

Approved: 2-18-97
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 14, 1997, in Room 521-S of the Capitol.

All members were present except: Representative David Haley, Excused
Representative Deena Horst, Excused
Representative Gwen Welshimer, Excused

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 Lisa Benlon
Ms. Carol E. Williams, Executive Director Kansas Commission
on Governmental Standards and Conduct
Mr. Brad Bryant, Deputy Assistant Secretary of State Elections
and Legislative Matters
Wm. Scott Hesse, Assistant Attorney General in the Civil
Litigation Division I

Others attending: See attached list

Chairperson Glasscock opened the Public Hearing for **HB 2065**.

HB 2065 -Election campaign finance; relating to reports filed by treasurers

The Chair recognized Representative Lisa Benlon who presented testimony in favor of **HB 2065**. She said that it was a very simple bill which "will require campaign treasurers for local office candidates to file their reports in the county election office of the county in which the candidate is on the ballot." (Attachment 1)

The Chair paraphrased that a candidate would file report where the candidate is running, and not where the candidate lives.

Chairperson Glasscock welcomed Ms. Carol Williams, Executive Director of the Kansas Commission on Governmental Standards and Conduct, who spoke in favor of **HB 2065**. She said that this is a bill that the Commission requested because currently there is a lot of confusion. She said that under current law, only candidates for county commission and county sheriff must reside in the county in which they are running for office. When a candidate who runs for office in another county files receipts and expenditure reports only in the candidate's home county, voters in the county in which the candidate is running do not have access to the pre-primary and pre-general election reports without going to the candidate's home county election officer. (Attachment 2.)

Since there was no additional testimony, the Chair closed the Public Hearing for **HB 2065**.

Representative Ted Powers moved that **HB 2065** be passed and recommended favorable and being of a non controversial nature, be placed on the Consent Calendar. Representative Herman Dillon seconded. Motion passed.

Representative Ralph Tanner commented that he would like to register a problem he has with the residency of City Attorney. He said that he would like to see it off the books.

The Chair opened the Public Hearing for **HB 2315**.

HB 2315 -Campaign finance; relating to contributions; amending K.S.A. 1996 Supp. 25-4157a and repealing the existing section.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on February 14, 1997.

Chairperson Glasscock recognized Representative Lisa Benlon who testified in favor of **HB 2315**. She outlined the following uses for campaign expenses: 1) legitimate campaign purchases; 2) expenses of holding political office; 3) contributions to the party committees of the political party which such a candidate is a member; and 4) 4-H, chamber dues, etc. She said that a candidate or a candidate committee cannot use campaign money to pay interest or finance charges for loans made to the campaign account by the candidate or his/her spouse. (Attachment 3.)

The Chair next recognized Ms. Carol E. Williams, Executive Director of the Commission on Governmental Standards and Conduct, who presented testimony on **HB 2315**. She said that the introduction of this bill was a direct result of an advisory opinion issued by the Kansas Commission on Governmental Standards and Conduct in May of 1996. "**HB 2315** would permit a candidate to use campaign funds to make contributions or pay membership dues to any community service, civic, educational, youth, recreational, charitable, religious, scientific, or literary organization or any organization which promotes or facilitates the social, business, commercial or economic well being of the local community." She said that the Commission believes that this is a legislative policy decision, so therefore does not take a position on **HB 2315**. (Attachment 4.)

Representative Lisa Benlon made a motion to pass **HB 2315** marked favorable for passage. Representative Ruby Gilbert seconded.

Representative Jonathan Well made a motion to place **HB 2315** on the Consent Calendar. Representative Larry Campbell seconded. Motion failed.

The vote was taken on Representative Benlon's motion. Motion passed.

Chairperson Glasscock opened the Public Hearing on **HB 2133**.

HB 2133 - An act concerning elections; relating to candidates for office; relating to nominations for office; relating to ballots; amending K.S.A. 11a-102, 25-308, 25-616 and 25-1903 and K.S.A. 1996 Supp. 25-105 and 25-306b and repealing the existing section.

The Chair welcomed Mr. Brad Bryant, Deputy Assistant Secretary of State, Elections and Legislative Matters, who spoke as a proponent of **HB 2133** which was proposed by his office. He said that this bill concerns candidates and the administration of elections. Mr. Bryant presented six sections, and during his testimony there were some questions concerning clarification in a couple of the sections. Since the whole purpose of this bill is to make the law more clear, the Chair asked Representative Ralph Tanner's Subcommittee on Elections to meet Monday, February 17, 1997, to study these sections carefully. (Attachment 5.)

Representative Ralph Tanner said the Subcommittee would meet Monday morning at 9:00 a.m. in Room 521-S.

The Chair recognized Mr. Scott Hesse, Assistant Attorney General in the Civil Litigation Division I, who spoke in support of **HB 2133** because he said that he "was assigned to defend numerous lawsuits filed by persons with vague certificates of nomination that were attempting to get on the ballot." (Attachment 6.)

Chairperson Glasscock closed the Public Hearing on **HB 2133**.

Chairperson Glasscock thanked the whole Committee for all its great work, especially the efficiency and bipartisan effort of the Subcommittees.

The meeting adjourned at 9:45 a.m.

The next meeting is scheduled for February 18, 1997.

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

LISA L. BENLON
REPRESENTATIVE, 17TH DISTRICT
REPRESENTING PORTIONS OF
SHAWNEE AND LENEXA
7303 EARNSHAW
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COMMITTEE ASSIGNMENTS
ECONOMIC DEVELOPMENT
GOVERNMENTAL ORGANIZATION AND ELECTIONS
TOURISM

TESTIMONY FOR
HB 2065

Simply, HB 2065 will require campaign treasurers for local office candidates to file their reports in the county election office of the county in which the candidate is on the ballot.

House GO and E
Attachment 1
2.14.97



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

**Testimony before House Elections and Local Government
 House Bill 2065
 by Carol Williams
 February 14, 1997**

House Bill 2065 would amend K.S.A. 25-4148, a provision in the Campaign Finance Act. This bill was recommended by the Kansas Commission on Governmental Standards and Conduct in its 1996 Annual Report and Recommendations.

The amendment to K.S.A. 25-4148 is found on line 23 of the bill. The amendatory language would require a treasurer for a local candidate to file the candidate's receipts and expenditures reports in the office of the county election officer in the county in which the candidate is on the ballot.

Under current law, only candidates for county commission and county sheriff must reside in the county in which they are running for office. Candidates for other county offices do not have to reside in the county in which they run for office. K.S.A. 25-4148 requires a candidate for county office to file his or her campaign finance receipts and expenditures reports in the office of the county election officer of the county in which the candidate is a resident. Therefore, a candidate who runs for office in another county files his or her receipts and expenditures reports only in the candidate's home county, not the county where the candidate is seeking office. Voters in the county in which the candidate is running do not have access to the candidate's pre-primary and pre-general election reports without going to the office of the candidate's home county election officer.

The Commission believes that citizens should have easy access to information concerning the campaign finance activities of the candidates they will be voting for. Therefore, the Commission supports House Bill 2065 and urges your support and passage of this bill.

House GO + E
 Attachment 2
 2.14.97



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

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TESTIMONY FOR
HB 2315

Campaign expenses can be used only for:

- legitimate campaign purchases
- expenses of holding political office
- contributions to the party committees of the political party which such candidate is a member
- 4-H, chamber dues, etc.

A candidate or candidate committee can't use campaign money to pay interest or finance charges for loans made to the campaign account by candidate or his/her spouse.

House GO and E
Attachment 3
2.14.97



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

**Testimony before House Elections and Local Government
House Bill 2315
by Carol Williams
February 14, 1997**

House Bill 2315 would amend K.S.A. 25-4157a which is a provision of the Campaign Finance Act.

This bill was introduced as a direct result of an advisory opinion issued by the Kansas Commission on Governmental Standards and Conduct in May of 1996. The Commission opined that membership dues to civic or fraternal organizations as well as donations to charities and local fundraising endeavors were not permissible expenditures from a candidate's campaign fund. Advisory Opinion No. 96-16 is attached for your review.

House Bill 2315 would permit a candidate to use campaign funds to make contributions or pay membership dues to any community service, civic, educational, youth, recreational, charitable, religious, scientific or literary organization or any organization which promotes or facilitates the social, business, commercial or economic well being of the local community.

In addition, this bill would prohibit a candidate from paying him or herself interest or finance charges from the campaign bank account for any money the candidate loans to the campaign.

The Commission believes this to be a legislative policy decision and does not take a position on this bill.

House GO & E
Attachment 4
2.14.97



KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

May 22, 1996

Opinion No. 96-16

TO ALL INTERESTED PERSONS:

Pursuant to K.S.A. 25-4159, the Kansas Commission on Governmental Standards and Conduct takes the opportunity to issue its opinion on the permissible use of campaign funds by candidates and elected office holders who are under the purview of the Kansas Campaign Finance Act (K.S.A. 25-4142 et seq.).

OPINION

K.S.A. 25-4157a(a) states:

"No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for legitimate campaign purposes, for expenses of holding political office or for contributions to the party committees of the political party of which such candidate is a member.

For the purpose of this section, expenditures for "personal use" shall include expenditures to defray normal living expenses for the candidate or the candidate's family and expenditures for the personal benefit of the candidate having no direct connection with or effect upon the campaign of the candidate or the holding of public office."

To be a permissible use of campaign funds, an expenditure must be for a legitimate campaign purpose, an expense of holding political office or a contribution to a party committee. In order to be a "legitimate campaign purpose or an expense of holding political office", the expenditure must have a "direct connection with or effect upon the campaign of the candidate or the holding of public office". All other expenditures are for personal use, and thus are prohibited. The Commission has provided the following examples of expenses to be used as a guide for candidates and office holders when making an expenditure from campaign funds.

EXAMPLES OF PERMISSIBLE EXPENDITURES FROM CAMPAIGN FUNDS

Computers, Telefacsimile Machines and Cellular Telephones

While expenditures for these types of items may be necessary for campaign purposes or holding office, they also have the potential to be used for the personal benefit of the candidate. Therefore, the Commission advises all candidates and office holders to refrain from using any items, purchased with campaign funds, for his or her personal use. Items purchased entirely with campaign funds may not be used for personal use.

Advertisements in Publications

The purchase of campaign ads in publications of charitable and civic organizations, yearbooks, school papers, etc., is a permissible expenditure.

Payment of Auto Expenses

One of the following options can be selected for the payment of auto expenses:

1. A candidate or officeholder can be reimbursed from his or her campaign fund for auto expenses up to \$.29 per mile. Any extraordinary maintenance or repairs will be determined on a case-by-case basis.
2. A candidate or officeholder can be reimbursed from his or her campaign fund for gas, oil and normal maintenance for automobiles used on campaign business. Any questions about what constitutes normal maintenance will be decided on a case-by-case basis.

Detailed records of these expenditures must be kept to substantiate any legitimate auto expenses.

Meals for Campaign Workers

Meal expenses may be permissible as a legitimate expense. However, the simple description of "lunch" or "food" on a candidate's receipts and expenditures report will not be sufficient to justify the expense. It will be necessary for the expenses of the meal to be described as for a campaign meeting, a political planning or strategy session, or for a campaign work session to be allowable.

EXAMPLES OF IMPERMISSIBLE EXPENDITURES FROM CAMPAIGN FUNDS

Donation to Charities and Local Fundraising Endeavors

Donations or contributions to charities and local fundraising endeavors, no matter how worthy the cause, are not permissible. This prohibition includes buying livestock at 4-H fairs.

Memberships to Civic and Fraternal Organizations

Dues to these types of organizations are not allowed. This prohibition includes membership dues paid to Chambers of Commerce, Kiwanis and Rotary.

Memberships and Dues to Country Clubs and Private Dinner Clubs

Expenditures for memberships and dues to country clubs and private dinner clubs are considered to be for the personal benefit of the candidate or office holder and thus are prohibited. The Commission does not believe it is necessary to entertain state clients, constituents or campaign workers at private clubs when there are facilities available to the general public that do not require memberships.

Mailing of Christmas cards and purchase of office decorations

These types of expenditures are considered to be for the personal benefit of the candidate or office holder and thus are prohibited.

Purchasing or Renting Formal Wear for Governmental and Political Functions

Expenditures for buying or renting formal wear are considered to be for the personal benefit of the candidate or office holder and thus are prohibited.

In closing, the Commission suggests that candidates and office holders seek guidance from the Commission's staff prior to using any campaign funds for expenses that may be considered questionable.

Nothing in this opinion precludes a candidate or office holder from using his or her own personal funds for the payment of any of these expenses.

Sincerely,

Diane Gaede

Diane Gaede, Chairwoman
By Direction of the Commission

DG:WCS:dlw

Ron Thornburgh
Secretary of State



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STATE OF KANSAS

House Committee on Governmental Organization and Elections

Testimony on HB 2133

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

February 14, 1997

Mr. Chairman and Members of the Committee:

Thank you for your consideration of HB 2133, which was proposed by the Secretary of State. This bill concerns candidates and the administration of elections.

Section 1 would amend K.S.A. 22a-102 to clarify that independent candidates for district attorney may file until noon the day before the August primary, the same as independent candidates for other offices. Partisan primary candidates would still be required to file by noon on June 10. Current law is unclear and resulted in an Attorney General opinion last year. (See also Section 6.)

Section 2 would amend K.S.A. 25-105 to end the requirement that county election officers send a copy of the newspaper publication of candidates' names to presidential and vice presidential candidates. While the mailing of this publication serves a useful purpose in the administration of elections for most offices, presidential and vice presidential candidates do not know why they receive the publications if they receive them, and they usually don't receive them because county election officers usually have no address to send them to.

Section 3 would amend K.S.A. 25-306b to prohibit party candidates who have won the primary election from withdrawing after the primary. Current law allows such "placeholder" candidates to withdraw and be replaced by a party convention. The problem arises when the party takes too long to find a replacement, or never finds a replacement. This delays the county election officers' ability to prepare ballots on time and contributes to voter confusion concerning who the candidates are from which to choose.

Corporations (913) 296-4564
FAX (913) 296-4570

Elections (913) 296-4561
Administration (913) 296-0498
FAX (913) 291-3051

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FAX (913) 296-3659

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2.14.97

Section 4 would amend K.S.A. 25-308(a) to grant the Secretary of State the authority to determine the validity of certificates of nomination filed by third parties after their nominating conventions. Current law allows the Secretary to determine the validity of declarations of intention and petitions filed by partisan primary candidates and independent candidates, but not certificates filed by minor party conventions. When those certificates contain errors, it creates confusion as to the party's intent. This resulted in a series of lawsuits in 1996, and we think such situations could be avoided in the future with passage of this legislation.

Section 4 would also amend K.S.A. 25-308(f) to move the deadline earlier for mandamus actions concerning ballot access. Current law allows persons to file mandamus actions in court seeking the inclusion or exclusion of a candidate's name on the ballot up to 30 days before the election. If an action is filed that late, by the time the court issues a decision it is too late to reprint ballots for all voters, particularly federal service voters and advance voters. This bill would move the deadline to 45 days before the election.

Section 5 would amend K.S.A. 25-616 to change the general election ballot format to include the phrase "Vote for One Pair" above the list of candidates for president and vice president of the United States. In the races for other offices the ballot instructs the voter how many times to vote.

Section 6 would amend K.S.A. 25-1903 to clarify that independent candidates for state board of education may file until noon the day before the August primary, the same as independent candidates for other offices. Partisan primary candidates would still be required to file by noon on June 10. A lack of clarity in the current laws was pointed out in the 1996 election and resulted in a lawsuit that this legislation proposes to avoid in the future.

We recommend the committee report this bill favorably for passage. Thank you for your consideration.

TESTIMONY OF WM. SCOTT HESSE

I come before the Committee today in support of House Bill 2133. As an Assistant Attorney General in the Civil Litigation Division I was assigned to defend numerous lawsuits filed by persons with vague certificates of nomination that were attempting to get on the ballot. For example, I spent most of the month of September 1996 trying to determine how to put a candidate on the ballot for the 79th State Senate District. I was also confronted with a Certificate of Nomination for a Candidate for the United States House of Representatives. As you know, there are four United States House of Representatives seats for the State of Kansas. The way the law is currently written, a candidate can arguably run for all four U.S. House seats at the same time. The changes contained in H.B. 2133 would give the Secretary of State the authority to clear up any ambiguities that are made with Party's Certificates of Nomination.

Another important aspect of H.B. 2133 would be to require a candidate to file a Petition for a Writ of Mandamus forty five days before the election as opposed to thirty days before the election. There are numerous deadlines to get ballots out to persons that are eligible to vote. For example, we were under a very important deadline to get ballots to the troops in Bosnia or other places overseas. Under the current law we may send a ballot to persons in the military and then be required to change those ballots. This would deprive our soldiers and sailors the opportunity to vote.

H.B.2133 also clears up ambiguities in the nomination of independent County Attorney and State Board of Education Candidates. Last Fall we were confronted with a lawsuit where a nominated candidate attempted to keep an independent candidate off of the ballot for the State School Board. H.B. 2133 will make the election laws for all offices more consistent.

H.B. 2133 will reduce the amount of litigation surrounding ballot access in

House GO and E
Attachment 6
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Kansas. H.B. 2133 will clear up many ambiguities and make the law more consistent. Kansas can allocate its resources in a more efficient manner than by fighting lawsuits. H.B. 2133 will reduce the controversy in elections and allow any person to run for public office if they desire.