

As Amended by House Committee

Session of 2005

HOUSE BILL No. 2041

By Representative Goico

1-12

10 AN ACT concerning certain public officers and employees; relating to
11 use of unexpended campaign funds; amending K.S.A. 25-4142 and 25-
12 4157a and K.S.A. 2004 Supp. 25-4143 and repealing the existing
13 sections.

14

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

16 Section 1. K.S.A. 25-4142 is hereby amended to read as follows: 25-
17 4142. K.S.A. 25-4119e, 25-4119f, 25-4119g, 25-4142 through 25-4187 and
18 ~~K.S.A. 25-4153b~~ sections 4 and 5, and amendments thereto, shall be
19 known and may be cited as the campaign finance act.

20 Sec. 2. K.S.A. 2004 Supp. 25-4143 is hereby amended to read as
21 follows: 25-4143. As used in the campaign finance act, unless the context
22 otherwise requires:

23 (a) "Candidate" means an individual who: (1) Appoints a treasurer or
24 a candidate committee;

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

27 (3) makes any expenditure or accepts any contribution for such per-
28 son's nomination or election to any state or local office; or

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

31 (b) "Candidate committee" means a committee appointed by a can-
32 didate to receive contributions and make expenditures for the candidate.

33 (c) "Clearly identified candidate" means a candidate who has been
34 identified by the:

35 (1) Use of the name of the candidate;

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

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

39 (d) "Commission" means the governmental ethics commission.

40 (e) (1) "Contribution" means:

41 (A) Any advance, conveyance, deposit, distribution, gift, loan or pay-
42 ment of money or any other thing of value given to a candidate, candidate
43 committee, party committee or political committee for the express pur-

- 1 pose of nominating, electing or defeating a clearly identified candidate
2 for a state or local office.
- 3 (B) Any advance, conveyance, deposit, distribution, gift, loan or pay-
4 ment of money or any other thing of value made to expressly advocate
5 the nomination, election or defeat of a clearly identified candidate for a
6 state or local office;
- 7 (C) a transfer of funds between any two or more candidate commit-
8 tees, party committees or political committees;
- 9 (D) the payment, by any person other than a candidate, candidate
10 committee, party committee or political committee, of compensation to
11 an individual for the personal services rendered without charge to or for
12 a candidate's campaign or to or for any such committee;
- 13 (E) the purchase of tickets or admissions to, or advertisements in
14 journals or programs for, testimonial events;
- 15 (F) a mailing of materials designed to expressly advocate the nomi-
16 nation, election or defeat of a clearly identified candidate, which is made
17 and paid for by a party committee with the consent of such candidate.
- 18 (2) "Contribution" does not include:
- 19 (A) The value of volunteer services provided without compensation;
- 20 (B) costs to a volunteer related to the rendering of volunteer services
21 not exceeding a fair market value of \$50 during an allocable election
22 period as provided in K.S.A. 25-4149, and amendments thereto;
- 23 (C) payment by a candidate or candidate's spouse for personal meals,
24 lodging and travel by personal automobile of the candidate or candidate's
25 spouse while campaigning;
- 26 (D) the value of goods donated to events such as testimonial events,
27 bake sales, garage sales and auctions by any person not exceeding a fair
28 market value of \$50 per event; *or*
- 29 (E) *the transfer of campaign funds to a bona fide successor committee*
30 *or candidacy in accordance with K.S.A. 25-4157a and amendments*
31 *thereto.*
- 32 (f) "Election" means:
- 33 (1) A primary or general election for state or local office; and
- 34 (2) a convention or caucus of a political party held to nominate a
35 candidate for state or local office.
- 36 (g) (1) "Expenditure" means:
- 37 (A) Any purchase, payment, distribution, loan, advance, deposit or
38 gift of money or any other thing of value made by a candidate, candidate
39 committee, party committee or political committee for the express pur-
40 pose of nominating, electing or defeating a clearly identified candidate
41 for a state or local office.
- 42 (B) Any purchase, payment, distribution, loan, advance, deposit or
43 gift of money or any other thing of value made to expressly advocate the

- 1 nomination, election or defeat of a clearly identified candidate for a state
2 or local office;
- 3 (C) any contract to make an expenditure;
- 4 (D) a transfer of funds between any two or more candidate commit-
5 tees, party committees or political committees; or
- 6 (E) payment of a candidate's filing fees.
- 7 (2) "Expenditure" does not include:
- 8 (A) The value of volunteer services provided without compensation;
- 9 (B) costs to a volunteer incidental to the rendering of volunteer serv-
10 ices not exceeding a fair market value of \$50 during an allocable election
11 period as provided in K.S.A. 25-4149, and amendments thereto;
- 12 (C) payment by a candidate or candidate's spouse for personal meals,
13 lodging and travel by personal automobile of the candidate or candidate's
14 spouse while campaigning or payment of such costs by the treasurer of a
15 candidate or candidate committee;
- 16 (D) the value of goods donated to events such as testimonial events,
17 bake sales, garage sales and auctions by any person not exceeding fair
18 market value of \$50 per event; or
- 19 (E) any communication by an incumbent elected state or local officer
20 with one or more individuals unless the primary purpose thereof is to
21 expressly advocate the nomination, election or defeat of a clearly identi-
22 fied candidate.
- 23 (h) "Expressly advocate the nomination, election or defeat of a clearly
24 identified candidate" means any communication which uses phrases in-
25 cluding, but not limited to:
- 26 (1) "Vote for the secretary of state";
- 27 (2) "re-elect your senator";
- 28 (3) "support the democratic nominee";
- 29 (4) "cast your ballot for the republican challenger for governor";
- 30 (5) "Smith for senate";
- 31 (6) "Bob Jones in '98";
- 32 (7) "vote against Old Hickory";
- 33 (8) "defeat" accompanied by a picture of one or more candidates; or
- 34 (9) "Smith's the one."
- 35 (i) "Party committee" means:
- 36 (1) The state committee of a political party regulated by article 3 of
37 chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
- 38 (2) the county central committee or the state committee of a political
39 party regulated under article 38 of chapter 25 of the Kansas Statutes
40 Annotated, and amendments thereto;
- 41 (3) the bona fide national organization or committee of those political
42 parties regulated by the Kansas Statutes Annotated;
- 43 (4) not more than one political committee established by the state

- 1 committee of any such political party and designated as a recognized
2 political committee for the senate;
- 3 (5) not more than one political committee established by the state
4 committee of any such political party and designated as a recognized
5 political committee for the house of representatives; or
- 6 (6) not more than one political committee per congressional district
7 established by the state committee of a political party regulated under
8 article 38 of chapter 25 of the Kansas Statutes Annotated, and amend-
9 ments thereto, and designated as a congressional district party committee.
- 10 (j) “Person” means any individual, committee, corporation, partner-
11 ship, trust, organization or association.
- 12 (k) (1) “Political committee” means any combination of two or more
13 individuals or any person other than an individual, a major purpose of
14 which is to expressly advocate the nomination, election or defeat of a
15 clearly identified candidate for state or local office or make contributions
16 to or expenditures for the nomination, election or defeat of a clearly
17 identified candidate for state or local office.
- 18 (2) “Political committee” shall not include a candidate committee or
19 a party committee.
- 20 (l) “Receipt” means a contribution or any other money or thing of
21 value, but not including volunteer services provided without compensa-
22 tion, received by a treasurer in the treasurer’s official capacity.
- 23 (m) *“Public office” means a state or local office.*
- 24 (n) *“Local office” means:*
- 25 (1) *A member of the governing body of a city of the first class;*
26 (2) *an elected office of:*
- 27 (A) *A unified school district having 35,000 or more pupils regularly*
28 *enrolled in the preceding school year;*
- 29 (B) *a county; or*
- 30 (C) *the board of public utilities.*
- 31 ~~(m)~~ (o) “State office” means any state office as defined in K.S.A. 25-
32 2505, and amendments thereto.
- 33 ~~(n)~~ (p) “Testimonial event” means an event held for the benefit of
34 an individual who is a candidate to raise contributions for such candidate’s
35 campaign. Testimonial events include but are not limited to dinners,
36 luncheons, rallies, barbecues and picnics.
- 37 ~~(o)~~ (q) “Treasurer” means a treasurer of a candidate or of a candidate
38 committee, a party committee or a political committee appointed under
39 the campaign finance act or a treasurer of a combination of individuals
40 or a person other than an individual which is subject to paragraph (2) of
41 subsection (a) of K.S.A. 25-4172, and amendments thereto.
- 42 ~~(p)~~ “Local office” means a member of the governing body of a city
43 of the first class, any elected office of a unified school district having

1 ~~35,000 or more pupils regularly enrolled in the preceding school year, a~~
2 ~~county or of the board of public utilities.~~

3 Sec. 3. K.S.A. 25-4157a is hereby amended to read as follows: 25-
4 4157a. (a) No moneys received by any candidate or candidate commit-
5 tee of any candidate as a contribution under this act shall be used or be
6 made available for the personal use of the candidate and no such moneys
7 shall be used by such candidate or the candidate committee of such can-
8 didate except for:

- 9 (1) Legitimate campaign purposes;
- 10 (2) expenses of holding political office;
- 11 (3) contributions to the party committees of the political party of
12 which such candidate is a member;
- 13 (4) any membership dues or donations paid to a community service,
14 *charitable* or civic organization in the name of the candidate or candidate
15 committee of any candidate;
- 16 (5) expenses incurred in the purchase of tickets to meals and special
17 events sponsored by any organization the major purpose of which is to
18 promote or facilitate the social, business, commercial or economic well
19 being of the local community; or
- 20 (6) expenses incurred in the purchase and mailing of greeting cards
21 to voters and constituents.

22 For the purpose of this subsection, expenditures for “personal use”
23 shall include expenditures to defray normal living expenses for the can-
24 didate or the candidate’s family and expenditures for the personal benefit
25 of the candidate having no direct connection with or effect upon the
26 campaign of the candidate or the holding of public office.

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

31 (c) No candidate or candidate committee shall accept from any other
32 candidate or candidate committee for any candidate for local, state or
33 national office, any moneys received by such candidate or candidate com-
34 mittee as a campaign contribution. The provisions of this subsection shall
35 not be construed to prohibit:

- 36 (1) A candidate or candidate committee from accepting moneys from
37 another candidate or candidate committee if such moneys constitute a
38 reimbursement for one candidate’s proportional share of the cost of any
39 campaign activity participated in by both candidates involved. Such re-
40 imbursement shall not exceed an amount equal to the proportional share
41 of the cost directly benefiting and attributable to the personal campaign
42 of the candidate making such reimbursement; or
- 43 (2) A candidate or candidate committee from transferring campaign

1 *funds to a bona fide successor committee or candidacy established by the*
 2 *candidate.*

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

15 (1) *Contributed to a charitable organization, as defined by the laws*
 16 *of the state; or*

17 (2) *contributed to a party committee; or*

18 (3) *returned as a refund in whole or in part to any contributor or*
 19 *contributors from whom such funds were received; or*

20 (4) *paid into the general fund of the state; or*

21 (5) *transferred to a bona fide successor committee or candidacy es-*
 22 *tablished by the candidate, **subject to the limitations of section 5, and***
 23 ***amendments thereto; or***

24 (6) *transferred for the purpose of retiring the remaining debt to the*
 25 *original committee or candidacy from which funds were transferred pur-*
 26 *suant to paragraph (2) of subsection (e).*

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

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

32 (1) *The candidate’s campaign committee or candidacy for a public*
 33 *office initiated at the termination of the original candidacy; or*

34 (2) *the candidate’s campaign committee or candidacy initiated at the*
 35 *time of the transfer of all moneys to a new campaign committee or can-*
 36 *didity for public office when there is debt in the original campaign at the*
 37 *time of the transfer and the candidate does not terminate the original*
 38 *campaign committee or candidacy.*

39 New Sec. 4. (a) Upon transferring money to a bona fide successor
 40 committee or candidacy as defined by paragraph (2) of subsection (e) of
 41 K.S.A. 25-4157a, and amendments thereto, the candidate may only accept
 42 contributions to the original candidacy sufficient to retire the debt. Such
 43 contributions shall be subject to the contribution limits for the original

1 office sought as set forth in K.S.A. 25-4153, and amendments thereto.
2 Once the candidate has received sufficient contributions to retire the
3 debt, the candidate must terminate the candidacy pursuant to the pro-
4 visions set forth in subsection (d) of K.S.A. 25-4157a, and amendments
5 thereto.

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

8 **New Sec. 5. (a) For the purpose of transferring residual funds**
9 **to a bona fide successor committee or candidacy:**

10 (1) **Any residual funds of a candidate for an office elected on a**
11 **statewide basis only may be transferred to a bona fide successor**
12 **committee or candidacy for an office elected on a statewide basis;**

13 (2) **Any residual funds of a candidate for a legislative office only**
14 **may be transferred to a bona fide successor committee or candi-**
15 **dacy for a legislative office;**

16 (3) **Any residual funds of a candidate for an office other than**
17 **those offices described in paragraphs (1) and (2) may be trans-**
18 **ferred to a bona fide successor committee or candidacy for any**
19 **office other than those offices described in paragraphs (1) and (2).**

20 (b) **This section shall be part of and supplemental to the cam-**
21 **campaign finance act.**

22 ~~New Sec. 5- 6.~~ (a) For the period commencing on January 1, 1976,
23 and ending on the day preceding the effective date of this act, any can-
24 didate who transferred campaign funds to a bona fide successor candi-
25 dacy, as such term is defined in K.S.A. 25-4157a, and amendments
26 thereto, shall be deemed to have made such transfer in compliance with
27 the provisions of the campaign finance act in existence at the time of such
28 transfer regardless of when the original campaign fund is closed after the
29 date such transfer is made and such transfer is hereby validated.

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

32 ~~Sec. 6- 7.~~ K.S.A. 25-4142 and 25-4157a and K.S.A. 2004 Supp. 25-
33 4143 are hereby repealed.

34 ~~Sec. 7- 8.~~ This act shall take effect and be in force from and after its
35 publication in the statute book.