

UPDATED
SESSION OF 2025

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2106

As Amended by Senate Committee on Federal
and State Affairs

Brief*

HB 2106, as amended, would amend the Campaign Finance Act to add additional reporting and certification requirements to persons promoting or opposing the adoption or repeal of any provision of the *Kansas Constitution*; prohibit any person that engages in activity promoting or opposing the adoption or repeal of any provision of the Kansas Constitution from accepting contributions or expenditures from a foreign national or out-of-state person; and define “foreign national” and “out-of-state person.”

***Prohibition on Foreign National and Out-of-State
Contributions and Expenditures***

The bill would prohibit any person from directly or indirectly accepting any contribution or expenditure from a foreign national or out-of-state person made for any activity promoting or opposing a constitutional amendment.

Violations

The bill would authorize the Kansas Attorney General to prosecute any person who violates this provision. The bill would also allow any person who believes the prohibition on foreign national or out-of-state contributions and expenditures has been violated to file a complaint with the Attorney General.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

The bill would provide that, in any civil action brought by the Governmental Ethics Commission (Commission) or the Attorney General for a violation of the prohibition on foreign national or out-of-state contributions and expenditures, the court may award injunctive relief sufficient to prevent any subsequent violations and statutory damages in an amount up to twice the amount of the prohibited contribution or expenditure.

Reporting to Secretary of State

Continuing law requires every person who accepts money or property for the purpose of promoting or opposing the adoption or repeal of any provision of the Kansas Constitution to annually report all individual contributions and in-kind contributions for such purposes in excess of \$50 during the preceding calendar year to the Secretary of State. The report must include each contributor's name and address and the amount of their contribution, the total value of all contributions received, and the total value of all expenditures made. The bill would require each person who submits a report to certify that:

- Such person has not knowingly accepted contributions or expenditures either directly or indirectly from a foreign national or out-of-state person; and
- Certify each donor named in the report is not a foreign national or out-of-state person and has not knowingly accepted contributions, either directly or indirectly, from any foreign national or out-of-state person that in the aggregate exceed \$100,000 within the four-year period immediately preceding the date of the donor's contribution or expenditure.

The bill would also direct each person who accepts contributions or expenditures to require each donor to certify that such donor is not a foreign national or out-of-state person and has not knowingly accepted contributions or expenditures as described above.

Certification to Governmental Ethics Commission

The bill would require each person making an independent expenditure for any activity promoting or opposing a constitutional amendment, within 48 hours of making such expenditure, to certify to the Commission that such person:

- Has not knowingly accepted any moneys, either directly or indirectly, from a foreign national or out-of-state person that in the aggregate exceed \$100,000 within the four-year period immediately preceding the date of the expenditure; and
- Will not accept any such moneys from a foreign national or out-of-state person for the remainder of the calendar year in which the question of amending the constitution is on the ballot.

Definitions

The bill would define “foreign national” as:

- An individual who is not a citizen or lawful permanent resident of the United States;
- A government or subdivision of a foreign country or municipality thereof;
- A foreign political party;
- Any entity such as a partnership, association, corporation, organization, or other combination of

persons that is organized under the laws of, or has its principal place of business in, a foreign country; or

- Any U.S. entity, such as a partnership, association, corporation, or organization, that is wholly or majority-owned by any foreign national, unless:
 - Any contribution or expenditure that such entity makes is derived entirely from funds generated by such U.S. entity's U.S. operations; and
 - All decisions concerning the contribution or expenditure are made by individuals who are U.S. citizens or permanent residents, except for setting overall budget amounts.

The bill would define “out-of-state person” as:

- Any individual who is not a resident of Kansas; or
- Any entity, such as a partnership, association, corporation, organization, or other combination of persons, that is organized under the laws of, has its principal place of business in, or is otherwise domiciled in a state other than Kansas.

Severability

The bill would provide for the provisions in the section regarding elections of amendments to the Kansas Constitution to be severable. If any portion of the section were declared unconstitutional or invalid, or the application of any portion of the section to any person or circumstance were held unconstitutional or invalid, the bill would provide for the invalidity to not affect other provisions that could be given effect without the invalid portion or application. The applicability of other portions of the section to any person or circumstance would remain valid and enforceable.

Background

The bill was introduced by the House Committee on Elections at the request of Representative Waggoner.

House Committee on Elections

In the House Committee hearing, **proponent** testimony was provided by the Ohio Secretary of State and representatives of Americans for Public Trust, Heritage Action for America, and Honest Elections Project Action. The proponents expressed concerns about foreign nationals influencing the outcome of constitutional ballot questions and stated the bill would address these concerns and close the loophole in federal law allowing foreign nationals to contribute to constitutional ballot questions.

Written-only proponent testimony was provided by six private citizens.

No other testimony was provided.

The House Committee amended the bill to insert the above described provisions, retain the definition of “foreign national,” and make technical amendments.

Senate Committee on Federal and State Affairs

In the Senate Committee hearing, **proponent** testimony was provided by representatives of Americans for Public Trust, Heritage Action for America, and Honest Elections Project Action, who generally stated that the bill would help ensure decisions about the Kansas Constitution are made by the citizens of the state.

Written-only opponent testimony was provided by three private citizens.

Written-only neutral testimony was provided by a private citizen.

No other testimony was provided.

The Senate Committee amended the bill to define the term “out-of-state person,” apply the provisions of the bill pertaining to foreign nationals to out-of-state persons, and add a severability clause.

Senate Committee of the Whole

The Senate Committee of the Whole did not adopt the Committee Report and recommended the bill, as amended by the House Committee on Elections, be passed.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of the Attorney General indicates enactment of the bill could increase the likelihood of litigation and estimates the cost of potential litigation would exceed \$1.0 million and would require it to hire outside counsel.

The Commission indicates enactment of the bill would have a minimal fiscal effect on the agency that could be handled within existing resources. The Commission notes that some electronic forms it uses would need to be amended or created.

The Office of the Secretary of State indicates enactment of the bill would not have a fiscal effect on the agency. Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor’s Budget Report*.

Elections; campaign finance; contributions; constitutional amendments; foreign nationals