

SESSION OF 2010

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2082**

As Recommended by Senate Committee on
Ethics and Elections

Brief*

Senate Sub. for HB 2082 would add a new section of law to the Campaign Finance Act that would require reporting on electioneering communications. The new law would do the following:

- It would define “electioneering communication” to mean a communication reaching 500 or more persons and distributed by any means that meets at least one of the following criteria:
 - It unambiguously refers to any clearly identified candidate;
 - It is distributed within 30 days before a primary or 60 days before a general election; or
 - It is distributed to an audience that includes voters for the public office.
- The definition of “electioneering communication” would continue by detailing what it would *not* include. “Electioneering communication” would not include any of the following:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Articles or opinion pieces printed in a periodical, or endorsements or opinions broadcast by a broadcast facility, not owned or controlled by a candidate or political party;
 - Communication by persons made in the regular course and scope of their business, or communication by a membership organization solely to its members and their families;
 - Communication mentioning a candidate only as part of the popular name of a bill or statute;
 - Communication made solely to promote a candidate debate or forum that is made by or on behalf of the sponsor of the event; or
 - Communication made as part of a nonpartisan activity designed to encourage people to vote or register to vote.
- The bill would require any person who spends at least \$500 per calendar year for any electioneering communication to submit a campaign finance report for each electioneering communication. The report must include all of the following:
 - The name of the clearly identified candidate mentioned in the electioneering communication;
 - The name and complete address of each individual or entity contributing more than \$500 per year to the person who makes the electioneering communication (and the occupation of individuals);
 - The name and complete address of the vendor who is to be paid \$500 or more for the electioneering communication;

- The occupation of the individual making the electioneering communication, if an individual is making the communication; and
- The amount spent on the electioneering communication.
- The bill would specify where the electioneering communication reports are to be filed. If such a report concerns a candidate for state office the report is to be filed only with the Secretary of State; if it concerns a candidate for local office, the report is to be filed in the office of the relevant county election officer.
- The bill would require that each report be filed in time to be received in accordance with other campaign finance reporting requirements. In the case of any electioneering communication occurring during the 11 days preceding an election, the report must be filed on or before the close of the second business day following the day the transaction is made for the communication.
- The bill would exempt, from compliance with this law, any federally registered political action committee that pays for electioneering communications in this state, which has reported all of its contributions and expenditures to the Federal Elections Commission in compliance with the relevant federal act.

Background

As introduced, HB 2082 would have enacted the Musical Performance Advertising Act. The Senate Committee on Ethics and Elections adopted a substitute bill, deleting the bill's original contents and replacing them with the contents of SB 418 on electioneering communications.

The Senate Committee held a hearing on SB 418. Senator Terrie Huntington and Representative Tom Moxley

testified favorably. Also testifying in support were representatives of the Kansas Governmental Ethics Commission and the League of Women Voters of Kansas and a private citizen. Opposing testimony was supplied by a private attorney and a representative of Americans for Prosperity.

The fiscal note on HB 2082 (regarding its original contents) states that the bill has the potential for increasing litigation in the courts because of the new crime created by the bill which could result in an undetermined fiscal effect on the operations of the court system.

The fiscal note on SB 418 indicates the bill's passage would have no effect on the state budget.