

## PROPOSED Substitute for HOUSE BILL NO. 2391

By Committee on Elections

AN ACT concerning campaign finance; relating to the governmental ethics commission; establishing a five-year statute of limitations for complaints; modifying the commission's subpoena powers; allowing respondents to have a hearing transferred before a presiding officer under the Kansas administrative procedure act; amending K.S.A. 25-4119d, 25-4143, 25-4145, 25-4148, 25-4148c, 25-4152, 25-4153a, 25-4153b, 25-4154, 25-4157a, 25-4158, 25-4161, 25-4163, 25-4165, 25-4170, 25-4181, 25-4182 and 25-4185 and repealing the existing sections.

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

New Section 1. (a) The provisions of the Kansas administrative procedure act, the Kansas code of civil procedure and the Kansas judicial review act shall apply to actions by the governmental ethics commission or commission staff, including, but not limited to, applications for judicial relief in district court. All actions filed by the commission in district court pursuant to this act shall constitute a claim for purposes of the Kansas public speech protection act.

(b) Any action before the commission shall be brought within five years of the first act giving rise to the cause of action or complaint.

(c) No action by the commission, including, but not limited to, the issuance of any consent order, order dismissing a complaint or any other preliminary or final order by the commission, shall require a respondent to waive any civil or legal rights to judicial recourse in any manner.

(d) The commission shall provide by rules and regulations the standards by which any member of the commission, the executive director or any other person employed or engaged by the commission shall recuse themselves from any matter before the commission by reason of a conflict of interest, appearance of impropriety or other basis affecting the ability of the commission to neutrally and fairly enforce the campaign finance act.

Sec. 2. K.S.A. 25-4119d is hereby amended to read as follows: 25-4119d. (a) ~~From and after the effective date of this act,~~ No person shall be appointed to membership on the commission who has held the office of chairperson, vice chairperson or treasurer of any county, district or state political party committee, or who within five years preceding the date of such appointment has been a candidate for or the holder of any partisan political office or who has within three years preceding the date of such appointment: (1) Held an elective state office; (2) held the office of secretary of any department of state government; (3) been a lobbyist as defined by K.S.A. 46-222, and amendments thereto; (4) been an officer or employee who directly participated in the making of a contract on behalf of a vendor of goods and services with the state of Kansas or any agency thereof; or (5) provided services under contract to the state of Kansas or any agency thereof.

(b) While serving on the commission created by K.S.A. 25-4119a, and amendments thereto, no member shall: (1) Be an individual subject to the provisions of the campaign finance law or the provisions of K.S.A. 46-215 et seq., and amendments thereto, administered or enforced by the commission; (2) Serve as a chairperson or treasurer for any candidate or committee subject to the provisions of the campaign finance act; (3) actively solicit contributions subject to the provisions of the campaign finance act; (4) be a lobbyist as defined by K.S.A. 46-222, and amendments thereto; (5) be an officer or employee who directly ~~participated~~ participates in the making of a contract on behalf of a vendor of goods and services with the state of Kansas or any agency thereof; (6) provide services under contract to the state of Kansas or any agency thereof; (7) be a candidate for or the holder of any partisan political office; (8) be the chairperson, vice chairperson or treasurer of any county, district or state political party committee; (9) directly or indirectly solicit contributions for any partisan political party or any

organization thereof or any candidate for partisan political office; or (10) endorse any candidate for any partisan political office subject to the provisions of this act.

(c) For purposes of this section, "partisan political office" means any office for which any candidate is nominated or elected as representing a party of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected. "Partisan political office" does not include any office or position within a political party or affiliated organization, including, but not limited to, precinct, county, congressional district or state party committee members.

~~(e)~~(d) Whenever any member of the commission is ineligible to serve as a member thereof under the provisions of subsections (a) and (b) ~~of this section~~, the membership of such person shall terminate and such person shall no longer be eligible to participate in any action or proceeding by the commission. Such vacancy shall be filled in the manner prescribed by K.S.A. 25-4119a, and amendments thereto.

Sec. 3. K.S.A. 25-4143 is hereby amended to read as follows: 25-4143. As used in the campaign finance act, unless the context otherwise requires:

(a) "Agent" means an individual who is:

(1) A candidate;

(2) a chairperson of a candidate, political or party committee;

(3) a treasurer; or

(4) any director, officer, employee, paid consultant or other person who is authorized to act on behalf of persons listed in this subsection.

(b) "Candidate" means an individual who:

(1) Appoints a treasurer or a candidate committee;

(2) makes a public announcement of intention to seek nomination or election to state or local office;

(3) makes any expenditure or accepts any contribution for such person's nomination or election to any state or local office; or

(4) files a declaration or petition to become a candidate for state or local office.

~~(b)~~(c) "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.

~~(e)~~(d) "Clearly identified candidate" means a candidate who has been identified by the:

(1) Use of the name of the candidate;

(2) use of a photograph or drawing of the candidate; or

(3) unambiguous reference to the candidate whether or not the name, photograph or drawing of such candidate is used.

~~(d)~~(e) "Commission" means the governmental ethics commission.

~~(e)~~(f) (1) "Contribution" means:

(A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value given to a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office;

(B) any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;

(C) a transfer of funds between any two or more candidate committees, party committees or political committees;

(D) the payment, by any person other than a candidate, candidate committee, party committee or political committee, of compensation to an individual for the personal services rendered without charge to or for a candidate's campaign or to or for any such committee;

(E) the purchase of tickets or admissions to, or advertisements in journals or programs for, testimonial events; or

(F) a mailing of materials designed to expressly advocate the nomination, election or defeat of a clearly identified candidate, which is made and paid for by a party committee with the consent of such candidate.

(2) "Contribution" does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer related to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning; or

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding a fair market value of \$50 per event.

(F)(g) (1) "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:

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

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(B) 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.

(2) 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) "Election" means:

- (1) A primary or general election for state or local office; and
- (2) a convention or caucus of a political party held to nominate a candidate for state or local office.

~~(g)~~(i) (1) "Expenditure" means:

(A) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made by a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office;

(B) any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;

(C) any contract to make an expenditure;

(D) a transfer of funds between any two or more candidate committees, party committees or political committees; or

(E) payment of a candidate's filing fees.

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(2) "Expenditure" does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer incidental to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning or payment of such costs by the treasurer of a candidate or candidate committee;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding fair market value of \$50 per event; or

(E) any communication by an incumbent elected state or local officer with one or more individuals unless the primary purpose thereof is to expressly advocate the nomination, election or defeat of a clearly identified candidate.

(h)(j) "Expressly advocate the nomination, election or defeat of a clearly identified candidate" means any communication ~~which~~ that uses phrases including, but not limited to:

(1) "Vote for the secretary of state";

(2) "re-elect your senator";

(3) "support the democratic nominee";

(4) "cast your ballot for the republican challenger for governor";

(5) "Smith for senate";

(6) "Bob Jones in '98";

(7) "vote against Old Hickory";

(8) "defeat" accompanied by a picture of one or more candidates; or

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(9) "Smith's the one."

~~(i)~~(k) "Party committee" means:

(1) The state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

(2) the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

(3) the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated;

(4) ~~not more than one~~the political committee established by the state committee of any such political party and designated as a recognized political committee for the senate;

(5) ~~not more than one~~the political committee established by the state committee of any such political party and designated as a recognized political committee for the house of representatives; or

(6) ~~not more than one~~the political committee per congressional district established by the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto, and designated as a congressional district party committee.

~~(j)~~(l) "Person" means any individual, committee, corporation, partnership, trust, organization or association.

~~(k)~~(m) (1) "Political committee" means any combination of two or more individuals or any person other than an individual, a major purpose of which is to expressly advocate the nomination, election or defeat of a clearly identified candidate for state or local office or make contributions to or expenditures for the nomination, election or defeat of a clearly identified



candidate for state or local office.

(2) "Political committee" shall not include a candidate committee or a party committee.

(l)(n) "Receipt" means a contribution or any other money or thing of value, but not including volunteer services provided without compensation, received by a treasurer in the treasurer's official capacity.

(m)(o) "State office" means any state office as defined in K.S.A. 25-2505, and amendments thereto.

(n)(p) "Testimonial event" means an event held for the benefit of an individual who is a candidate to raise contributions for such candidate's campaign. "Testimonial events" include, but are not limited to, dinners, luncheons, rallies, barbecues and picnics.

(o)(q) "Treasurer" means a treasurer of a candidate or of a candidate committee, a party committee or a political committee appointed under the campaign finance act or a treasurer of a combination of individuals or a person other than an individual which is subject to ~~paragraph (2) of subsection (a) of K.S.A. 25-4172(a)(2)~~, and amendments thereto.

(p)(r) "Local office" means a member of the governing body of a city of the first class, any elected office of a unified school district having 35,000 or more pupils regularly enrolled in the preceding school year, a county or of the board of public utilities.

Sec. 4. K.S.A. 25-4145 is hereby amended to read as follows: 25-4145. (a) Each party committee and each political committee which anticipates receiving contributions or making expenditures shall appoint a chairperson and a treasurer. The chairperson of each party committee and each political committee which anticipates receiving contributions or making expenditures for a candidate for state office shall make a statement of organization and file it with the secretary of state not later than 10 days after establishment of such committee. The

chairperson of each political committee which anticipates receiving contributions or making expenditures for any candidate for local office, shall make a statement of organization and file it with the county election officer not later than 10 days after establishment of such committee.

(b) Every statement of organization shall include:

(1) The name and address of the committee. The name of the committee shall reflect the full name of the organization with which the committee is connected or affiliated or sufficiently describe such affiliation. If the political committee is not connected or affiliated with any one organization, the name shall reflect the trade, profession or primary interest of the committee as reflected by the statement of purpose of such organization;

(2) the names, addresses and email addresses, which such email addresses shall be optional, of the chairperson and treasurer of the committee;

(3) the names and addresses of affiliated or connected organizations; and

(4) in the case of a political committee, the full name of the organization with which the committee is connected or affiliated or, name or description sufficiently describing the affiliation or, if the committee is not connected or affiliated with any one organization, the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(c) Any change in information previously reported in a statement of organization shall be reported on a supplemental statement of organization and filed not later than 10 days following the change.

(d) (1) Each political committee which anticipates receiving contributions shall register annually with the commission on or before July 1 of each year. Each political committee registration shall be in the form and contain such information as may be required by the

commission.

(2) Each registration by a political committee anticipating the receipt of more than \$10,000 shall be accompanied by an annual registration fee of \$500.

(3) Each registration by a political committee anticipating the receipt of \$2,501 or more, but less than \$10,001, in any calendar year shall be accompanied by an annual registration fee of \$300.

~~(3)~~(4) Each registration by a political committee anticipating the receipt of more than \$500 but less than \$2,501 in any calendar year shall be accompanied by an annual registration fee of ~~\$50~~ \$100.

~~(4)~~(5) Each registration by a political committee anticipating the receipt of \$500 or less in any calendar year shall be accompanied by an annual registration fee of ~~\$25~~ \$50.

~~(5)~~(6) Any political committee which is currently registered under subsection ~~(d)(3)~~ (d)(4) or ~~(d)(4)~~ (d)(5) and which receives contributions in excess of ~~\$2,500~~ the registered amount for a calendar year, shall file, within three days of the date when contributions exceed such amount, an amended registration form which shall be accompanied by an additional fee for such year equal to the difference between ~~\$300~~ the fee owed and the amount of the fee that accompanied the current registration.

~~(6)~~ Any political committee which is currently registered under subsection ~~(d)(4)~~ and which receives contributions in excess of \$500 but which are less than \$2,501, shall file, within three days of the date when contributions exceed \$500, an amended registration form which shall be accompanied by an additional fee of \$25 for such year.

(e) All such fees received by or for the commission shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon

receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

Sec. 5. K.S.A. 25-4148 is hereby amended to read as follows: 25-4148. (a) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed ~~in both~~ with the office of the secretary of state. Reports filed by treasurers for candidates for state-wide office shall be filed electronically and only with the secretary of state. Reports filed by treasurers for candidates for local office 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. Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

- (1) The eighth day preceding the primary election, which report shall be for the period beginning on January 1 of the election year for the office the candidate is seeking and ending 12 days before the primary election, inclusive;
- (2) the eighth day preceding a general election, which report shall be for the period beginning 11 days before the primary election and ending 12 days before the general election, inclusive;
- (3) January 10 of the year after an election year, which report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive;
- (4) for any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year;
- (5) a treasurer shall file only the annual report required by subsection (4) for those years when the candidate is not participating in a primary or general election.

(b) Each report required by this section shall state:

(1) Cash on hand on the first day of the reporting period;

(2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;

(3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;

(4) the aggregate amount of contributions for which the name and address of the contributor is not known;

(5) each contribution, rebate, refund or other receipt not otherwise listed;

(6) the total of all receipts;

(7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;

(8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate, candidate committee, party committee or political committee, if the contribution is in excess of \$100 and is not otherwise reported under subsection (b)(7), and the amount, date and purpose of

the contribution;

- (9) the aggregate of all expenditures not otherwise reported under this section; and
- (10) the total of expenditures.

(c) In addition to the requirements of subsection (b), every treasurer for any political committee and party committee shall report the following:

(1) (A) The name and address of each candidate for state or local office for whom an expenditure in the form of an in-kind contribution has been made in an aggregate amount or having a fair market value in excess of \$300, with the amount, date and purpose of each. The report shall show in detail the specific service or product provided; and

(B) the name and address of each candidate for state or local office who is the subject of an expenditure which:

(i) Is made without the ~~cooperation or consent~~ coordination of a candidate or candidate committee;

(ii) expressly advocates the nomination, election or defeat of such candidate; and

(iii) is an aggregate amount or having a fair market value in excess of \$300.

(2) The report shall state the amount, date and purpose of the expenditure in the form of an in-kind contribution. The report shall show in detail the specific service or product provided. The reporting requirements imposed by this subsection shall be in addition to all other requirements required by this section.

(d) Treasurers of candidates and of candidate committees shall itemize the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or

admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.

(e) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, a description of the connection to or affiliation with such organization. If, the committee is not connected or affiliated with any one organization, the report shall state the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(f) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions. The notice of the errors or omissions shall be part of the public record. The amended report shall be filed within 30 days after notice by the commission.

(g) The commission may require any treasurer to file a report for any period for which the required report is not on file. The notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the commission.

(h) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of the candidate's committee or by the treasurer of any party committee or political committee, the date of the convention or caucus shall be considered the date of the primary election.

(i) If a report is sent by certified or registered mail on or before the day it is due, the mailing shall constitute receipt by that office.

(j) Any report required by this section may be signed by the candidate in lieu of the candidate's treasurer or the treasurer of the candidate's committee.

Sec. 6. K.S.A. 25-4148c is hereby amended to read as follows: 25-4148c. (a) Every treasurer for a party committee or political committee shall file reports of independent expenditures as prescribed by this act. Reports shall be filed with the secretary of state. Reports required by this section shall be in addition to any other reports required by law.

(b) (1) The report shall contain the name and address of each party committee or political committee which has made or contracted to be made independent expenditures in an aggregate amount or value in excess of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending at 11:59 p.m. on the Wednesday preceding the date of the election. Such report shall contain the amount, date and purpose of each such independent expenditure, as well as the name of the candidate whose nomination, election or defeat is expressly advocated. When an independent expenditure is made by payment to an advertising agency, public relations firm or political consultant for disbursement to vendors, the report of such independent expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each, as well as the name of the candidate whose nomination, election or defeat is expressly advocated. The report shall be made on or before the close of business on the Thursday preceding the date of the election.

(2) In addition, a separate report shall be made on a daily basis for the Thursday, Friday, Saturday and Sunday immediately preceding the election. Each daily report shall contain the information required in paragraph (1) ~~of this section~~. Each report shall be filed by 5:00 p.m. on the next day respectively.

(c) Reports required by this section shall be filed by hand delivery, express delivery service, facsimile transmission or any electronic method authorized by the secretary of state.



(d) (1) "Expenditure" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 25-4143, and amendments thereto.

(2) "Independent expenditure" means an expenditure that is made without the ~~cooperation or consent~~ coordination of the candidate or agent of such candidate intended to be benefited and which expressly advocates the election or defeat of a clearly identified candidate.

(3) "Party committee" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 25-4143, and amendments thereto.

(4) "Political committee" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 25-4143, and amendments thereto.

(e) The provisions of this section shall be a part of and supplemental to the campaign finance act.

Sec. 7. K.S.A. 25-4152 is hereby amended to read as follows: 25-4152. (a) Except as provided in subsection (b), the commission shall send a notice by registered or certified mail to any person failing to file any report or statement required by K.S.A. 25-4144, 25-4145 or 25-4148, and amendments thereto, and to the candidate appointing any treasurer failing to file any such report, within the time period prescribed therefor. The notice shall state that the required report or statement has not been filed with either the office of secretary of state or county election officer or both. The person failing to file any report or statement, and the candidate appointing any such person, shall be responsible for the filing of such report or statement. The notice also shall state that such person shall have 15 days from the date such notice is deposited in the mail to comply with the registration and reporting requirements before a civil penalty shall be imposed for each day that the required documents remain unfiled. If such person fails to comply within the prescribed period, such person shall pay to the state a civil penalty of \$10 per

day for each day that such report or statement remains unfiled, except that no such civil penalty shall exceed \$300. The commission may waive, for good cause, payment of any civil penalty imposed by this section.

(b) (1) Subject to the notice provisions of subsection (a), reports that are due under the provisions of K.S.A. 25-4148(a)(1) and (2), and amendments thereto, for candidates that appear on the ballot for the then-current primary or general election ballot and are late more than 48 hours shall be subject to civil penalties as provided in subsection (b)(2).

(2) The candidate shall be liable for a civil penalty of \$100 for the first day the report is more than 48 hours late and \$50 for each subsequent day the report is late, but in no case shall the civil penalty exceed \$1,000. The commission may waive, for good cause, payment of any civil penalty imposed by this section.

(c) (1) Subject to the notice provisions of subsection (a), reports that are due under the provisions of K.S.A. 25-4145 and 25-4148, and amendments thereto, for each political committee that anticipates receiving \$2,501 or more in any calendar year and are late more than 48 hours shall be subject to civil penalties as provided in subsection (c)(2).

(2) The political committee shall be liable for a civil penalty of \$100 for the first day the report is more than 48 hours late and \$50 for each subsequent day the report is late, but in no case shall the civil penalty exceed \$1,000. The commission may waive, for good cause, payment of any civil penalty imposed by this section.

(d) Civil penalties provided for by this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~governmental ethics commission fee~~ state general fund.

(e) If a person fails to pay a civil penalty provided for by this section, it shall be the duty of the commission to bring an action to recover such civil penalty in the district court of the county in which such person resides.

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

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

(b) No legislator, officer, candidate or committee described in subsection (a)(1) through (6) shall accept or knowingly solicit any contribution as defined by K.S.A. 25-4143, and amendments thereto, from any registered lobbyist, political committee or person, other than an individual, during such period of time described in subsection (a), except that a general public solicitation which does not solicit a specific individual and is distributed via social media shall be permissible. No solicitation shall be considered a violation of this act if such solicitation is accompanied with a disclaimer that it is not intended for lobbyists, political committees or persons other than individuals.

(c) For the purposes of this act, "social media" means an electronic medium which

allows users to create and view user-generated content, including, but not limited to, uploaded or downloaded videos or photographs, blogs, audio files, instant messages or email.

Sec. 9. K.S.A. 25-4153b is hereby amended to read as follows: 25-4153b. (a) No political committee, a major purpose of which is to expressly advocate the nomination, election or defeat of a clearly identified candidate for the legislature or to make contributions or expenditures for the nomination, election or defeat of a clearly identified candidate for the legislature, shall be established by a member of or a candidate for the legislature. No member of or candidate for the legislature shall serve as the treasurer or chairperson of a political committee.

(b) Any such political committee existing prior to ~~the effective date of this act~~ May 22, 2014, is hereby abolished.

Sec. 10. K.S.A. 25-4154 is hereby amended to read as follows: 25-4154. (a) (1) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another.

(2) As used in this subsection, "contribution in the name of another" means a contribution given to another individual or entity for the purpose of concealing the original source of any funds reported on any report or statement filed under this act. This section shall not apply to contributions, expenditures or transfers subject to the requirements of this act made by an individual or committee otherwise reporting the contribution, expenditure or transfer on a report or statement filed under this act.

(b) No person shall give or accept any contribution in excess of \$10 unless the name and address of the contributor is made known to the individual receiving the contribution.

(c) The aggregate of contributions for which the name and address of the contributor is

not reported under K.S.A. 25-4148, and amendments thereto, shall not exceed 50% of the amount one individual, (other than the candidate or spouse), may contribute to or for a candidate's campaign.

(d) No person shall copy any name of a contributor from any report or statement filed under the campaign finance act and use such name for any commercial purpose, and no person shall use any name for a commercial purpose with knowledge that such name was obtained solely by copying information relating to contributions contained in any report or statement filed under the campaign finance act.

Sec. 11. K.S.A. 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 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;

(8) expenses, compensation or gifts provided to any volunteer, staff member or contractor of the candidate's campaign or provided to any volunteer or staff of the candidate's political office 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;

(9) payment of any civil penalty imposed by the commission pursuant to this act; or

(10) payment of legal fees related to any matter under this act.

(b) For the purpose of this subsection, expenditures for "personal use"~~shall include~~ includes 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)~~(c) 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.

~~(e)~~(d) 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)~~(e) 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.

(f) (1) Nothing in this section shall prohibit a candidate or candidate campaign from contributing moneys received by such candidate or candidate committee as a campaign contribution to a party committee, and nothing in this section shall prohibit a party committee, from accepting a contribution from a candidate or candidate committee, if the contribution is not restricted to uses for a specific purpose.

(2) "Restricted to uses for a specific purpose" means only a legally enforceable limitation on the manner in which a contribution may be used and does not include suggestions, advice, requests or other non-binding statements made by the candidate, candidate committee, or agent thereof, or any other person regarding the potential use of the funds.

Sec. 12. K.S.A. 25-4158 is hereby amended to read as follows: 25-4158. (a) The secretary of state shall:

(1) Furnish forms prescribed and provided by the commission for making reports and statements required to be filed in the office of the secretary of state by the campaign finance act; and

(2) make such reports and statements available for public inspection and copying during regular office hours.

(b) The county election officer shall:

(1) Furnish forms prescribed and provided by the commission for making reports and statements required to be filed in the office of the county election officer by the campaign finance act; and

(2) make such reports and statements available for public inspection and copying during regular office hours.

(c) The commission may investigate, or cause to be investigated, any matter required to be reported upon by any person under the provisions of the campaign finance act, or any matter to which the campaign finance act applies irrespective of whether a complaint has been filed in relation thereto.

(d) (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 which 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  $\frac{3}{4}$   $\frac{2}{3}$  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. ~~Upon the request of any person subpoenaed to appear and give testimony or to produce books, papers or documents, the commission shall provide a copy of the written findings of facts and conclusions of laws relating to the alleged violation committed by such person.~~ Any subpoena or other process issued by the commission pursuant to this section shall be served upon any person unless an application has been filed in the district court of Shawnee county.

(2) ~~In case of contumacy by, or refusal to obey a subpoena issued to any person, the district court of Shawnee county, upon application by the commission, or any officer designated by the commission, may issue to that person an order requiring the person to appear before the commission or any officer designated by the commission, there to produce documentary 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 punished by the court as a contempt of court.~~ In case of refusal to obey a subpoena issued to any person 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, upon application by the commission, or any officer designated by the commission, may issue to that person an order requiring the person to appear before the

commission or any officer designated by the commission, there to produce documentary 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 punished by the court as a contempt of court. Upon the request of any person 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, and 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 statements. 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 examination 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 examination.

Sec. 13. K.S.A. 25-4161 is hereby amended to read as follows: 25-4161. (a) If a complaint is filed and the commission determines that such verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any provision of the campaign finance act, it shall dismiss the complaint and notify the complainant and respondent thereof.

(b) Whenever a complaint is filed with the commission alleging a violation of a provision of the campaign finance act, such filing and the allegations therein shall be confidential and shall not be disclosed except as provided in the campaign finance act.

(c) If a complaint is filed and the commission determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of the campaign finance act, the commission shall promptly investigate the alleged violation.

(d) The commission shall notify the attorney general of any apparent violation of criminal law or other laws not administered by the commission, which is discovered during the course of any such investigation.

(e) If after the investigation, the commission finds that probable cause does not exist for believing the allegations of the complaint, the commission shall dismiss the complaint. If after such investigation, the commission finds by an affirmative vote of not less than  $\frac{2}{3}$  of the members of the commission that probable cause exists for believing the allegations of the complaint, such complaint shall no longer be confidential and may be disclosed. Upon making any such finding, the commission shall fix a time for a hearing of the matter, which shall be not more than 30 days after such finding. In either event the commission shall notify the complainant and respondent of its determination.

(f) The remedies and protections provided by K.S.A. 75-2973, and amendments thereto, shall be available to any state employee against whom disciplinary action has been taken for filing a complaint pursuant to this act.

(g) Any attorney or staff member representing the complainant before the commission in any matter shall not engage in ex parte communications with or otherwise advise, represent or assist the commission regarding the same or related matter before the commission. The commission shall obtain separate independent legal counsel when needed to comply with this section.

(h) (1) All hearings conducted under this act shall be in accordance with the provisions of the Kansas administrative procedure act and the Kansas code of civil procedure. Upon the request of the respondent, any hearing held under this act may be removed for hearing before a presiding officer from the office of administrative hearings. The commission shall review an initial order resulting from a hearing under this section.

(2) The commission is hereby authorized to enter into a contract with the office of administrative hearings and to provide for reimbursement for actual and necessary expenses and

compensation for such person serving as a presiding officer.

(i) The duties of confidentiality under this section shall apply only to members of the commission, the executive director or any person employed or engaged by the commission.

Sec. 14. K.S.A. 25-4163 is hereby amended to read as follows: 25-4163. (a) After a verified complaint alleging violation of a provision of the campaign finance act has been filed with the commission, the respondent shall be entitled to examine and make copies of all evidence in the possession of the commission relating to the complaint, including the transcript of the hearing, if any. If a hearing is to be held pursuant to K.S.A. 25-4161, and amendments thereto, ~~the commission presiding officer,~~ before the hearing has commenced, shall issue subpoenas and subpoenas duces tecum at the request of any party, subject to the provisions of the Kansas administrative procedure act, the Kansas code of civil procedure act and all other general laws applicable to issuance and quashing of subpoenas. The commission shall reimburse the reasonable costs of production of documents subject to subpoena. Any hearing held under K.S.A. 25-4161, and amendments thereto, may be conducted and held by a subcommittee of not less than five members of the commission, of whom not more than a majority shall be of the same political party. Prior to the commencement of any hearing before the commission, upon the request by the respondent, any hearing held under this act may be removed for hearing and pre-hearing procedure before a presiding officer from the office of administrative hearings, as provided in K.S.A. 25-4161, and amendments thereto. The presiding officer shall conduct the hearing in the manner prescribed by the Kansas administrative procedure act. Final determination of all complaints shall be made by the commission as a whole. ~~The chairperson of the commission or other member presiding over the commission or the presiding member of any subcommittee of the commission shall have the power to:~~ (1) Administer oaths and affirmations;

~~and (2) compel, by subpoena, the attendance of witnesses and the production of pertinent books, papers and documents. Witnesses shall be entitled to receive fees and mileage as provided by law for witnesses in civil actions, which shall be paid out of appropriations to the commission. Depositions may be taken and used in the same manner as in civil actions. Any person subpoenaed to appear and give testimony or to produce books, papers or documents, who fails or refuses to appear or to produce such books, papers or documents, or any person, having been sworn to testify, who refuses to answer any proper question, may be cited for contempt of the district court of Shawnee county, Kansas. The commission shall report to such court the facts relating to any such contempt. Thereupon proceedings before such court shall be had as in cases of other civil contempt. The commission shall not conduct another hearing on the matter but shall make final determination based on the record of the hearing before the presiding officer or subcommittee of the commission.~~

(b) ~~At every hearing held by the commission under this act:~~

(1) Oral evidence shall be taken only on oath or affirmation.

(2) Each party shall have the right to be represented by legal counsel, to call and examine witnesses, to introduce evidence and to cross-examine opposing witnesses.

(3) The provisions of K.S.A. 25-4161(g), and amendments thereto, shall apply to legal counsel representing a complainant employed or engaged by the commission.

(c) All hearings shall be open to the public.

Sec. 15. K.S.A. 25-4165 is hereby amended to read as follows: 25-4165. (a) The commission shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the commission, and all records and transcripts of any investigations, inquiries or hearings of the commission under the

campaign finance act shall be confidential and shall not be open to inspection by any individual other than a member of the commission, an employee of the commission, or a state officer or employee designated to assist the commission, except as otherwise specifically provided in the campaign finance act. The commission may, by adoption of a resolution, authorize the release to the attorney general or to the county or district attorney of the appropriate county of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the attorney general or any county or district attorney. All matters presented at a public hearing of the commission and all reports of the commission stating a final finding of fact pursuant to K.S.A. 25-4164, and amendments thereto, shall be public records and open to public inspection.

(b) The duties under this section shall apply only to members of the commission, the executive director or any person employed or engaged by the commission.

Sec. 16. K.S.A. 25-4170 is hereby amended to read as follows: 25-4170. (a) Excessive campaign contribution is:

(a)(1) Intentionally making any contribution in violation of any provision of K.S.A. 25-4153, and amendments thereto; or

(b)(2) intentionally accepting any contribution made in violation of any provision of K.S.A. 25-4153, and amendments thereto.

(b) Nothing in this section shall prohibit a contribution, expenditure or transfer of money between party or political committees and candidates and candidate committees made in compliance with K.S.A. 25-4154 and 25-4157a, and amendments thereto.

(c) Excessive campaign contribution is a class A misdemeanor.

Sec. 17. K.S.A. 25-4181 is hereby amended to read as follows: 25-4181. (a) The

commission, in addition to any other penalty prescribed under the campaign finance act, may assess a civil fine, after proper notice and an opportunity to be heard, against any person for a violation of the campaign finance act in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. The fine imposed by the commission in any one matter shall not exceed an amount that is double the applicable fine for a single violation in such matter. Nothing in this section shall prevent the imposition of a separate fine by a court in a criminal proceeding. Whenever any civil fine or penalty is proposed to be assessed against the treasurer of any candidate who is not also the candidate, such notice shall be given to both the treasurer and the candidate prior to the assessment of such fine or penalty. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~governmental ethics commission fee~~ state general fund.

(b) No individual who has failed to pay any civil penalty or civil fine assessed, or failed to file any report required to be filed under the campaign finance act, unless such penalty or fine has been waived or is under appeal, shall be eligible to become a candidate for state office or local office until such penalty or fine has been paid or such report has been filed or both such penalty or fine has been paid and such report filed.

(c) The commission shall not order community service or any other specific performance in lieu of a civil fine as part of a consent decree or final order. Nothing in this section shall prohibit the commission from requiring training regarding or compliance with any provision of this act as part of a consent decree or final order.



(d) The commission shall not enter into any agreement with any person that legally binds the commission from enforcing any law against that person in exchange for the person's cooperation with or assistance of the commission in any matter 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.

Sec. 18. K.S.A. 25-4182 is hereby amended to read as follows: 25-4182. (a) If the commission determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of the campaign finance act or any rule and regulation or order hereunder, the commission by order may require that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commission will carry out the purposes of such act.

(b) If the commission makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commission may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto. Upon the entry of such an order, the commission shall promptly notify the person subject to the order that it has been entered, of the reasons therefor and that upon written request the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Upon the request of the respondent, any hearing held under this act may be removed for hearing before a presiding officer from the office of administrative hearings as provided in K.S.A. 25-4161, and amendments thereto. If no hearing is requested and none is ordered by the commission, the order will remain in effect until it is modified or vacated by the

commission. If a hearing is requested or ordered, the commission, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order. Any such order shall be enforceable in any court of competent jurisdiction.

Sec. 19. K.S.A. 25-4185 is hereby amended to read as follows: 25-4185. Any person aggrieved by any order of the commission pursuant to this act may appeal such order in accordance with the provisions of the Kansas judicial review act. Any appeal to the district court shall be a trial de novo. 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. Any verified complaint reviewed by a district court on appeal pursuant to this section shall constitute a claim by the commission for purposes of the Kansas public speech protection act.

Sec. 20. K.S.A. 25-4119d, 25-4143, 25-4145, 25-4148, 25-4148c, 25-4152, 25-4153a, 25-4153b, 25-4154, 25-4157a, 25-4158, 25-4161, 25-4163, 25-4165, 25-4170, 25-4181, 25-4182 and 25-4185 are hereby repealed.

Sec. 21. This act shall take effect and be in force from and after its publication in the Kansas register.