

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2007

## HOUSE BILL No. 2197

By Committee on Elections and Governmental Organization

1-24

12 AN ACT concerning campaign finance; ~~relating to corrupt political ad-~~  
13 ~~vertising; [relating to electioneering communications; relating to~~  
14 ~~reports of certain campaign contributions;]~~ amending K.S.A. 25-  
15 ~~4156 and repealing the existing section [amending K.S.A. 25-4148~~  
16 ~~and 25-4156 and repealing the existing sections].~~  
17

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

19 Section 1. K.S.A. 25-4156 is hereby amended to read as follows: 25-  
20 4156. (a) (1) Whenever any person sells space in any newspaper, magazine  
21 or other periodical to a candidate or to a candidate committee, party  
22 committee or political committee, the charge made for the use of such  
23 space shall not exceed the charges made for comparable use of such space  
24 for other purposes.

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

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

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

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

43 (C) *telephoning or causing to be contacted by any telephonic means*

1 including, but not limited to, any device using a voice over internet pro-  
 2 tocol or wireless telephone, any paid matter which expressly advocates  
 3 the nomination, election or defeat of a clearly identified candidate for a  
 4 state or local office, unless such matter is ~~followed~~ **preceded** by a state-  
 5 ment which states: “Paid for” or “Sponsored by” ~~preceded~~ **followed** by  
 6 the name of the sponsoring organization and the name of the chairperson  
 7 or treasurer of the political or other organization sponsoring the same or  
 8 the name of the individual who is responsible therefor; or

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

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

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

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

25 ~~(d) (1) Whenever any vendor or other person provides any of the~~  
 26 ~~services defined in subsection (b), such vendor or other person shall keep~~  
 27 ~~and maintain a record showing the name and address of the person who~~  
 28 ~~purchased or requested such services and the amount paid for such serv-~~  
 29 ~~ices. The records required by this subsection shall be kept for a period of~~  
 30 ~~one year after the date upon which payment was received for such~~  
 31 ~~services.~~

32 ~~—(2) Failure to keep and maintain the records required by this subsec-~~  
 33 ~~tion is a class C misdemeanor.~~

34 ~~Sec. 2. K.S.A. 25-4156 is hereby repealed.~~

35 **[Sec. 2. K.S.A. 25-4148 is hereby amended to read as follows:**  
 36 **25-4148. (a) (1) Every treasurer shall file a report prescribed by**  
 37 **this section. Reports filed by treasurers for candidates for state**  
 38 **office, other than officers elected on a state-wide basis, shall be**  
 39 **filed in both the office of the secretary of state and in the office of**  
 40 **the county election officer of the county in which the candidate is**  
 41 **a resident. Reports filed by treasurers for candidates for state-wide**  
 42 **office shall be filed only with the secretary of state. Reports filed**  
 43 **by treasurers for candidates for local office shall be filed in the**

1 office of the county election officer of the county in which the  
2 name of the candidate is on the ballot.

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

6 [(1) (A) The eighth day preceding the primary election, ~~which.~~  
7 *Such report shall be for the period beginning on January 1 of the*  
8 *election year for the office the candidate is seeking and ending 12*  
9 *days before the primary election, inclusive.*

10 [(2) (B) The eighth day preceding a general election, ~~which.~~  
11 *Such report shall be for the period beginning 11 days before the*  
12 *primary election and ending 12 4 days before the general election,*  
13 *inclusive.*

14 [(3) (C) January 10 of the year after an election year, ~~which.~~  
15 *Such report shall be for the period beginning 11 days before the*  
16 *general election and ending on December 31, inclusive.*

17 [(4) (D) For any calendar year when no election is held, a report  
18 shall be filed on the next January 10 for the preceding calendar  
19 year.

20 [(5) A treasurer shall file ~~only~~ the annual report required by  
21 ~~subsection (4) this subparagraph only~~ for those years when the can-  
22 didate is not participating in a primary or general election.

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

24 [(1) Cash on hand on the first day of the reporting period.

25 [(2) *Except as provided in subsection (c), the name and address of*  
26 *each person who has made one or more contributions in an aggre-*  
27 *gate amount or value in excess of \$50 during the election period*  
28 *together with the amount and date of such contributions, including*  
29 *the name and address of every lender, guarantor and endorser*  
30 *when a contribution is in the form of an advance or loan.*

31 [(3) The aggregate amount of all proceeds from bona fide sales  
32 of political materials such as, but not limited to, political campaign  
33 pins, buttons, badges, flags, emblems, hats, banners and litera-  
34 ture.

35 [(4) The aggregate amount of contributions for which the name  
36 and address of the contributor is not known.

37 [(5) Each contribution, rebate, refund or other receipt not oth-  
38 erwise listed.

39 [(6) The total of all receipts.

40 [(7) The name and address of each person to whom expendi-  
41 tures have been made in an aggregate amount or value in excess  
42 of \$50, with the amount, date, and purpose of each; the names and  
43 addresses of all persons to whom any loan or advance has been

1 **made; when an expenditure is made by payment to an advertising**  
 2 **agency, public relations firm or political consultants for disburse-**  
 3 **ment to vendors, the report of such expenditure shall show in de-**  
 4 **tail the name of each such vendor and the amount, date and pur-**  
 5 **pose of the payments to each;**

6 **[(8) The name and address of each person from whom an in-**  
 7 **kind contribution was received or who has paid for personal serv-**  
 8 **ices provided without charge to or for any candidate, candidate**  
 9 **committee, party committee or political committee, if the contri-**  
 10 **bution is in excess of \$50 and is not otherwise reported under**  
 11 **subsection (b)(7) paragraph (7) of subsection (b), and the amount, date**  
 12 **and purpose of the contribution;**

13 **[(9) (A) The name and address of each candidate for state or local**  
 14 **office for whom an expenditure in the form of an in-kind contribution has**  
 15 **been made in an aggregate amount or having a fair market value in excess**  
 16 **of \$300, with the amount, date and purpose of each. The report shall show**  
 17 **in detail the specific service or product provided; and**

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

20 **[(i) Is made without the cooperation or consent of a candidate or**  
 21 **candidate committee;**

22 **[(ii) expressly advocates the nomination, election or defeat of such**  
 23 **candidate; and**

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

26 **[The report shall state the amount, date and purpose of each. The report**  
 27 **shall show in detail the specific service or product provided. The reporting**  
 28 **requirements imposed by this paragraph shall be in addition to all other**  
 29 **requirements required by this section. The provisions of this paragraph**  
 30 **shall apply only to political committees and party committees.**

31 **[(9) (10) The aggregate of all expenditures not otherwise re-**  
 32 **ported under this section; and**

33 **[(10) (11) The total of expenditures.**

34 **[(c) Treasurers of candidates and of candidate committees**  
 35 **shall be required to itemize, as provided in subsection (b)(2), only itemize**  
 36 **the purchase of tickets or admissions to testimonial events by a**  
 37 **person who purchases such tickets or admissions in an aggregate**  
 38 **amount or value in excess of \$50 per event, or who purchases such**  
 39 **a ticket or admission at a cost exceeding \$25 per ticket or admis-**  
 40 **sion. All other purchases of tickets or admissions to testimonial**  
 41 **events shall be reported in an aggregate amount and shall not be**  
 42 **subject to the limitations specified in K.S.A. 25-4154, and amend-**  
 43 **ments thereto.**

1 [(d) If a contribution or other receipt from a political commit-  
2 tee is required to be reported under subsection (b), the report shall  
3 include the full name of the organization with which the political  
4 committee is connected or affiliated or, ~~name or a description suf-~~  
5 ~~ficiently describing the affiliation or, if~~ *of the connection to or affiliation*  
6 *with such organization. If the committee is not connected or affili-*  
7 *ated with any one organization, the report shall state the trade, pro-*  
8 *fession or primary interest of the political committee as reflected*  
9 *by the statement of purpose of such organization.*

10 [(e) The commission may require any treasurer to file an  
11 amended report for any period for which the original report filed  
12 by such treasurer contains material errors or omissions, ~~and. The~~  
13 notice of the errors or omissions shall be part of the public record.  
14 The amended report shall be filed within 30 days after notice by  
15 the commission.

16 [(f) The commission may require any treasurer to file a report  
17 for any period for which the required report is not on file, ~~and. The~~  
18 notice of the failure to file shall be part of the public record. Such  
19 report shall be filed within five days after notice by the  
20 commission.

21 [(g) For the purpose of any report required to be filed pursuant  
22 to subsection (a) by the treasurer of any candidate seeking nomi-  
23 nation by convention or caucus or by the treasurer of the candi-  
24 date's committee or by the treasurer of any party committee or  
25 political committee, the date of the convention or caucus shall be  
26 considered the date of the primary election.

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

30 [Sec. 3. K.S.A. 25-4148 and 25-4156 are hereby repealed.]

31 [New Sec. 4. (a) Any person who spends or contracts to spend  
32 an amount of \$500 or more per calendar year for any electioneer-  
33 ing communication shall submit a report containing information  
34 as required by subsection (b). For each electioneering communi-  
35 cation, the report shall include:

36 [(1) The name of the clearly identified candidate mentioned in  
37 the electioneering communication.

38 [(2) The name, street address, city, state and zip code of each  
39 individual or other entity that contributes more than \$50 per year  
40 to such person for an electioneering communication. In addition,  
41 the report shall list the occupation of any individual who contrib-  
42 uted \$150 or more.

43 [(3) The name, street address, city, state and zip code of the

1 vendor to whom a payment of more than \$50 for such election-  
2 eering communication is made or contracted to be made.

3 [(4) The amount spent on or contracted to be spent on such  
4 electioneering communication. If the person making the election-  
5 eering communication is an individual, such reports shall also in-  
6 clude the occupation and employer of such individual. Reports re-  
7 quired by this section shall be in addition to any other reports  
8 required by law.

9 [(b) (1) (A) For an electioneering communication concerning  
10 a candidate for state office, other than an officer elected on a state-  
11 wide basis, the report required by subsection (a) shall be filed in  
12 both the office of the secretary of state and in the office of the  
13 county election officer of the county in which the candidate is a  
14 resident.

15 [(B) For an electioneering communication concerning a can-  
16 didate for state-wide office, the report required by subsection (a)  
17 shall be filed only with the secretary of state.

18 [(C) For an electioneering communication concerning a can-  
19 didate for local office, the report required by subsection (a) shall  
20 be filed in the office of the county election officer of the county in  
21 which the name of the candidate is on the ballot.

22 [(2) Except as required by paragraph (3), each report required  
23 by subsection (a) shall be filed in time to be received in the offices  
24 required in accordance with the times set forth in K.S.A. 25-4148  
25 and amendments thereto.

26 [(3) For any electioneering communication occurring during  
27 the 11 days preceding the election, the report required by subsec-  
28 tion (a) shall be filed on or before the close of the second business  
29 day following the day in which such funds are spent or contracted  
30 to be spent for such electioneering communication.

31 [(c) For the purposes of this section:

32 [(1) “Electioneering communication” means any communica-  
33 tion broadcast by television or radio, printed in a newspaper or on  
34 a billboard, directly mailed or delivered by hand to personal res-  
35 idences or otherwise distributed that:

36 [(A) Unambiguously refers to any clearly identified candidate;

37 [(B) is broadcast, printed, mailed, delivered or distributed  
38 within 30 days before a primary election or 60 days before a gen-  
39 eral election;

40 [(C) is broadcast to, printed in a newspaper distributed to,  
41 mailed to, delivered by hand to, or otherwise distributed to an  
42 audience that includes members of the electorate for such public  
43 office.

- 1     **[(2) “Electioneering communication” does not include:**  
2     **[(A) Any news articles, editorial endorsements, opinion or com-**  
3     **mentary writings, or letters to the editor printed in a newspaper,**  
4     **magazine or other periodical not owned or controlled by a can-**  
5     **didate or political party;**  
6     **[(B) any editorial endorsements or opinions aired by a broad-**  
7     **cast facility not owned or controlled by a candidate or political**  
8     **party;**  
9     **[(C) any communication by persons made in the regular course**  
10    **and scope of their business or any communication made by a mem-**  
11    **bership organization solely to members of such organization and**  
12    **their families;**  
13    **[(D) any communication that refers to any candidate only as**  
14    **part of the popular name of a bill or statute;**  
15    **[(E) any communication made solely to promote a candidate**  
16    **debate or forum that is made by or on behalf of the person spon-**  
17    **soring such debate or forum; or**  
18    **[(F) any communication made as part of a nonpartisan activity**  
19    **designed to encourage individuals to vote or register to vote.**  
20    **[(d) The provisions of this section shall be part of and supple-**  
21    **mental to the campaign finance act.**  
22    **[New Sec. 5. (a) Every treasurer for a candidate for state or**  
23    **local office shall file reports of campaign contributions as pre-**  
24    **scribed by this act. Reports filed by treasurers for candidates for**  
25    **state office, other than officers elected on a state-wide basis, shall**  
26    **be filed in both the office of the secretary of state and in the office**  
27    **of the county election officer of the county in which the candidate**  
28    **is a resident. Reports filed by treasurers for candidates for state-**  
29    **wide office shall be filed only with the secretary of state. Reports**  
30    **filed by treasurers for candidates for local office shall be filed in**  
31    **the office of the county election officer of the county in which the**  
32    **name of the candidate is on the ballot. Reports required by this**  
33    **section shall be in addition to any other reports required by law.**  
34    **[(b) The report shall contain the name and address of each per-**  
35    **son who has made one or more contributions in an aggregate**  
36    **amount or value of \$300 or more during the period commencing**  
37    **11 days before a primary or general election at which a state or**  
38    **local officer is to be elected and ending upon the day of such elec-**  
39    **tion. The report shall be made on or before the close of the next**  
40    **business day in which any contribution is received. The report shall**  
41    **contain the amount and date of the contribution, including the**  
42    **name and address of every lender, guarantor and endorser when**  
43    **the contribution is in the form of an advance or loan.**

- 1     **[(c) Reports required by this section shall be filed via e-mail,**  
2 **facsimile transmission, telegram or express delivery service.**
- 3     **[(d) (1) “Local office” shall have the meaning ascribed to it in**  
4 **K.S.A. 25-4143 and amendments thereto.**
- 5     **[(2) “State office” shall have the meaning ascribed to it in**  
6 **K.S.A. 25-4143 and amendments thereto.**
- 7     **[(e) The provisions of this section shall be part of and supple-**  
8 **mental to the campaign finance act.]**
- 9     Sec. ~~6~~ [6.] This act shall take effect and be in force from and after  
10 its publication in the statute book.