

As Amended by House Committee

HOUSE BILL No. 2183

By Committee on Elections

1-29

Proposed Amendments to HB 2183
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Office of Revisor of Statutes
March 18, 2015

1 AN ACT concerning campaign finance; relating to political campaigns and
2 technology; amending K.S.A. 2014 Supp. 25-4153a, 25-4156 and 25-
3 4169a and repealing the existing sections.

4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2014 Supp. 25-4153a is hereby amended to read as
6 follows: 25-4153a. (a) No registered lobbyist, political committee or
7 person, other than an individual, shall make a contribution after January 1
8 of each year and prior to adjournment sine die of the regular session of the
9 legislature or at any other time in which the legislature is in session to a:

- 10 (1) Legislator;
- 11 (2) candidate for membership in the legislature;
- 12 (3) state officer elected on a statewide basis;
- 13 (4) candidate for state officer elected on a statewide basis;
- 14 (5) candidate committee of persons described in paragraphs (1)
15 through (4); or
- 16 (6) political committee established by a state committee of any
17 political party and designated as a recognized political committee for the
18 senate or house of representatives.

19 (b) No legislator, officer, candidate or committee described in
20 paragraphs (1) through (6) of subsection (a) (1) through (6) shall accept or
21 knowingly solicit any contribution as defined by K.S.A. 25-4143, and
22 amendments thereto, from any registered lobbyist, political committee or
23 person, other than an individual, during such period of time described in
24 subsection (a), except that a general public solicitation which does not
25 solicit a specific individual and is distributed via social media shall be
26 permissible.

27 (c) For the purposes of this act, "social media" means computer or
28 cellphone-based websites or applications that enable users to create and
29 share content and to participate in public social networking an electronic
30 medium which allows users to create and view user-generated content,
31 including, but not limited to, uploaded or downloaded videos or
32 photographs, blogs, audio files, instant messages or email.

33 Sec. 2. K.S.A. 2014 Supp. 25-4156 is hereby amended to read as
34 follows: 25-4156. (a) (1) Whenever any person sells space in any
35 newspaper, magazine or other periodical to a candidate or to a candidate
36

K.S.A. 25-4157, 25-4478, 46-268 and
46-269 and

25-4148a,

25-4157a

1 committee, party committee or political committee, the charge made for
2 the use of such space shall not exceed the charges made for comparable
3 use of such space for other purposes.

4 (2) Intentionally charging an excessive amount for political
5 advertising is a class A misdemeanor.

6 (b) (1) *Except as provided in subsection (2), corrupt political*
7 *advertising of a state or local office is:*

8 (A) Publishing or causing to be published in a newspaper or other
9 periodical any paid matter which expressly advocates the nomination,
10 election or defeat of a clearly identified candidate for a state or local
11 office, unless such matter is followed by the word "advertisement" or the
12 abbreviation "adv." in a separate line together with the name of the
13 chairperson or treasurer of the political or other organization sponsoring
14 the same or the name of the individual who is responsible therefor;

15 (B) broadcasting or causing to be broadcast by any radio or television
16 station any paid matter which expressly advocates the nomination, election
17 or defeat of a clearly identified candidate for a state or local office, unless
18 such matter is followed by a statement which states: "Paid for" or
19 "Sponsored by" followed by the name of the sponsoring organization and
20 the name of the chairperson or treasurer of the political or other
21 organization sponsoring the same or the name of the individual who is
22 responsible therefor;

23 (C) telephoning or causing to be contacted by any telephonic means
24 including, but not limited to, any device using a voice over internet
25 protocol or wireless telephone, any paid matter which expressly advocates
26 the nomination, election or defeat of a clearly identified candidate for a
27 state or local office, unless such matter is preceded by a statement which
28 states: "Paid for" or "Sponsored by" followed by the name of the
29 sponsoring organization and the name of the chairperson or treasurer of the
30 political or other organization sponsoring the same or the name of the
31 individual who is responsible therefor;

32 (D) publishing or causing to be published any brochure, flier or other
33 political fact sheet which expressly advocates the nomination, election or
34 defeat of a clearly identified candidate for a state or local office, unless
35 such matter is followed by a statement which states: "Paid for" or
36 "Sponsored by" followed by the name of the chairperson or treasurer of the
37 political or other organization sponsoring the same or the name of the
38 individual who is responsible therefor.

39 The provisions of this subparagraph (D) requiring the disclosure of the
40 name of an individual shall not apply to individuals making expenditures
41 in an aggregate amount of less than \$2,500 within a calendar year; or

42 (E) making or causing to be made any website, e-mail or other type of
43 internet communication which expressly advocates the nomination,

1 election or defeat of a clearly identified candidate for a state or local
2 office, unless such matter is followed by a statement which states: "Paid
3 for" or "Sponsored by" followed by the name of the chairperson or
4 treasurer of the political or other organization sponsoring the same or the
5 name of the individual who is responsible therefor.

6 The provisions of this subparagraph (E) requiring the disclosure of the
7 name of an individual shall apply only to any website, e-mail or other type
8 of internet communication which is made by the candidate, the candidate's
9 candidate committee, a political committee or a party committee and such
10 website, e-mail or other internet communication viewed by or
11 disseminated to at least 25 individuals. For the purposes of this
12 subparagraph, the terms "candidate," "candidate committee," "party
13 committee" and "political committee" shall have the meanings ascribed to
14 them in K.S.A. 25-4143, and amendments thereto.

15 (2) *The provisions of subsections (b)(1)(C) and (E) shall not apply to*
16 *the publication of any communication which expressly advocates the*
17 *nomination, election or defeat of a clearly identified candidate for state or*
18 *local office, if such communication is made over any social media*
19 *provider which has a character limit of 140 200 characters or fewer which*
20 *would prevent the commentator from publishing both such person's*
21 *statement of advocacy and the "paid for" or "sponsored by" message.*

22 (3) Corrupt political advertising of a state or local office is a class C
23 misdemeanor.

24 (c) If any provision of this section or application thereof to any
25 person or circumstance is held invalid, such invalidity does not affect other
26 provisions or applications of this section which can be given effect without
27 the invalid application or provision, and to this end the provisions of this
28 section are declared to be severable.

29 Sec. 3. K.S.A. 2014 Supp. 25-4169a is hereby amended to read as
30 follows: 25-4169a. (a) (1) No officer or employee of the state of Kansas,
31 or any municipality, shall use or authorize the use of public funds or public
32 vehicles, machinery, equipment or supplies of any such governmental
33 agency or the time of any officer or employee of any such governmental
34 agency, for which the officer or employee is compensated by such
35 governmental agency, to expressly advocate the nomination, election or
36 defeat of a clearly identified candidate to state office or local office. The
37 provisions of this section prohibiting the use of time of any officer or
38 employee for such purposes shall not apply to an incumbent officer
39 campaigning for nomination or reelection to a succeeding term to such
40 office or to members of the personal staff of any elected officer. The
41 provisions of this section shall not apply to the statutory duties of the
42 commission on judicial performance pursuant to article 32 of chapter 20 of
43 the Kansas Statutes Annotated, and amendments thereto.

(2) *The provisions of this subsection shall not apply to the use of the wireless broadband internet connectivity provided in the Kansas statehouse to elected officials who work in the statehouse, including but not limited to the governor, the lieutenant governor, members of the house of representatives or members of the senate by the state of Kansas or any municipality to any candidate or elected official.*

(3) Except as otherwise provided in this section, no municipality shall permit or allow any person to distribute, or cause to be distributed, within any building or other structure owned, leased or rented by such municipality any brochure, flier, political fact sheet or other document which expressly advocates the nomination, election or defeat of a clearly identified candidate for state or local office unless each candidate for such state or local office is permitted or allowed to do so in the same manner.

(4) For the purposes of this subsection, the term municipality shall have the meaning ascribed to it in K.S.A. 12-105a, and amendments thereto.

(b) Any person violating the provisions of this section shall be guilty of a class C misdemeanor.

Sec. 4, K.S.A. 2014 Supp. 25-4153a, 25-4156 and 25-4169a are hereby repealed.

Sec. 5, This act shall take effect and be in force from and after its publication in the statute book.

K.S.A. 25-4157, 25-4173, 46-268 and 46-269 and

25-4148a,

, 25-4157a

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Sec. 4. K.S.A. 2014 Supp. 25-4157a is hereby amended to read as follows: 25-4157a. (a) 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:

- (1) Legitimate campaign purposes;
- (2) expenses of holding political office;
- (3) contributions to the party committees of the political party of which such candidate is a member;
- (4) any membership dues related to the candidate's campaign paid to a community service or civic organization in the name of the candidate;
- (5) any donations paid to ~~a~~ any organization which is recognized as a 501(c)(3) tax exempt organization or any religious organization, community service or civic organization in the name of the candidate or candidate committee of any candidate but only if the candidate receives no goods or services unrelated to the candidate's campaign as a result of the payment of such donations;
- (6) expenses incurred in the purchase of tickets to meals and special events sponsored by any organization the major purpose of which is to promote or facilitate the social, business, commercial or economic well being of the local community; or
- (7) expenses incurred in the purchase and mailing of greeting cards to voters and constituents.

For the purpose of this subsection, 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.

(b) No moneys received by any candidate or candidate committee of any candidate as a contribution shall be used to pay interest or any other finance charges upon moneys loaned to the campaign by such candidate or the spouse of such candidate.

(c) No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution. The provisions of this subsection shall not be construed to prohibit a candidate or candidate committee from accepting moneys from another candidate or candidate committee if such moneys constitute a reimbursement for one candidate's proportional share of the cost of any campaign activity participated in by both candidates involved. Such reimbursement shall not exceed an amount equal to the proportional share of the cost directly benefiting and attributable to the personal campaign of the candidate making such reimbursement.

(d) At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds otherwise not obligated for the payment of expenses incurred in such campaign or the holding of office shall be contributed to a charitable organization, as defined by the laws of the state, contributed to a party committee or returned as a refund in whole or in part to any contributor or contributors from whom received or paid into the general fund of the state.

Sec. 5. K.S.A. 25-4157 is hereby amended to read as follows: 25-4157. (a) Before any candidate committee, party committee or political committee may be dissolved or the position of a candidate's treasurer terminated, the treasurer of the candidate or such committee shall file a termination report which shall include full information as to the disposition of residual funds. Any report required by K.S.A. 25-4148, and amendments thereto, may be a termination report. Reports of the dissolution of candidate committees of candidates for state office, the termination of the treasurer of a candidate for state office, the dissolution of a political committee the major purpose of which is to

support or oppose any candidate for state office and the dissolution of party committees shall be filed in the office of the secretary of state. Reports of the dissolution of candidate committees of candidates for local office, the termination of the treasurer of a candidate for local office and the dissolution of a political committee the major purpose of which is to support or oppose any candidate for local office shall be filed in the office of the county election officer of the county.

(b) If a candidate dies with an open candidate committee account which contains campaign funds, the executor or administrator of the candidate's estate shall be responsible for terminating the candidate committee and disposing of the residual funds.

Sec. 6. K.S.A. 25-4173 is hereby amended to read as follows: 25-4173. Every candidate for state or local office who intends to expend or have expended on such person's behalf an aggregate amount or value of less than ~~\$500~~ \$1,000, exclusive of such candidate's filing fee, and who intends to receive or have received on such person's behalf contributions in an aggregate amount or value of less than ~~\$500~~ \$1,000 in each of the primary and the general elections shall file, not later than the ninth day preceding the primary election, an affidavit of such intent with the secretary of state for state offices. In the case of a candidate for a local office, such affidavit also shall be filed with the county election officer of the county in which the name of the candidate is on the ballot. No report required by K.S.A. 25-4148, and amendments thereto, shall be required to be filed by or for such candidate.

Sec. 7. K.S.A. 46-268 is hereby amended to read as follows: 46-268. (a) Except as otherwise provided in subsection (b), every lobbyist shall file with the secretary of state a report of employment and expenditures on a form and in the manner prescribed and provided by the commission. A report shall be filed on or before the 10th day of the months of February, March, April, May, September and January. Reports shall include all expenditures which are required to be reported under K.S.A. 46-269, and amendments thereto, or a statement that no

expenditures in excess of \$100 were made for such purposes, during the preceding calendar month or months since the period for which the last report was filed.

(b) For any calendar year in which a lobbyist expects to expend an aggregate amount of less than \$100 for lobbying in each reporting period, a lobbyist shall file an affidavit of such intent with the secretary of state. Such lobbyist shall not be required to file the reports required under subsection (a) for the year for which such affidavit is filed ~~but shall file a report on or before January 10, which shall include all expenditures made in the preceding calendar year which are required to be reported under K.S.A. 46-269, and amendments thereto.~~ If in any reporting period a lobbyist filing such affidavit expends in excess of \$100 in reportable expenses, a report shall be filed for such period in the manner prescribed by subsection (a).

Sec. 8. K.S.A. 2014 Supp. 25-4148a is hereby amended to read as follows: 25-4148a. When a report is made under this act and the amount being contributed by an individual is over \$150, the report shall list the occupation ~~and industry~~ of the individual contributor. If the individual contributor is not employed for compensation then the report shall list the occupation ~~and industry~~ of the contributor's spouse.

Sec. 9. K.S.A. 46-269 is hereby amended to read as follows: 46-269. Each report required to be filed by K.S.A. 46-268, and amendments thereto, is a public record and shall be open to public inspection upon request. Such report shall disclose the following:

(a) The full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying by the lobbyist during the period reported.

(b) The aggregate amount or value of all expenditures made, except for expenses of general office overhead, by the lobbyist or by the lobbyist's employer for or in direct relation to lobbying during the reporting period, if such expenditures exceed \$100. Individual expenditures of less than \$2 shall not be required to be reported under this subsection. Every lobbyist shall keep detailed accounts of all

expenditures required to be reported pursuant to K.S.A. 46-268, and amendments thereto. Such expenditures shall be reported according to the following categories of expenditures:

- (1) Food and beverages provided as hospitality;
- (2) entertainment, gifts, honoraria or payments;
- (3) mass media communications;
- (4) recreation provided as hospitality;
- (5) communications for the purpose of influencing legislative or executive action; and
- (6) all other reportable expenditures made in the performance of services as a lobbyist.

With regard to expenditures for entertainment or hospitality which is primarily recreation, food and beverages, only amounts expended on a state officer or employee or on such officer or employee's spouse shall be considered to be for or in direct relation to lobbying. Notwithstanding the requirements of this subsection and subsection (d), no lobbyist shall be responsible to report any expenditure by the lobbyist's employer of which such person has no knowledge.

(c) (1) In addition to the information reported pursuant to subsection (b), each lobbyist expending an aggregate amount of \$100 or more for lobbying in any reporting period shall report any gift, entertainment or hospitality provided to members of the legislature, members of the judicial branch of government and any employees of the legislature or judicial branch of government. Such report shall disclose the full name of the legislator, member of the judicial branch and employee who received such gift, entertainment or hospitality, the date, and the amount expended on such gift, entertainment or hospitality.

- (2) No report shall be required to be filed pursuant to this subsection (c) for the following:

- (A) Meals, the provision of which is motivated by a personal or family relationship;
- (B) meals provided at public events in which the person is attending in an official capacity;
- (C) meals provided to a person subject to this section when it is obvious such meals are not being provided because of the person's official position;
- (D) food such as soft drinks, coffee or snack foods not offered as part of a meal; and
- (E) entertainment or hospitality in the form of recreation, food and beverages provided at an event to which the following have been invited:
 - (i) All members of the legislature or all members of either house of the legislature; or
 - (ii) all members of a political party caucus of the legislature or all members of a political party caucus of either house of the legislature.
- (d) Except as provided by subsection (c), whenever an individual lobbyist contributes to a single special event, such lobbyist shall report only the aggregate amount or value of the expenditure contributed by such lobbyist.
- (e) Whenever more than one lobbyist is employed by a single employer, the reports required by this section relating to such employer shall be made by only one such lobbyist and that lobbyist shall be the lobbyist who is most directly connected with the particular expenditure or gift, honoraria or payment. No expenditure or gift, honoraria or payment required to be reported by this section shall be reported by more than one lobbyist.
- (f) All accounts, records and documents of the lobbyist which relate to every expenditure reported or which should have been reported 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.