

SESSION OF 2025

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2206**

As Amended by Senate Committee of the Whole

**Brief\***

HB 2206, as amended, would amend various provisions of the Campaign Finance Act (Act) and change the name of the Kansas Governmental Ethics Commission to the Kansas Public Disclosure Commission.

***Termination of Candidate Campaign Accounts (New Section 1)***

For any person elected to state or local office who decides not to be a candidate or is defeated as a candidate for such office at the next election, the bill would require the termination of the person's candidate campaign account related to that office on or before the date 90 days after the second general election for the office in which the candidate was not elected.

The treasurer for any such candidate campaign account would be required to dispose of any residual funds and file the required termination report pursuant to state law.

***Kansas Public Disclosure Commission (Sections 2–6, 8, 10, 14–28)***

The bill would, on and after July 1, 2025, change the name of the Kansas Governmental Ethics Commission to the Kansas Public Disclosure Commission. The bill would clarify that when the Kansas Governmental Ethics Commission is

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\*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/>

referenced or designated by statute, contract, or other document, the reference or designation shall be deemed to apply to the Kansas Public Disclosure Commission (Commission). The bill would rename the Kansas Governmental Ethics Commission Fee Fund to the Kansas Public Disclosure Commission Fee Fund and remove provisions renaming the fee fund in 1998.

The bill would clarify the Act would not abolish and reestablish the Commission or affect the terms of the members currently serving on the Commission. The bill would also clarify all the Commission's rules and regulations adopted and created prior to July 1, 2025, would continue to be in force and effect.

#### ***Cooperation or Consent (Section 7)***

The bill would add a new definition for the phrase "cooperation or consent." With respect to expenditures, "cooperation or consent" would mean:

- An express advocacy expenditure that is created, produced, or distributed at the request or recommendation of a candidate, candidate committee, or party committee; or
- An express advocacy expenditure that is created, produced, or distributed at the recommendation of a person who is paying for such express advocacy and the candidate, candidate committee, or party committee assents to such recommendation.

Additionally, the bill would specify that "cooperation or consent" does not include:

- A candidate's or political party's response to an inquiry about such candidate's or political party's positions on legislative policy or issues;

- An expenditure that used information obtained from a publicly available source;
- An endorsement of a candidate;
- Soliciting contributions for any committee;
- An expenditure for the use of a commercial vendor or to a former employee of the candidate by the person making the expenditure if:
  - The commercial vendor or former employee has provided political services to the candidate during the 120 days immediately preceding such expenditure;
  - A firewall is established and implemented by the person making the expenditure; and
  - The firewall is designed and implemented to prohibit the flow of information between those providing services to the person making the expenditure and those currently providing or that have previously provided services to the candidate; and
- An expenditure for the use of a commercial vendor or to a former employee of the candidate by the person making the expenditure and the commercial vendor or former employee has not provided political services to such candidate during the 120 days immediately preceding such expenditure.

### ***Giving in the Name of Another (Section 12)***

Continuing law prohibits making contributions in the name of another person and knowingly accepting contributions made by one person in the name of another person. The bill would raise the limit at which an individual can accept a contribution without knowing the name and address of the contributor from \$10 to \$50.

The bill would add a provision to the prohibition stating, except for contributions made by candidates to their own candidate committee, when a person makes a contribution, such person has no authority to control or direct the use of the contribution. The bill would further prohibit any person from making a contribution to a committee with any condition that the contribution or any portion of the contribution is to be subsequently contributed to any other committee; the bill would declare any such agreement null and void.

For the purposes of this section, the bill would define “contribution in the name of another” and “contribution made by one person in the name of another” as a contribution made to a person by or through the name of another person for the purpose of concealing the original source of any moneys reported on any report or statement that is required to be filed under the Act. The bill would not include any contributions, expenditures, or transfers of moneys that are subject to requirements of the Act and that will be reported by an individual or committee on a report or statement filed pursuant to the Act.

### ***Political Committees (Sections 7, 11, and 13)***

#### ***Definitions (Section 7)***

**Political committee.** The bill would amend the definition of “political committee” to mean any entity, including any combination of two or more individuals who are not married to one another, or any person other than an individual, the major purpose of which is to make contributions or expenditures that in aggregate exceed \$3,000 during any one calendar year and that satisfies one of the following:

- States in such entity’s articles of incorporation, bylaws, or in any resolution adopted by the board of directors for such entity that the major purpose of such entity is to elect state or local candidates

through express advocacy and contributions to candidate campaigns and political parties; or

- Spends not less than 50 percent of such entity's total program spending on contributions or expenditures during the period of time such entity has existed or, if such entity has existed for more than five years, during the immediately preceding five years.

[*Note:* Current law defines "political committee" to mean 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.]

**Total program spending.** The bill would also define "total program spending," as it relates to political committees, to mean the aggregate expenditures on all program activities, including:

- All disbursements for contributions and expenditures; and
- All expenditures for fundraising communications that expressly advocate the nomination, election, or defeat of a candidate or candidates for state or local office.

The bill would exclude the following from total program spending:

- Expenditures for volunteer time or expenses;
- Administrative expenses; or
- Any other fundraising expenses.

For the purposes of determining total program spending on contributions and expenditures, the bill would provide that:

- A grant made to a political committee or an organization that is organized under Section 527 of the Internal Revenue Code would be included in the entity's total program spending as a contribution or expenditure, unless such grant is expressly designated for use outside of Kansas or for any federal election, then the grant would not be considered a contribution or expenditure; and
- All other grants made by the entity would be included in the entity's total program spending but would not be considered a contribution or expenditure unless the the entity expressly designates such grant, or any portion thereof, for making a contribution or expenditure in Kansas. If so designated, then the grant or portion of the grant would be considered a contribution or expenditure.

***Legislative Prohibition (Section 11)***

The bill would clarify that no political committee could be established by a member of the Legislature or a candidate for the Legislature.

***Termination Reports (Section 13)***

The bill would require political committees to file termination reports with both the Secretary of State and the county election office.

***Independent Expenditure Statements (Section 9)***

The bill would amend statement filing requirements for persons other than candidates or any committees making

independent expenditures and would remove statement filing requirements for such persons making contributions. The bill would raise the filing threshold from an aggregate amount of \$100 or more to \$1,000 or more within a calendar year and remove the requirements that statements contain the same information as candidate reports.

The bill would require the statements of independent expenditures to include:

- The name and address of each person who receives payment in an aggregate amount that is greater than \$500 for an independent expenditure or for the creation or distribution of an independent expenditure; and
- The date, amount, and purpose of each independent expenditure, including the name and the office sought of each candidate identified in an independent expenditure and if such independent expenditure was in support of or in opposition to such candidate.

The bill would require statements of independent expenditures to be filed at the following times:

- On or before the next succeeding date on which reports are due to be filed pursuant to continuing law; and
- On or before 11:59 p.m. on the second day immediately following the date of the last independent expenditure if a person makes independent expenditures in aggregate of \$1,000 or more in the same calendar year after filing a statement of independent expenditures.

### ***Technical and Conforming Amendments***

The bill would make technical and conforming amendments.

### **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, a representative of Kriegshauser Ney Law Group provided **proponent** testimony, stating the bill would address vagueness in the law and implement protections for Kansans' First Amendment rights.

A representative of the Kansas Governmental Ethics Commission provided neutral testimony, stating that the Commission's purpose is to foster public trust and expressed concerns the bill would diminish transparency.

No other testimony was provided.

The House Committee amended the bill to:

- Amend the definition of "cooperation or consent" to carve out soliciting contributions for any committee;
- Lower the aggregate spending requirement from \$5,000 to \$3,000 before an entity must register as a political committee;
- Add a five-year look-back for a political committee's total program spending; and
- Remove a provision in the prohibition on giving in the name of another that would have declared the



invalid agreements to not be in violation of the Campaign Finance Act.

### ***Senate Committee on Federal and State Affairs***

In the Senate Committee hearing, **proponent** testimony was provided by a representative of the Kriegshauser Ney Law Group, who discussed recent court decisions finding statutes concerning “giving in the name of another” and defining “political committee” unconstitutional and stated the bill would bring Kansas campaign finance laws into compliance with the *U.S. Constitution*. The proponent also requested the Committee consider adding some or all of the provisions of SB 279 related to the Act and the Commission.

Written-only proponent testimony was provided by a representative of People United for Privacy Foundation.

**Opponent** testimony was provided by a private citizen, who expressed concerns about the potential impact the bill could have on ongoing ethics investigations and requested the proposed reforms be paused until the investigations conclude to ensure transparency.

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

Neutral testimony was provided by a representative of the Kansas Governmental Ethics Commission, who expressed concerns about the Commission’s ability to enforce the Act and ensure transparency if the bill were enacted.

### ***Senate Committee of the Whole***

The Senate Committee of the Whole amended the bill to add provisions requiring the termination of candidate campaign accounts.

## **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Governmental Ethics Commission states enactment of the bill would require the agency to make minor changes to the agency logo, but that costs could be absorbed within existing resources. The Commission indicates fewer political committees would be required to register with the Commission, which would reduce revenue to its fee fund by approximately \$10,000 in FY 2026 and FY 2027.

The Office of the Secretary of State indicates the enactment of the bill would have minimal fiscal effect on the agency that could be absorbed within existing resources.

Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor's Budget Report*.

Campaign Finance Act; Kansas Public Disclosure Commission; political committees; cooperation or consent; independent expenditures; campaign contributions; campaign accounts; termination of candidate campaign account