

Approved: 2.19.97
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS.

The meeting was called to order by Chairperson Kent Glasscock at 9:00 a.m. on February 18, 1997, in Room 521-S of the Capitol.

All members were present except:

Committee staff present: Mary Galligan, Legislative Research Department
Mike Heim, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Representative Robert Tomlinson
Ms. Carol E. Williams, Executive Director of Kansas
Commission on Governmental Standards and Conduct
Representative Jene Vickrey
Mr. Edward C. Rowe, League of Women Voters
Representative Rocky Nichols
Ms. Joyce Luschen, United We Stand and Common Cause

Others attending: See attached list

The Minutes were distributed for the following meetings: February 11, 13, and 14, 1997. The Chair called the Committee's attention to distributed Fiscal Notes for HB 2134 and HB 2315.

Representative Ralph Tanner moved, and Representative Herman Dillon seconded that the Minutes for February 11, 13, and 14, 1997 be approved. Motion passed.

Chairperson Glasscock asked Mike Heim, Research Department, to review the changes made by the Secretary of State's office for clarification of HB 2133. He said that their recommendation is to remove Section 5. Mike also reported that the Elections Subcommittee recommends tabling HB 2347 concerning the vacancy in office of Lt. Governor. He also said the Subcommittee recommends tabling HB 2353 which provides an addition to the protest petition to alert voters of a governing body's intent to adopt a comprehensive plan.

Chairperson Glasscock opened the Public Hearing for HB 2064.

HB 2064 - An act concerning state governmental ethics; relating to reports filed by lobbyists; amending K.S.A. 46-269 and repealing the existing section.

The Chair recognized Representative Bob Tomlinson who spoke as a proponent of HB 2064. Rep. Tomlinson said that the Subcommittee on Ethics is in agreement in recommending HB 2064 favorably. This bill allows the Commission on Governmental Standards and Conduct to audit the reports of lobbyists in the same way that they currently audit reports of candidates for office. (Attachment 1.)

The Chair called the Committee's attention to the written testimony of Mr. Ron Smith, KBA General Counsel. His testimony reflects his personal concerns as opposed to those of the KBA which he said takes no position on these issues. (Attachment 2.)

Chairperson Glasscock recognized Ms. Carol E. Williams, Executive Director of the Commission on Governmental Standards and Conduct, who spoke as a proponent of HB 2064. She stated that the Commission has recommended this bill which was titled SB 634 in 1996 and was passed by both the Senate and the House. However, SB 634 was amended into HB 3000, the massive campaign finance, lobbying, and ethics bill which died on the House floor the last day of the 1996 wrap-up session. (Attachment 3.)

Representative Ralph Tanner asked a rhetorical question about whether an audit would be done without a complaint being filed? He also asked about the assessed penalties and if a model was used as a guide for the amount of the penalties? Ms. Williams said that there were civil fines in all three areas, and that the largest fine was in the amount of \$750 which has happened only once.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on February 18, 1997.

Representative Ray Cox inquired about the consequences for refusal to be audited. Ms. Williams answered that the Commission would get a subpoena and if there was nothing wrong, it would be dismissed, but if there was wrong doing, an injunction could be issued.

Representative Gerry Ray inquired as to why they determined that reports or statements filed should be maintained and preserved for five years if they have so few infractions? Ms. Williams replied that this was simply an arbitrary number of years.

There being no additional questions, Chairperson Glasscock closed the Public Hearing on HB 2064.

Chairperson Glasscock opened the Public Hearing on HB 2227.

HB 2227 - An act relating to lobbying; prohibiting certain acts; amending K.S.A. 46-232 and repealing the existing section.

The Chair welcomed Representative Jene Vickrey who spoke as a proponent of HB 2227. Rep. Vickrey said that HB 2227 would make clear the legislators' commitment to their constituents because it would enable legislators to make public policy decisions free from any possible influence or personal gain. (Attachment 4.)

Representative Jonathan Wells asked Representative Vickrey what was his rationale? Representative Vickrey replied that it would provide a cooling off period so that the effects of any manipulation would be diminished. He stated that when a person is serving as a lobbyist, he or she is still a citizen, but when a person is in elective office, the elected official has an obligation to work for constituents.

Representative Larry Campbell asked if he could personally lobby, even if he was not considered to be a lobbyist? Representative Vickrey responded that he would not object to a friendly amendment to insert paid lobbyist. He said that the intent or purpose is when a lobbyist is hired by someone else.

Representative Ray Cox asked Representative Vickrey how many times he has run this bill? He replied that he had run it several times and that it had made it to the Senate once with a hearing about three years ago. He stated again that he believes it is something the public wants and he feels that it would enhance the perception the public has of legislators.

Representative Ralph Tanner asked Rep. Vickrey if he thought his bill would fly if a distinction was made between contract lobbyists as opposed to lobbyists who use public funds? Representative Vickrey said that he thought it should include both and not distinguish between contract lobbyists and those operating on tax funds, such as universities, school boards, etc.

Representative Larry Campbell said that since the State of Kansas allows a person to have more than one office, then as the law is in its current form, could a person not come back as a lobbyist if you are a mayor and a legislator? Rep. Vickrey responded that the intent is to show allegiance to constituents and not to protect the marketability of future career opportunities.

The Chair next recognized Representative Rocky Nichols who is a co-sponsor and spoke as a proponent for HB 2227. He said that the book listing registered lobbyists does not indicate that there are many mayors listed.

Chairperson Glasscock recognized Ms. Joyce Luschen who represented United We Stand America and Common Cause. She spoke as a proponent for HB 2227 which she said would bring about ethics reform and hold elected officials accountable to their constituents. She said that legislators should not use their office to set up a new career or to cash in on name recognition or influence as a result of serving as an elected official. She said that "creating a one year period before a legislator can become a lobbyist gives the Kansas Legislature an opportunity to bring Kansas up to the ethical standards that other states have achieved." (Attachment 5.)

Representative Jonathan Wells wanted to know if the ethical standards of other states was an assumption or if she had researched specific information about the ethics of other states. She admitted that it was, indeed, an assumption, but she would try to get some documented information.

The Chair next recognized Mr. Edward Rowe, League of Women Voters of Kansas, who spoke as a proponent of HB 2227. He asked the Committee to close the "revolving door" loophole which is in the current Kansas law. He said that Kansas legislators are allowed to leave the Legislature one day and become

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on February 18, 1997.

paid lobbyists the next day, and that this is definitely a conflict between public and private interests. (Attachment 6.)

Since there was no additional testimony or questions, the Chair closed the Public Hearing on **HB 2227**.

Chairperson Glasscock asked the Committee to turn its attention to **HB 2152**.

HB 2152 -Campaign finance; contributions while Legislature is in session.

Representative Lisa Benlon summarized a balloon for **HB 2152**: 1) no solicitation or accepting of contributions during the Legislature, 2) expands definition of acceptance of funds from corporations, 3) nukes Senate party PACs.

Representative Lisa Benlon made a motion to accept the balloon on **HB 2152**. Representative Herman Dillon seconded. Motion passed.

Representative Lisa Benlon made a conceptual amendment that there can be no solicitations or donations for philanthropic causes. Representative Gerry Ray seconded. Motion passed.

Representative Lisa Benlon moved that **HB 2152** be passed as amended and marked favorable for passage. Representative Ralph Tanner seconded. Motion passed.

The Chair asked that the Committee turn its attention back to **HB 2064**.

HB 2064 -State governmental ethics; lobbyist's reports and accounts; inspection by commission.

Representative Bob Tomlinson moved that **HB 2064** be passed marked favorable for passage, and Representative Deena Horst seconded. Motion passed.

The Chair asked the Committee to turn its attention back to **HB 2227**.

Representative Gerry Ray made a motion to amend **HB 2227** to include the words registered and paid before lobbyist. Representative Bob Tomlinson seconded. Motion passed Theresa Kiernan, Revisor, was asked to work on the exact wording.

Representative Bob Tomlinson moved that the amended **HB 2227** be passed and recommended favorably. Representative Gerry Ray seconded.

Representative Ray Cox said that he felt it was a restraint of trade and a restraint on freedom of choice; therefore he would have to vote "no."

The vote was taken and the Motion passed.

The meeting adjourned at 10:15 a.m.

The next meeting is scheduled for February 19, 1997.

GOVERNMENTAL ORGANIZATION & ELECTIONS
COMMITTEE GUEST LIST

DATE: TUESDAY, FEBRUARY 18, 1997

NAME	REPRESENTING
Joyce A. Luschem	UWSA
THORWOLD L. NELSON	UNITED WE STAND AMERICA
Don W Kellogg	UWSA Ks
Lain M. Kellogg	U.W.S.A.
Dorothy Wintuan	UWSA
Rogge Nelson (Margaret)	UWSA
Uyinger Stan	ATET
Dan Goering	U.W.S.A.
Norman Anderson	U.W.S.A.
Edward Rowe	League of Women Voters/Ks
Robert J. Brown	UWSA & Concerned Citizen
Joy Holt	" "
D. Pflaum	KSCGSC
Susan Koch	Pete Mc Gill & Assoc.
KATH R LANDIS	CHRISTIAN SERVICE COMMITTEE ON PUBLICATION FOR KANSAS
DLO GRANT	KCCI

BOB TOMLINSON
REPRESENTATIVE 24TH DISTRICT
STATE CAPITOL
TOPEKA, KS 66612-1504
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5722 BIRCH
ROELAND PARK, KS 66205
913 831-1905



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ECONOMIC DEVELOPMENT
GOVERNMENTAL ORGANIZATION & ELECTIONS
INSURANCE

Testimony Before
Governmental Organization and Elections
February 18, 1997

HB 2064 was recommended favorably for passage by the Sub-Committee on Ethics. It is a bill that allows the commission on Governmental Ethics and Standards to audit the reports of lobbyists in the same way they can currently audit the report of candidates for office.

House GO and E
Attachment 1
2-18-97



Legislative Testimony

KANSAS BAR ASSOCIATION

TO: Members,
House Governmental Organization and Elections Committee

FROM: Ron Smith, KBA General Counsel

SUBJ: HB 2064 -reports filed by lobbyists;
HB 2227 -prohibiting certain acts

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OFFICERS

Dale L. Somers, President DATE: February 17, 1997

John C. Tillotson, President-elect

David J. Wasse, Vice President

Zackery E. Reynolds, Secretary-Treasurer

I would like to offer some points on these two bills. They are my own concerns. The KBA has no position on these issues.

John L. Vratil, Past President

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Lynn R. Johnson, District 1

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Daniel J. Sevar, District 7

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Hon. Christel E. Marquardt, KS ABA Delegate

Clifford K. Stubbs, YLS President

Hon. Jean F. Shepherd, KDJA Rep.

EXECUTIVE STAFF

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Executive Director

Karla Beam, Continuing Legal

Education Director

Ginger Binker,

Administrative Director

Debra Prideaux,

Communications Director

Ronald Smith,

General Counsel

Art Thompson,

Public Services Director

HB 2064. With this bill, in my opinion Kansas is moving in the wrong direction. HB 2064 requires lobbyists to keep "detailed accounts of all expenditures required to be reported under KSA 46-268." What constitutes detailed accounts is not defined. Before we start down that long road to more bureaucracy in the arena of lobbying expense disclosure, lets go back to some basic questions.

- What is the purpose of gathering all this information?
- What is done with the information that is currently reported?
- How do you plan to impose such new "detailed accounting" requirements on many citizens outside of Topeka who spend more than \$100 per year on lobbying but who have not registered to lobby and who do not now make expenditure reports?
- How will you impose such new accounting requirements on out of state persons who lobby but do not register with the CGSC?

The federal act. The federal government has enacted a new lobbying registration act, effective in late 1995. Its purpose was to simplify lobbying registration and eliminate down to the penny reporting – and the detailed reporting and backup data which had to be kept in order to "backup" such nonsense. The federal act allows reports of expenses for lobbying the congress in six month increments and rounded off to the nearest \$20,000. The reports, however, include salary and other expenses if total lobbying expenses exceed \$10,000 for a six month period. The federal government has decriminalized the lobbying registration process, and has recognized that lobbying is fundamental to the right of free people – individually or collectively – to petition government for redress of grievances. They have made a conscious decision to use general lobbying reports, not specific ones. In fact, for their expense reports nonprofit associations can elect to attach a copy of their IRS Form 990 to their report forms – a document that is filed with the IRS doubles as an expense report under the federal lobbying law. Obviously, the federal government finds it unnecessary to require by law that lobbyists keep detailed accounting reports and papers to support such detail.

House GO and E
Attachment 2
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By contrast, I filed a February 10th Kansas report showing hospitality expense of \$856.00. If it isn't accurate I am subject to a misdemeanor. Now this bill wants us to keep more detailed information for audits that uncover data which – even if obtained – is absolutely meaningless for regulatory purposes.

Why?

Citizens not only have a right to organize to change government policy, nearly every civics class in modern memory encourages such activity. *The right to petition government for redress exists even if the government dislikes the content of the message, the speaker, or the proposed policy change.* James Madison believed that factions were central to giving voice to the needs of the people in a Republic. Madison felt factions controlled each other through competing levels of public speech. The *Federalist Papers* explaining our new constitution were published anonymously by Alexander Hamilton, Madison and John Jay. Like research papers, these papers were lobbying messages asking readers to contact their neighbors and get them to ratify the Constitution. It was the *message* in the *Federalist Papers* that was important, not the identity of the authors or who spent the most money on getting out the message.

Perhaps it speaks volumes that in the modern era political *ideas* have grown less important than political personalities or sums spent.

Modern lobbying laws have lost their regulatory compass. If the *Federalist Papers* were distributed to each Kansans in 1997, urging the readers to contact their legislators about ratifying the U.S. constitution, such persuasion would be unlawful unless the authors first identify themselves, determine whether the printing and distribution costs exceeds \$100, and report the costs to the Commission. Then they must register as a lobbyist and pay a lobbying registration fee, file cost reports six times per year, and track of the costs paid to distribute the pamphlet all over the state. The failure to acknowledge and accept their lobbyist status by registering as a lobbyist or failing to file cost reports, or filing erroneous reports, is a misdemeanor punishable by up to six months in jail. Intentional failure to comply with reporting laws carries a civil fine, too, anywhere from \$5,000 to \$15,000.

I suggest you already have a system in place in Kansas totally out of sync with what the Founding Fathers felt was appropriate. The 1995 Federal Lobbying Act acknowledges that previous lobbying laws – the 1946 federal act on which our 1974 lobbying act is modeled -- sought irrelevant information and was hard to understand. Before you ask for *more* detailed information be kept for which we collect more meaningless and useless information, and have to find file space for papers to support such reports, I respectfully request that you ask the Commission on Governmental Standards and Conduct to review the federal lobbying act and the state lobbying act and give you a report as to why the federal act – which simplifies the reporting greatly – is not the better way to go.

HB 2227. There is an internal problem with this bill. The key language is subsection 1(b), which is all new language. It states:

(b) From and after January 1, 1998, no individual shall engage in lobbying or be employed as a lobbyist within one year following:

(1) The date of resignation from or the expiration of a term of any state office to which the individual was appointed by the governor; or (2) the date of resignation from office or the expiration of a term of office for which such individual was elected or appointed to membership in the state legislature.

- entertainment, gifts, and payments;
- mass media communications;
- recreation provided as hospitality;
- communications for the purpose of influencing legislative or executive action;
and
- any other reportable expenditures attributable to lobbying.

The statutes prohibit lobbyists from entering into certain activities associated with lobbying, *i.e.*, offer, pay, or give anything of value aggregating \$40 or more during a calendar year with the major purpose of influencing a state officer or employee in the performance of that officer's or employee's duty.

Lobbying reports must be filed each month from February to September and then in January if the \$100 expenditure threshold is exceeded.

The Kansas Commission on Governmental Standards and Conduct provides guidance and assistance on reporting requirements and registration and enforces statutes for compliance to the state lobbying laws. The Commission also develops rules and regulation and advisory opinions to aide in the interpretation of the state lobbying laws. The Commission is empowered, under statute, to conduct audits of the expenditure reports filed by lobbyists. Intentional violations of the lobbying laws are subject to a maximum criminal penalty of six months in jail and a \$1,000 fine. In addition, the Commission may assess civil fines not to exceed \$500 for the first offense, \$10,000 for the second, and \$15,000 for the third and each subsequent violation.

Charlie
Smithson

Here are the states that have a ban on Legislators becoming lobbyists immediately upon leaving office:

Prohibited for remainder of their legislative term

Michigan

1 year prohibitions

California
Connecticut
Hawaii
Kentucky
Maryland
Wisconsin

2 year prohibitions

Alabama
Iowa

1 year ban on lobbying the chamber in which you formerly served

Pennsylvania



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

Testimony before House Governmental Organization and Elections on House Bill 2064 by Carol Williams, Executive Director

House Bill 2064 which is before you this morning amends K.S.A. 46-269(e), a provision of the State's Lobbying Laws. This bill was recommended by the Commission on Governmental Standards and Conduct.

This bill, titled SB634 last year, passed both the Senate and House of Representatives. Unfortunately, the bill was amended into HB3000, the massive campaign finance, lobbying, and ethics bill which died on the House floor the last day of wrap-up session.

K.S.A. 46-269(e) currently states "Records in support of every report or statement filed shall be maintained and preserved by the lobbyist for a period of five years from the date of the filing of such report or statement and may be inspected under conditions determined by the Commission". The Commission interprets this provision to permit an audit to be conducted of a lobbyist's specific records kept to support the report filed by such lobbyist.

The Commission believes it should be able to review all relevant lobbying records in order to perform a complete audit, not just the receipts or bills a lobbyist maintains to substantiate expenditures disclosed on his or her lobbyist employment and expenditures report.

The new language on page two beginning on line 10 states "All accounts, records and documents of the lobbyist which relate to every expenditure reported or which should have been reported ...may be inspected under conditions determined by the commission."

Under current law, the Commission has the authority to review all accounts and records maintained by a treasurer for any candidate, party or political action committee to conduct a complete audit.

The Commission believes a thorough audit of a lobbyist's records should be permitted like audits conducted on the campaign of a candidate or the records of a political or party committee.

House GO and E
Attachment 3
2-18-97

JENE VICKREY
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TOPEKA

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JOINT HOUSE & SENATE ECONOMIC
DEVELOPMENT COMMITTEE

SPECIAL COMMITTEE TASK FORCE ON
LONG TERM CARE

February 18, 1997

TESTIMONY ON HB 2227

HB 2227 addresses the fundamental purpose of our "Representative form of government."

It must remain the focus of our legislators and governor appointees to work for the electorate.

This is an opportunity to make clear our commitment to those who elected us. Our purpose must be to make public policy decisions free from any possible influence of personal gain. I am asking you to consider the full effect the status quo:

What entanglements does a legislator or governor appointee face the session before they retire?

And, how then does the public view the work done by the legislator or governor appointees that session?

However innocent those actions and their effect on the ever continuing process, we should understand that there are few new ideas, but that most issues "recycle" looking for the right time and a friendly legislature and Governor.

We must reaffirm our dedication to show our allegiance to our constituents, not to protect the marketability of future career opportunities.

By passing the "revolving door" legislation, I believe you will be telling those who voted for you that you are trustworthy and that your priorities are straight.

House GO and E
Attachment 4
2.18.97

**HOUSE BILL 2227
PROPONENT TESTIMONY by
JOYCE LUSCHEN
8267 West 116th Terrace
Overland Park, KS 66210**

My name is Joyce Luschen. I reside in Overland Park, KS. I am a member of United We Stand America and Common Cause. The mission of these organizations is to bring about ethics reform and to hold our elected officials accountable to their constituents. United We Stand America recently polled its members on the state issues about which they are most concerned. Campaign finance and lobbying reform ranked a close second after tax relief.

Changes need to be made in the way our Legislature does business. The public perception of what goes on in Topeka is less than favorable. Many situations that confront our Legislators may be legal, but are not ethical. Making the right decision should not be a problem, and indeed, in most cases it isn't. This bill clarifies the decision for those who are *ethically challenged*.

Lawmakers were elected to serve their constituency. They should not use that office of trust to set up a new career or to cash in on name recognition or influence that they have achieved while in elective office. It is difficult to think of any reason why this bill should not become Kansas law. The revolving door, from legislator to lobbyist, is clearly unethical. Creating a one year waiting period before a legislator can become a lobbyist gives the Kansas Legislature an opportunity to bring Kansas up to the ethical standards that other states have achieved.

Thank you for the opportunity to express my views and those of the organizations to which I belong. I am sure that you will act in the best interest of the people of Kansas

House GO and E
Attachment 5
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HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS

Comments in support of HB 2227, which would prohibit legislators
from lobbying for one year after they left office

February 18, 1997

Representative Glasscock and members of the committee, I'm Edward Rowe, one of several volunteer lobbyists with the League of Women Voters of Kansas.

I'm here today to ask you to close the "revolving door" loophole in current Kansas law that allows Kansas legislators to leave the Legislature one day and become paid lobbyists for special interests the next day.

While it may not be illegal for a legislator, elected to serve all the people, to quit tomorrow and accept a lobbyist's salary from a special interest, it does raise questions about the integrity of the Legislature's decision-making process.

Let's consider what I hope is a hypothetical case: A legislator on an important health committee quits and immediately becomes a paid lobbyist for tobacco interests. The move would not be illegal, but I think it would be questioned by you and the public. We would always wonder when that legislator switched allegiances. Did that legislator begin to curry the favor of a future private employer even while a member of the legislature?

For the confidence of the public in its legislature, it's important that you not allow the distinction between legislators and lobbyists to become blurred. You wisely require a distance between yourselves and lobbyists while you are making decisions on the House floor by not allowing lobbyists on the floor.

In much the same way, it would make sense for you to require a reasonable interval between the time a person is serving the public as a legislator and the time that same individual may take a salary from a private interest for influencing his or her former colleagues. The present bill suggests that interval should be one year. Others have suggested as much as five years.

To eliminate the present conflict between public and private interests I hope you will vote for HB 2227.

Edward C. Rowe

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