

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Elections** recommends **HB 2391** be amended on page 1, in line 22, by striking "two" and inserting "five"; in line 36, by striking "governmental ethics" and inserting "campaign finance";

On page 2, in line 20, before "The" by inserting "Not more than five members of the commission shall be members of the same political party and";

On page 5, in line 1, by striking all after "any"; in line 2, by striking all before the second period and inserting "director, officer, employee or other person who is authorized in writing to act on behalf of persons listed in this subsection";

On page 6, in line 11, after "(g)" by inserting "'Coordination" or "coordinated" shall have the meaning provided in this subsection. An express advocacy communication is "coordinated" or in "coordination" with a candidate, candidate committee or an agent of a candidate or candidate committee when the communication:

(1) Is paid for, in whole or in part, by a person other than that candidate or a party committee; and

(2) satisfies at least one of the conduct standards in 11 C.F.R. § 109.21(d), except that the terms "communication" or "public communication" in that regulation are limited to express advocacy communications. The safe harbors provisions described in 11 C.F.R. § 109.21(f) through (h) shall apply in determining whether a communication is coordinated.

(3) Notwithstanding any other provision of this act, the term "coordination" or "coordinated" does not include any action where reasonable efforts are taken to prohibit

information passing from a candidate or candidate's agent to a political committee.

(h)";

Also on page 6, in line 15, by striking "(h)" and inserting "(i)";

On page 7, in line 38, by striking all after "to"; in line 39, by striking all before "make"; in line 40, by striking all after "contributions"; by striking all in line 41 and inserting "of"; in line 42, by striking "on express advocacy"; also in line 42, by striking all after "year"; by striking all in line 43;

On page 8, in line 1, by striking all before the period; in line 4, after "states" by inserting "in its articles of incorporation, bylaws or resolutions by the board of directors"; in line 12, after "Total" by inserting "program"; in line 13, after "time" by inserting "or expenses"; in line 14, after "total" by inserting "program";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 14, following line 14, by inserting:

"Sec. 8. K.S.A. 25-4150 is hereby amended to read as follows: 25-4150. (a) Every person, other than: (1) An individual; (2) a candidate; or (3) a candidate committee, party committee or political committee, who makes contributions or expenditures, other than by contribution to a candidate or a candidate committee, party committee or political committee, in an aggregate amount of \$100 or more within a calendar year shall make statements containing the information required by K.S.A. 25-4148, and amendments thereto, during any reporting period when contributions or expenditures are made. With respect to the information required by K.S.A. 25-4148(b)(2), and amendments thereto, the person shall be required to report only funds the person has received that are earmarked for the express purpose of nominating, electing or defeating a candidate or candidates for a state or local office or to expressly advocate the nomination, election or defeat of a candidate or candidates for a state or local office.

(b) Such statements shall be filed in the office or offices required so that each such statement is in such office or offices on the day specified in K.S.A. 25-4148, and amendments thereto. If such contributions are received or expenditures are made to expressly advocate the nomination, election or defeat of a clearly identified candidate for state office, other than that of an officer elected on a state-wide basis such statement shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. If such contributions are received or expenditures are made to expressly advocate the nomination, election or defeat of a clearly identified candidate for state-wide office such statement shall be filed only in the office of the secretary of state. If such contributions or expenditures are made to expressly advocate the nomination, election or defeat of a clearly identified candidate for local office such statement shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Reports made under this section need not be cumulative.";

On page 16, in line 13, by striking "Notwithstanding any other provision of this act" and inserting "Subject to the prohibition against coordination between a candidate or candidate committee and a political committee";

On page 17, in line 26, after "office" by inserting "if the total amount of such expenses, compensation or gifts provided to such persons from all sources does not exceed the total fair market value of services provided to the candidate's campaign or political office";

On page 20, in line 2, by striking "The"; by striking all in lines 3 through 12; in line 13, by striking all before the period and inserting "(1) After a preliminary investigation of any matter reported to the commission pursuant to subsection (c), and upon specific written findings of fact and conclusions of law by the commission that there is a reasonable suspicion that a violation of the campaign finance act has occurred, the commission or any officer designated by the

commission may apply to the district court of Shawnee county for an order to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records that the commission deems relevant or material to the investigation. All applications for a court order shall be made under seal of the court. The commission shall reimburse the reasonable costs of production of documents subject to subpoena. All subpoenas and subpoenas duces tecum issued under this section shall be authorized by the affirmative vote of not less than $\frac{3}{4}$ of the members of the commission. Any vote authorizing the issuance of a subpoena or subpoena duces tecum shall be taken at a meeting where the commissioners are in physical presence. Subpoenas duces tecum shall be limited to items reasonably relevant to such alleged violations. No subpoena or other process issued shall be served upon any person unless an application pursuant to this section has been filed in the district court of Shawnee county.

(2) Upon application by the commission or any officer designated by the commission for a court order pursuant to subsection (d)(1), the district court of Shawnee county, after review of the sufficiency of the written findings of fact and conclusions of law and the record before the commission, as well as the reasonableness and scope of the subpoena, may issue to that person an order requiring the person to appear before the commission or any officer designated by the commission, to produce evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punishable by the court as a contempt of court. Upon the filing of an application for a court order under this section, the commission shall provide a copy of the written findings of fact and conclusions of law relating to the alleged violation and persons under investigation along with a copy of the issued subpoena and notices required by subsection (d)(4).

(3) The commission shall take reasonable steps to avoid imposing an undue burden or

expense on a person subject to the subpoena. A person subject to a subpoena may apply to the district court for relief on the basis that responding to the subpoena will cause an undue burden or expense. The district court on review of the person's application for relief, may impose an appropriate sanction on the commission including an order requiring the commission to reimburse the person for lost earnings and attorney fees.

(4) Every subpoena issued by the commission pursuant to subsection (d)(1) shall be accompanied by a notice containing the provisions of subsection (d)(3) and (d)(5) as well as the following statement: "This subpoena is not enforceable unless a district court of competent jurisdiction issues an order to enforce the subpoena. The recipient of this subpoena has rights under law including those listed in K.S.A. 25-4158(d)(3), and amendments thereto, or other laws to seek relief from complying with this subpoena, as well as a right to be represented by counsel in this matter pursuant to K.S.A. 25-4158(d)(5), and amendments thereto."

(5) Any person ordered to testify or produce documents under this section must be informed that the person has a right to be advised by counsel and that the person may not be required to make any self-incriminating statement. Upon a request by such person for counsel, no further examination of the witness shall take place until counsel is present. In the event that counsel of the witness' choice is not available, the person shall be required to obtain other counsel within three days in order that the inquisition may proceed. If such person is indigent and unable to obtain the services of counsel, the judge shall appoint counsel to assist the person who shall be compensated as counsel appointed for indigent defendants in the district court. Counsel for any witness shall be present while the witness is testifying and may interpose objections on behalf of the witness. Counsel shall not be permitted to examine or cross-examine the client or any other witness during the witnesses testimony";

On page 24, in line 1, by striking all after "(c)"; by striking all in line 2; in line 3, by striking

"(d)"; in line 5, after the period by inserting "Nothing in this section shall prohibit the commission from requiring compliance with any provision of this act as part of a consent decree or final order."; in line 9, after "matter" by inserting "unless such person has received immunity from criminal prosecution in the same matter from a county or district attorney or the attorney general pursuant to K.S.A. 22-3415, and amendments thereto";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 24, in line 43, after the period by inserting "Notwithstanding any other provision of this act, the trial de novo shall include an evidentiary hearing at which issues of law and fact shall be determined anew.";

On page 25, in line 2, after "4148c," by inserting "25-4150,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking "two-year" and inserting "five-year"; in line 3, by striking "limiting" and inserting "modifying"; in line 6, after "25-4148c," by inserting "25-4150,"; and the bill be passed as amended.

_____Chairperson