SENATE BILL No. 43

By Committee on Ethics and Elections

1-21

AN ACT concerning certain public officers and employees; relating to the use of unexpended campaign funds; amending K.S.A. 25-4142 and 46-269 and K.S.A. 2010 Supp. 25-4143 and 25-4157a and repealing the existing sections.

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

Section 1. K.S.A. 25-4142 is hereby amended to read as follows:

25-4142. K.S.A. 25-4119e, 25-4119f, 25-4119g, 25-4142 through 25-4187 and K.S.A. 25-4153b sections 4 and 5, and amendments thereto, shall be known and may be cited as the campaign finance act.

Sec. 2. K.S.A. 2010 Supp. 25-4143 is hereby amended to read as follows: 25-4143. As used in the campaign finance act, unless the context otherwise requires:

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

(c) "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) "Commission" means the governmental ethics commission.

(e) (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;

(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;

(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.

(E) The transfer of campaign funds to a bona fide successor committee or candidacy in accordance with K.S.A. 25-4157a, and amendments thereto.

(f) "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) (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.

(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) "Expressly advocate the nomination, election or defeat of a clearly identified candidate" means any communication which 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

(9) "Smith's the one."

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

(k) (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) "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) "Public office" means a state or local office.

(n) "Local office" means:

(1) A member of the governing body of a city of the first class;

(2) an elected office of:

(A) A unified school district having 35,000 or more pupils
regularly enrolled in the preceding school year;

(B) a county; or

(C) the board of public utilities.

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

(n) "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) "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, and
amendments thereto.

(p) "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. 3. K.S.A. 2010 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 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:

(1) 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; or

(2) a candidate or candidate committee from transferring campaign funds to a bona fide successor committee or candidacy established by the candidate.

(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. 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 not otherwise obligated for the payment of expenses incurred in such campaign or the holding of office, or any portion of such funds, shall be:

(1) Contributed to a charitable organization, as defined by the laws of the state;
(2) contributed to a party committee;
(3) returned as a refund in whole or in part to any contributor or contributors from whom such funds were received;
(4) paid into the general fund of the state;
(5) transferred to a bona fide successor committee or candidacy established by the candidate; or
(6) transferred for the purpose of retiring the remaining debt to the original committee or candidacy from which funds were transferred pursuant to paragraph (2) of subsection (e).

Whenever a transfer to a bona fide successor committee or candidacy is made pursuant to paragraph (5), all moneys shall be transferred to the bona fide successor committee or candidacy.

(e) For the purposes of this section, “bona fide successor committee or candidacy” means:

(1) The candidate’s campaign committee or candidacy for a public office initiated at the termination of the original candidacy; or
(2) the candidate’s campaign committee or candidacy initiated at the time of the transfer of all moneys to a new campaign committee or candidacy for public office when there is debt in the original campaign at the time of the transfer and the candidate does not terminate the original campaign committee or candidacy.

New Sec. 4. (a) Upon transferring money to a bona fide successor committee or candidacy as defined by paragraph (2) of subsection (e) of K.S.A. 25-4157a, and amendments thereto, the candidate may only accept contributions to the original candidacy sufficient to retire the debt. Such contributions shall be subject to the contribution limits for the original office sought as set forth in K.S.A. 25-4153, and amendments thereto. Once the candidate has received sufficient
contributions to retire the debt, the candidate must terminate the
candidacy pursuant to the provisions set forth in subsection (d) of
K.S.A. 25-4157a, and amendments thereto.

(b) This section shall be part of and supplemental to the campaign
finance act.

Sec. 5. (a) For the period commencing on January 1, 1976,
and ending on the day preceding the effective date of this act, any
candidate who transferred campaign funds to a bona fide successor
candidacy, as such term is defined in K.S.A. 25-4157a, and
amendments thereto, shall be deemed to have made such transfer in
compliance with the provisions of the campaign finance act in
existence at the time of such transfer regardless of when the original
campaign fund is closed after the date such transfer is made and such
transfer is hereby validated.

(b) This section shall be part of and supplemental to the campaign
finance act.

Sec. 6. 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
and the amount expended on such gift, entertainment or hospitality
and the date the expenditure was made.

(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.

Sec. 6—See 6 Sec. 7. K.S.A. 25-4142 and 46-269 and K.S.A. 2010 Supp. 25-4143 and 25-4157a are hereby repealed.

Sec. 7—See 7 Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.