

HOUSE BILL No. 2559

By Representatives O'Malley, Yoder, Colloton, Huntington, Davis, Mah, Carlin, Craft, Dillmore, Faust-Goudeau, Flaharty, Hill, Huff, Kirk, Owens, Pottorff, Roth, Ruff, Sawyer, Sloan, B. Sharp, S. Sharp, Storm, Treaster and Ward

12-28

12 AN ACT concerning campaign finance; relating to electioneering com-
13 munications; relating to independent expenditures; relating to certain
14 reporting requirements; relating to corrupt political advertising;
15 amending K.S.A. 25-4148 and 25-4156 and repealing the existing
16 sections.

17

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

19 New Section 1. (a) Any person who spends or contracts to spend an
20 amount of \$500 or more per calendar year for any electioneering com-
21 munication shall submit a report containing information as required by
22 subsection (b). For each electioneering communication, the report shall
23 include:

24 (1) The name of the clearly identified candidate mentioned in the
25 electioneering communication.

26 (2) The name, street address, city, state and zip code of each individ-
27 ual or other entity that contributes more than \$50 per year to such person
28 for an electioneering communication.

29 (3) The name, street address, city, state and zip code of the vendor
30 to whom a payment of more than \$50 for such electioneering commu-
31 nication is made or contracted to be made.

32 (4) The amount spent on or contracted to be spent on such election-
33 eering communication is made or contracted to be made. If the person
34 making the electioneering communication is an individual, such reports
35 shall also include the occupation and employer of such individual. Reports
36 required by this section shall be in addition to any other reports required
37 by law.

38 (b) (1) (A) For an electioneering communication concerning a can-
39 didate for state office, other than an officer elected on a state-wide basis,
40 the report required by subsection (a) shall be filed in both the office of
41 the secretary of state and in the office of the county election officer of
42 the county in which the candidate is a resident.

43 (B) For an electioneering communication concerning a candidate for

1 state-wide office, the report required by subsection (a) shall be filed only
2 with the secretary of state.

3 (C) For an electioneering communication concerning a candidate for
4 local office, the report required by subsection (a) shall be filed in the
5 office of the county election officer of the county in which the name of
6 the candidate is on the ballot.

7 (2) Except as required by paragraph (3), each report required by sub-
8 section (a) shall be filed in time to be received in the offices required in
9 accordance with the times set forth in K.S.A. 25-4148 and amendments
10 thereto.

11 (3) For any electioneering communication occurring during the 11
12 days preceding the election, the report required by subsection (a) shall
13 be filed ~~within 24 hours of spending or contracting to spend funds~~ *on or*
14 *before the close of the second business day following the day in which*
15 *such funds are spent or contracted to be spent* for such electioneering
16 communication.

17 (c) For the purposes of this section:

18 (1) "Electioneering communication" means any communication
19 broadcast by television or radio, printed in a newspaper or on a billboard,
20 directly mailed or delivered by hand to personal residences or otherwise
21 distributed that:

22 (A) Unambiguously refers to any clearly identified candidate;

23 (B) is broadcast, printed, mailed, delivered or distributed within 30
24 days before a primary election or 60 days before a general election;

25 (C) is broadcast to, printed in a newspaper distributed to, mailed to,
26 delivered by hand to, or otherwise distributed to an audience that includes
27 members of the electorate for such public office.

28 (2) "Electioneering communication" does not include:

29 (A) Any news articles, editorial endorsements, opinion or commen-
30 tary writings, or letters to the editor printed in a newspaper, magazine or
31 other periodical not owned or controlled by a candidate or political party;

32 (B) any editorial endorsements or opinions aired by a broadcast fa-
33 cility not owned or controlled by a candidate or political party;

34 (C) any communication by persons made in the regular course and
35 scope of their business or any communication made by a membership
36 organization solely to members of such organization and their families;

37 (D) any communication that refers to any candidate only as part of
38 the popular name of a bill or statute;

39 (E) any communication made solely to promote a candidate debate
40 or forum that is made by or on behalf of the person sponsoring such
41 debate or forum; or

42 (F) any communication made as part of a nonpartisan activity de-
43 signed to encourage individuals to vote or register to vote.

1 (d) The provisions of this section shall be part of and supplemental
2 to the campaign finance act.

3 New Sec. 2. (a) Every treasurer for a party committee or political
4 committee shall file reports of independent expenditures as prescribed
5 by this act. Reports shall be filed with the secretary of state. Reports
6 required by this section shall be in additions to any other reports required
7 by law.

8 (b) The report shall contain the name and address of each party com-
9 mittee or political committee which has made or contracted to be made
10 independent expenditures in an aggregate amount or value in excess of
11 \$300 or more during the period commencing 11 days before a primary
12 or general election at which a state or local officer is to be elected and
13 ending upon the day before such election. Such report shall contain the
14 amount, date and purpose of each such independent expenditure, as well
15 as the name of the candidate whose nomination, election or defeat is
16 expressly advocated. When an independent expenditure is made by pay-
17 ment to an advertising agency, public relations firm or political consultant
18 for disbursement to vendors, the report of such independent expenditure
19 shall show in detail the name of each such vendor and the amount, date
20 and purpose of the payments to each, as well as the name of the candidate
21 whose nomination, election or defeat is expressly advocated. The report
22 shall be made on or before the close of the second business day following
23 the day in which any independent expenditure is made or is contracted
24 to be made.

25 (c) Reports required by this section shall be filed by hand delivery,
26 express delivery service, facsimile transmission or by any electronic
27 method authorized by the secretary of state. The secretary of state may
28 adopt such rules and regulations as the secretary deems necessary to
29 implement the provisions of this section.

30 (d) (1) "Expenditure" shall have the meaning ascribed to it in K.S.A.
31 25-4143 and amendments thereto.

32 (2) "Independent expenditure" means an expenditure that is not con-
33 trolled by or coordinated with any candidate or agent of such candidate.

34 (3) "Party committee" shall have the meaning ascribed to it in K.S.A.
35 25-4143 and amendments thereto.

36 (4) "Political committee" shall have the meaning ascribed to it in
37 K.S.A. 25-4143 and amendments thereto.

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

40 New Sec. 3. (a) Every treasurer for a candidate for state or local
41 office shall file reports of campaign contributions as prescribed by this
42 act. Reports filed by treasurers for candidates for state office, other than
43 officers elected on a state-wide basis, shall be filed in both the office of

1 the secretary of state and in the office of the county election officer of
2 the county in which the candidate is a resident. Reports filed by treasurers
3 for candidates for state-wide office shall be filed only with the secretary
4 of state. Reports filed by treasurers for candidates for local office shall be
5 filed in the office of the county election officer of the county in which
6 the name of the candidate is on the ballot. Reports required by this section
7 shall be in addition to any other reports required by law.

8 (b) The report shall contain the name and address of each person
9 who has made one or more contributions in an aggregate amount or value
10 of \$300 or more during the period commencing 11 days before a primary
11 or general election at which a state or local officer is to be elected and
12 ending upon the day of such election. The report shall be made on or
13 before the close of the second business day following the day in which
14 any contribution is received. The report shall contain the amount and
15 date of the contribution, including the name and address of every lender,
16 guarantor and endorser when the contribution is in the form of an advance
17 or loan.

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

21 (d) (1) "Local office" shall have the meaning ascribed to it in K.S.A.
22 25-4143 and amendments thereto.

23 (2) "State office" shall have the meaning ascribed to it in K.S.A. 25-
24 4143 and amendments thereto.

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

27 Sec. 4. K.S.A. 25-4148 is hereby amended to read as follows: 25-
28 4148. (a) (1) Every treasurer shall file a report prescribed by this section.
29 Reports filed by treasurers for candidates for state office, other than of-
30 ficers elected on a state-wide basis, shall be filed in both the office of the
31 secretary of state and in the office of the county election officer of the
32 county in which the candidate is a resident. Reports filed by treasurers
33 for candidates for state-wide office shall be filed only with the secretary
34 of state. Reports filed by treasurers for candidates for local office shall be
35 filed in the office of the county election officer of the county in which
36 the name of the candidate is on the ballot.

37 (2) Except as otherwise provided by subsection (h), all such reports
38 shall be filed in time to be received in the offices required on or before
39 each of the following days:

40 ~~(1)~~ (A) The eighth day preceding the primary election, ~~which. Such~~
41 report shall be for the period beginning on January 1 of the election year
42 for the office the candidate is seeking and ending 12 days before the
43 primary election, inclusive;

1 ~~(2)~~ (B) The eighth day preceding a general election, ~~which. Such~~
 2 report shall be for the period beginning 11 days before the primary elec-
 3 tion and ending 12 days before the general election, inclusive;

4 ~~(3)~~ (C) January 10 of the year after an election year, ~~which. Such~~
 5 report shall be for the period beginning 11 days before the general elec-
 6 tion and ending on December 31, inclusive;

7 ~~(4)~~ (D) For any calendar year when no election is held, a report shall
 8 be filed on the next January 10 for the preceding calendar year;

9 ~~(5)~~—A treasurer shall file ~~only~~ the annual report required by ~~subsection~~
 10 ~~(4)~~ *this subparagraph only* for those years when the candidate is not
 11 participating in a primary or general election.

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

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

14 (2) *Except as provided in subsection (c)*, the name and address of
 15 each person who has made one or more contributions in an aggregate
 16 amount or value in excess of \$50 during the election period together with
 17 the amount and date of such contributions, including the name and ad-
 18 dress of every lender, guarantor and endorser when a contribution is in
 19 the form of an advance or loan;

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

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

25 (5) Each contribution, rebate, refund or other receipt not otherwise
 26 listed;

27 (6) The total of all receipts;

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

36 (8) The name and address of each person from whom an in-kind
 37 contribution was received or who has paid for personal services provided
 38 without charge to or for any candidate, candidate committee, party com-
 39 mittee or political committee, if the contribution is in excess of \$50 and
 40 is not otherwise reported under ~~subsection (b)(7)~~ *paragraph (7) of sub-*
 41 *section (b)*, and the amount, date and purpose of the contribution;

42 (9) (A) *The name and address of each candidate for state or local*
 43 *office for whom an expenditure in the form of an in-kind contribution has*

1 *been made in an aggregate amount or having a fair market value in excess*
2 *of \$300, with the amount, date and purpose of each. The report shall show*
3 *in detail the specific service or product provided; and*

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

6 (i) *Is made without the cooperation or consent of a candidate or can-*
7 *didate committee;*

8 (ii) *expressly advocates the nomination, election or defeat of such can-*
9 *didate; and*

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

12 *The report shall state the amount, date and purpose of each. The report*
13 *shall show in detail the specific service or product provided. The reporting*
14 *requirements imposed by this paragraph shall be in addition to all other*
15 *requirements required by this section. The provisions of this paragraph*
16 *shall apply only to political committees and party committees.*

17 ~~(9)~~ (10) *The aggregate of all expenditures not otherwise reported*
18 *under this section, and*

19 ~~(10)~~ (11) *The total of expenditures.*

20 (c) *Treasurers of candidates and of candidate committees shall be*
21 ~~*required to itemize, as provided in subsection (b)(2), only*~~ *itemize the*
22 *purchase of tickets or admissions to testimonial events by a person who*
23 *purchases such tickets or admissions in an aggregate amount or value in*
24 *excess of \$50 per event, or who purchases such a ticket or admission at*
25 *a cost exceeding \$25 per ticket or admission. All other purchases of tickets*
26 *or admissions to testimonial events shall be reported in an aggregate*
27 *amount and shall not be subject to the limitations specified in K.S.A. 25-*
28 *4154, and amendments thereto.*

29 (d) *If a contribution or other receipt from a political committee is*
30 *required to be reported under subsection (b), the report shall include the*
31 *full name of the organization with which the political committee is con-*
32 *ected or affiliated or, ~~name or~~ a description sufficiently describing the*
33 ~~*affiliation or, if of the connection to or affiliation with such organization.*~~
34 *If the committee is not connected or affiliated with any one organization,*
35 *the report shall state the trade, profession or primary interest of the po-*
36 *litical committee as reflected by the statement of purpose of such*
37 *organization.*

38 (e) *The commission may require any treasurer to file an amended*
39 *report for any period for which the original report filed by such treasurer*
40 *contains material errors or omissions, and. The notice of the errors or*
41 *omissions shall be part of the public record. The amended report shall*
42 *be filed within 30 days after notice by the commission.*

43 (f) *The commission may require any treasurer to file a report for any*

1 period for which the required report is not on file, ~~and~~. The notice of the
2 failure to file shall be part of the public record. Such report shall be filed
3 within five days after notice by the commission.

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

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

12 Sec. 5. K.S.A. 25-4156 is hereby amended to read as follows: 25-
13 4156. (a) (1) Whenever any person sells space in any newspaper, magazine
14 or other periodical to a candidate or to a candidate committee, party
15 committee or political committee, the charge made for the use of such
16 space shall not exceed the charges made for comparable use of such space
17 for other purposes.

18 (2) Intentionally charging an excessive amount for political advertis-
19 ing is a class A misdemeanor.

20 (b) (1) Corrupt political advertising of a state or local office is:

21 (A) Publishing or causing to be published in a newspaper or other
22 periodical any paid matter which expressly advocates the nomination,
23 election or defeat of a clearly identified candidate for a state or local
24 office, unless such matter is followed by the word "advertisement" or the
25 abbreviation "adv." in a separate line together with the name of the chair-
26 person or treasurer of the political or other organization sponsoring the
27 same or the name of the individual who is responsible therefor;

28 (B) broadcasting or causing to be broadcast by any radio or television
29 station any paid matter which expressly advocates the nomination, elec-
30 tion or defeat of a clearly identified candidate for a state or local office,
31 unless such matter is followed by a statement which states: "Paid for" or
32 "Sponsored by" followed by the name of the sponsoring organization and
33 the name of the chairperson or treasurer of the political or other organ-
34 ization sponsoring the same or the name of the individual who is respon-
35 sible therefor; ~~or~~

36 (C) *telephoning or causing to be contacted by any telephonic means,*
37 *including but not limited to any device using a voice over internet protocol*
38 *or wireless telephone, any paid matter which expressly advocates the nom-*
39 *ination, election or defeat of a clearly identified candidate for a state or*
40 *local office, unless such matter is followed by a statement which states:*
41 *"Paid for" or "Sponsored by" followed by the name of the sponsoring*
42 *organization and the name of the chairperson or treasurer of the political*
43 *or other organization sponsoring the same or the name of the individual*

1 *who is responsible therefor; or*

2 (D) publishing or causing to be published any brochure, flier or other
3 political fact sheet which expressly advocates the nomination, election or
4 defeat of a clearly identified candidate for a state or local office, unless
5 such matter is followed by the name of the chairperson or treasurer of
6 the political or other organization sponsoring the same or the name of
7 the individual who is responsible therefor.

8 The provisions of this subsection ~~(C)~~ (D) requiring the disclosure of
9 the name of an individual shall not apply to individuals making expendi-
10 tures in an aggregate amount of less than \$2,500 within a calendar year.

11 (2) Corrupt political advertising of a state or local office is a class C
12 misdemeanor.

13 (c) If any provision of this section or application thereof to any person
14 or circumstance is held invalid, such invalidity does not affect other pro-
15 visions or applications of this section which can be given effect without
16 the invalid application or provision, and to this end the provisions of this
17 section are declared to be severable.

18 Sec. 6. K.S.A. 25-4148 and 25-4156 are hereby repealed.

19 Sec. 7. This act shall take effect and be in force from and after its
20 publication in the statute book.