



GOVERNMENTAL ETHICS COMMISSION

<https://ethics.kansas.gov>

March 12, 2025

Senate Committee on Federal and State Affairs
RE: Neutral Testimony regarding House Bill 2206

Chairman Thompson and members of the committee:

The Kansas Governmental Ethics Commission works to foster public trust and confidence in state government decision-making through education, administration, and enforcement of the Campaign Finance Act and State Governmental Ethics Laws. The disclosure of campaign finance data and ensuring the transparency of such data is integral to the Commission's purpose.

HB 2206 overhauls portions of the Kansas Campaign Finance Act in ways that may diminish transparency. In its current form, the most concerning impacts from HB 2206 stem from its definition of "cooperation or consent," its definition of "political committee," and its changes to the prohibition on giving contributions in the name of another.

Definition of "cooperation or consent."

HB 2206 only considers an expenditure to be coordinated if it was requested or recommended by the candidate or the spender. This fails to address situations where candidates or spenders work through agents, where candidates and spenders may share vendors, or where the candidate has given nonpublic information to the spender.

HB 2206 creates confusion when read with K.S.A. 25-4148c, the definition of independent expenditures, and creates loopholes in the law that do not currently exist. This legislation's attempt to regulate coordinated expenditures does not account for agents of the candidates, candidate committees, or party committees; however, K.S.A. 25-4148c mentions agents when defining independent expenditures.

If the bill text were to be amended to address the concern regarding agents, then it would resolve a large portion of the enforceability concerns. Accounting for agents could help to ensure that candidates do not simply use those working for them as a work around contribution limits.

Definition of "political committee."

As written, HB 2206 has a loophole designed to allow entities to easily game whether they are a political committee under the KCFA. An entity could give money on the last day of the five-year

period to an affiliated entity to artificially inflate the entity's expenditures to avoid the over 50% threshold for express advocacy expenditures. HB 2206 defines "total program spending" to specifically include funds or grants shuffled between affiliated groups. The inclusion of transactions with affiliated groups allows for entities to completely game the PAC definition to where they would never have to register because they could always shuffle around funds to avoid the over 50% threshold.

For example, Entity A spends \$10,000.00 on express advocacy for the years 2020-2025, but their total spending on December 1, 2025, is only \$19,000.00. To take itself out of the definition of a political committee, Entity A grants \$2,000.00 to Entity B (an affiliated organization) to increase Entity A's total program spending to \$21,000.00. Put differently, an entity with various affiliated groups or subsidiaries can pass the funds in one hand to another hand to avoid the disclosure requirements, while still being able to influence elections in Kansas.

Moreover, the Commission has no means to challenge an entity at their word regarding the total program spending because financial records of organizations are rarely made public, and the Commission cannot do the fact finding necessary to even issue a subpoena if it cannot view an entity's financial records.

Changes to the Prohibition on Giving in the Name of Another.

There are two policy rationales underlying the prohibition on giving in the name of another: (1) if money is allowed to freely flow through intermediaries, then contribution limits are meaningless and (2) if money is allowed to flow freely without disclosing the true source, then transparency suffers. If entities, such as potential foreign nationals, pass money through intermediaries, then contribution limits are meaningless, and the public is left unable to determine the true source of campaign contributions.

HB 2206 declares that conduct is not giving in the name of another so long as the source of a campaign contribution is reported on a report filed pursuant to the Kansas Campaign Finance Act. In other words, giving in the name of another is no longer illegal if the transfers involved in the underlying scheme are reported on a campaign finance report, regardless of whether the path of the transfers is apparent.

As the Ohio Secretary of State mentioned Tuesday when presenting to this Committee, there are sophisticated entities who use "complex transactions that create a nefarious money trail" so that they can exploit campaign finance laws. The public is not equipped with the tools to be able to wade through complex transactions to find the true source of campaign contributions. Prohibiting giving in the name of another is a critical prohibition under the act to ensure that the rest of the campaign finance laws can be enforced.

Further, HB 2206 declares that a contribution is only given in the name of another if the purpose of the contribution is to conceal the original source; however, the other policy underlying K.S.A. 25-4154(a) is to prohibit entities from routing funds through straw donors to exceed contribution limits. Passing funds through intermediary entities to exceed contribution limits is completely legal under this bill. This would be a major blow to transparency in Kansas.

Other Provisions.

The Commission has some concern regarding changing its name to the "Kansas Public Disclosure Commission" because it is potentially misleading. The Commission also enforces Chapter 46, which is the State Governmental Ethics Law, and the name change does not reflect this portion of the agency's jurisdiction.

Finally, raising anonymous contributions from \$10 to \$50 in K.S.A. 25-4154 raises some concerns. Anonymous contributions are supposed to be de-minimis and it is unclear as to why an increase is appropriate because anonymous contributions can be an avenue for impermissible giving.

The Commission remains devoted to transparency and ensuring that it fulfills its obligations to Kansans. I am appreciative of the committee's consideration of my neutral testimony that considers the implication of this potential policy change.

Respectfully,



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Kansas Governmental Ethics Commission