aggregate limitation on gifts or other items of value that may be accepted by a state officer, candidate for state office, or state employee from a person known to have a special interest (including lobbyists) would be reduced from \$100 to \$20 per calendar year (Section 29 and 40). The bill also would amend the definition of the term "lobbying" and the reporting requirements of lobbyists to correspond to this reduction (Sections 27 and 39).
29. The aggregate limitation of \$100 per calendar year on gifts or other items of value to a state agency by a person who is licensed, inspected, or regulated by the state agency would be removed (Section 29). Current law would be amended to make the aggregate limitation apply to state officers or employees of the state agency rather than the state agency itself. Current law already limits gifts or other items of value that these state officers or employees may accept to not more

than \$100 per calendar year. The bill would reduce the aggregate limit of \$100 to \$20 per calendar year.

30. A legislator would be prohibited from contracting to perform any service for or representing any state agency, other than the Legislature, for compensation in a nonjudicial process unless the contract would be obtained upon the basis of competitive bids (Section 30). (Current law only requires that legislators file disclosure statements, while in office or within one year after the expiration of their term, when they contract to perform any service for a state agency other than the Legislature.)
31. New language would be added to current law to provide that, whenever the Commission determines that any officer or employee has violated any provision of the state governmental ethics laws or any rule and regulation of the Commission, whether the violation does or does not constitute a misdemeanor, and the act does merit censure, the Commission would be required to report such fact and the circumstances involved to the officer or agency authorized to impose censure upon such officer or employee in accordance with the law (Section 31). (Under current law, the Commission may publicly state a finding of fact after it concludes that a person has violated provisions of the law. The Commission then submits a copy of its report to the Attorney General and the county or district attorney of the county in which the violation occurred. If the person is a legislator, the Commission also must submit a copy of the report to the house in which the member serves. The house to which the report is made is required to consider the report and impose censure or disqualification as a legislator, or determine that neither censure nor disqualification is justified. For state officials who are not legislators, other officials designated by statute may impose censure or removal from state service.)
32. Private consultants who have a contract with a state agency to evaluate bids for public contracts or to award public contracts would be required to file statements of substantial interest (Section 32). (Under current law, such individuals are not required to disclose any information in regard to their holdings of substantial interest.)

33. An individual who must file a statement of substantial interest under the state governmental ethics laws would be required to also disclose the approximate percentage of ownership of the business which the individual or individual's spouse owns (Section 33). (Under current law, an individual who must file a statement of substantial interest because of the holding of legal or equitable interest which exceeds \$5,000 or 5 percent of any business is not required to disclose the percentage of that ownership.)
34. A statement of intent and purpose for the lobbying regulation laws would be established (Section 37). The statement would say that the Legislature finds and declares that the operation of open and responsible government requires the fullest opportunity to be afforded to the people to petition their government for the redress of grievances and to express freely their opinions on executive and legislative action, but the identity and expenditures of certain persons who attempt to influence such actions should be publicly identified to preserve and maintain the integrity of government. (A statement of intent and purpose for the regulation of lobbying laws is not included in current Kansas statutes.)
35. A lobbyist would be able to register on or after October 1 for the upcoming calendar year (Section 37). (Current law does not specify a designated time for lobbyists to register annually with the Secretary of State's Office. All registrations for lobbyists expire on December 31 of each year.)
36. Every person registering or renewing registration and who anticipates spending \$1,000 or less for lobbying during the calendar year on behalf of any lobbyist's principal would be required to pay to the state a fee of \$15 for each lobbyist's principal the person represents (Section 37). If expenditures exceed \$1,000, these individuals would have three days after the excess expenditures are made to pay an additional \$135 for the year. Those persons who anticipate spending more than \$1,000 would be required to pay a fee of \$150 for each lobbyist's principal represented. Revenues collected would be credited to the Kansas Governmental Ethics Commission Fee Fund that would be established by the bill. (Under current law, a lobbyist is required to pay a registration fee of \$15 for each lobbying employment or position held. Revenues collected are credited to the State General Fund.)

37. A lobbyist would be required to not only file a report of employment and expenditures on a form prescribed and provided by the Commission, but also in a manner prescribed and provided by the Commission (Section 38). Reports would be required on or before the 10th day of the months of February, March, April, May, September, and December. The reports would include all expenditures as required to be reported or a statement that no expenditures were made for lobbying purposes, during the preceding calendar month or months since the period for which the last report was filed.

In regard to the content of the reports, lobbyists would be required to report all lobbying expenditures made during each reporting period except for salaries, fees, retainers and any other compensation received for the performance of services as a lobbyist or for those occasions when individual expenditures are less than \$2 (Section 39). In addition to reporting categories that are currently established by rules and regulations of the Commission, a lobbyist would be required to report the amount or value of all expenditures for the preparation of proposals, position papers, and similar documents; travel, lodging, and mileage expenses; and communications for the purpose of influencing legislative or executive action. (Under current law, a lobbyist is required to file expenditure reports for those months when the aggregate amount or value of all expenditures by the lobbyist or lobbyist's employer for or in direct relation to lobbying exceeds \$100 for the month (excluding expenses of general office overhead) or the value of a gift, honorarium, or payment to any state officer or employee is in excess of \$20. Individual expenditures of less than \$2 are not required to be reported. Reporting categories for lobbyists include expenditures for hospitality in the form of food and beverage; gifts, honoraria, or payments to state officers and employees; mass media communication; and other reportable items such as mailing to members of organizations.)

38. New language would be added to current law to provide that whenever the Commission would determine that any report filed by a lobbyist is incorrect, incomplete, or fails to provide the information required by law, the Commission would notify the lobbyist in regard to the specific deficiency by registered or certified mail (Section 41). The lobbyist would have 30

days from the date of the receipt of the notice to file an amended report to correct the deficiency before a civil penalty of \$10 per day (not to exceed \$300) would be imposed. On the 31st day following the receipt of the notice, the registration of the lobbyist would be revoked. The lobbyist also would be required to return his or her name badge to the Secretary of State's Office. (Current law requires the Commission to send a notice by registered or certified mail to any person failing to file a lobbying report. The notice must state that the person has five days from the date of receipt of the notice to comply with reporting requirements before a civil penalty of \$10 per day (not to exceed \$300) will be imposed. Intentionally making a false or incomplete lobbying report is a class B misdemeanor. Civil fines also may be imposed by the Commission for such actions.)

39. A state officer or employee would be prohibited from advocating or causing the employment, appointment, promotion, transfer, or advancement of any office or position of the state, or from supervising or managing a member of such officer's or employee's household or family (New Section 47). State officers or employees also would be prohibited from participating in an action relating to the employment or discipline of a member of the officer's or employee's household or family. The bill would not apply to any action involving the employment, appointment, promotion, transfer, or advancement of an officer or employee that occurred prior to the effective date of the bill, which is publication in the statute book. (Current Kansas statutes do not address this issue. Kansas administrative regulations prohibit, unless approved by an appointing authority, the employment, appointment, promotion, or transfer of a person with the classified service when such person would be supervised by an immediate family member.)
40. Current law would be expanded to apply to unclassified employees in regard to being compelled by an officer or employee of the state to participate in political activities (Section 49). An officer or employee of the state would be prohibited from directly or indirectly using their authority or official influence to compel any state officer or employee in the unclassified service to apply for membership in or become a member of any organization, or to pay or promise to pay any assessments, subscriptions, or contributions to a political activity. Violation of the provision would be a class C

misdemeanor. (Current law only provides for such a provision for classified employees, of which a violation is a class C misdemeanor. Current law also provides that if an officer or employee in the classified service is found guilty of violating the law, it will result in automatic separation from state service.)

41. A chief executive officer of every newspaper, radio station, and television station which publishes or broadcasts any editorial supporting or opposing any candidate for state or local office would be required to file a report (New Section 51). The report would have to state the amount which would have been charged for comparable time or space to a candidate for the publication or broadcast of the political advertising. (Current law does not require such reporting by the public media.)
42. An elected state or local officer would be prohibited from campaigning for or being elected to a state or local office that begins prior to the end of the elected official's current office term (Section 52). (Current law does not prohibit an individual from seeking elective office while holding another elective office.)
43. From and after July 1, 1991, all officers elected under the laws of Kansas (except for members of the United States Congress) and nonelected officers and employees of the State of Kansas would be required to file a tax clearance request with the Division of Taxation of the Department of Revenue and a property tax clearance request with the county treasurer of each county in which such officer or employee owns property (New Section 53). These officers or employees would be required to file the request before entering upon the duties of their offices or employment. Elected officers would not be permitted to take or subscribe to the oath or affirmation of office without first having received the Kansas income tax clearance approval of the Director of Taxation and the property tax clearance approval of each of the appropriate county treasurers. Other officers or employees could not be appointed or employed by a state agency to any position for which any compensation is paid under the laws of Kansas without first having received the Kansas income tax clearance approval of the Director of Taxation and the property tax clearance approval of each of the appropriate county treasurers. The forms for the tax clearance request and the prop-

erty tax clearance request, along with instructions for their completion, would be established by the bill. (Current law does not address this issue. It is the policy of the Department of Revenue to require a tax clearance statement prior to the hiring of its personnel.)

44. Certain provisions of Kansas statute which pertain to state contracting would be amended:
 - a. K.S.A. 75-3739 would be amended to delete language in current law which provides for certain contract exemptions from the competitive bid process (Section 54). Those contracts that would be removed from their exempt status for the competitive bid process would include contracts for contractual services when, in the judgment of the Director of Purchases: no competitive bid exists; chemicals and other material or equipment for use in laboratories or experimental studies by state agencies are best purchased without competition or the rates are fixed by law or ordinance; or an agency emergency requires immediate delivery of supplies. The bill would provide that all contracts for construction and repairs, and all purchases of and contracts for supplies, materials, equipment, and contractual services being acquired for state agencies be based on competitive bids. The bill also would delete language in current law which allows the Director of Purchases to authorize state agencies to contract for services and materials with other state agencies, or with federal agencies, political subdivisions of Kansas, agencies of other states or their subdivisions, or private nonprofit educational institutions without competitive bids.
 - b. K.S.A. 75-3741a would be amended to provide that each change order to a contract entered into under K.S.A. 3741 must be on the basis of competitive bids as a separate contract (Section 55). (Current law allows such change orders to be negotiated with a contractor performing work under the original contract for the project unless

the Secretary of Administration requires that a change order be let for competitive bids.)

- c. K.S.A. 75-4706 would be amended to add language to require contracts for the purchase of data processing equipment be subject to provisions of K.S.A. 75-3738 to K.S.A. 75-3740a, which relate to the general purchase laws of the Department of Administration (Section 56).
 - d. K.S.A. 75-4713 would be amended to delete language that establishes the telecommunications negotiating committee for negotiating contracts for telecommunication services (Section 57). The law would be further amended to require that contracts for telecommunications services be subject to provisions relating to the general purchase laws of the Department of Administration (K.S.A. 75-3738 to K.S.A. 75-3740a).
 - e. K.S.A. 76-721 would be amended to require that all contracts by the Board of Regents or Regents' institutions for the operation or function of the Board or institution be on the basis of the competitive bid process (Section 58).
45. New language would be added to provide that all bequests, legacies, devises, or gifts to or for the use of a political party committee from estates of decedents dying after December 31, 1991 would be exempt from tax under the provisions of the Kansas Inheritance Tax Act (New Section 59).
46. An agency of the state or political or taxing subdivision that is funded in whole or in part by state funds would be prohibited from expending any of the funds for the purpose of employing a lobbyist (Section 60). (Under current law, the term "lobbyist" is defined as any person employed to a significant extent for lobbying; an individual who is the formal representative of an organization or person and who lobbies in person on state-owned or leased property; or any person who makes expenditures in an aggregate amount of \$100 or more in any calendar year for lobbying (excluding personal travel and subsistence expenses). Those persons who are excluded from the defini-

tion of lobbyist are state officers or employees engaged in carrying out official duties, employers of registered lobbyists, certain nonprofit organizations, members and employees of the judicial branch of government, and appointed members of advisory councils, commissions, or boards who serve without compensation except for expense allowances and are engaged in performing official duties.) (Staff Note: This provision would appear to be in conflict with K.S.A. 1990 Supp. 72-53,108, which states that the board of education of any school district is authorized to offer employment to and employ lobbyists and other persons for lobbying and to pay any expenses incurred in connection from the general fund of the school district.)

47. Current law would be amended to require that when a candidate's report is filed under the Campaign Finance Act and the amount being contributed to the candidate by an individual is over \$50, the occupation of the contributor would have to be listed on the report (Section 61). If the contributor is not employed for compensation, the occupation of the contributor's spouse would have to be listed. (Current law only requires that the occupation of a contributor or contributor's spouse be listed on such a report if it is known by the candidate.)

Background

The House Committee on Elections formed three subcommittees to review and make recommendations in regard to the recommendations found in the *Final Report of the Kansas Select Commission on Ethical Conduct to the 1991 Legislature*. The Select Commission was established by the passage of 1990 legislation which required that it study and review existing laws relating to all aspects of governmental ethics, campaign finance, and lobbying regulation. H.B. 2454 was introduced as a result of the work of the three subcommittees. The full Committee then reviewed and amended the bill to its present form.

The House Committee of the Whole made several amendments to the bill. The amendments did the following:

1. All candidates for election to local school boards would be placed under the Campaign Finance Act. (The introduced version of the bill was amended by the House Committee to

place candidates for election to school boards within the fifth enrollment category under the Act.)

2. The accounts of the state committee of each political party would be audited annually in accordance with generally accepted accounting principles rather than by a certified public accountant.
3. Language was deleted from the bill that would have provided that the aggregate amount of all contributions accepted by a candidate under the Campaign Finance Act from PACs could not exceed the aggregate amount of all contributions accepted by the candidate from individuals. (This language had been added by the House Committee.)
4. Language was added to specify that an individual who contributed funds to a candidate under the Campaign Finance Act would be eligible to receive the funds if there is dissolution of the candidate's campaign fund.
5. A three-fourths rather than two-thirds vote of the Public Disclosure Commission's members would be required for the issuance of a subpoena.
6. Language was added to prohibit a legislator from being hired as a lobbyist to represent anyone before a state agency.
7. Language was added to prohibit a legislator from being employed as a lobbyist for one year after serving in the Legislature.
8. Language was deleted that would have prohibited a legislator from participating, directly or indirectly, as a paid representative in a representation case before a state agency for which compensation would have been received in excess of \$1,000.
9. Reporting requirements of lobbyists were changed to require reporting of all lobbying expenditures, except for salaries, fees, retainers, and any other compensation received for the performance of services as a lobbyist, and new reporting categories not currently required by rules and regulations of the Commission were established (expenditures for the preparation of proposals, position papers, and similar documents; travel, lodging, and mileage expenses; and communica-

tions for the purpose of influencing legislative or executive action).

10. New language was added to provide that all bequests, legacies, devises, or gifts to or for the use of a political party committee from estates of decedents dying after December 31, 1991 would be exempt from tax under the provisions of the Kansas Inheritance Tax Act.
11. Language was added to prohibit an agency of the state or political or taxing subdivision that is funded in whole or in part by state funds from expending any of the funds for the purpose of employing a lobbyist.
12. Current law was amended to require that the occupation of a contributor or contributor's spouse has to be listed on reports under the Campaign Finance Act when the contributor makes a contribution of over \$50.