

# HANDBOOK FOR LOBBYISTS



## KANSAS GOVERNMENTAL ETHICS COMMISSION

2021

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## INTRODUCTION

Kansas law recognizes that the right of organized as well as unorganized interests to influence governmental policy is an integral part of the American and Kansas political process. Such efforts are based in large part on the constitutional guarantees of freedom of speech and association and the right to participate in one's government. The thrust of existing legislation is not to hinder such activity but rather to ensure that it is carried out in view of the public.

In this context, the Kansas Governmental Ethics Commission is charged, in part, with administering the state's lobbying law, which provides for the registration and reporting of expenditures by lobbyists.

If you have questions about legal requirements or procedure, please contact the Kansas Governmental Ethics Commission, 901 S. Kansas Ave., Topeka, KS 66612, via email at [KGEC\\_Ethics@ks.gov](mailto:KGEC_Ethics@ks.gov), or call (785) 296-4219.

## LOBBYING DEFINED

The statute includes a broad definition of lobbying. It is important to remember, however, that the fact a particular activity constitutes “lobbying” does not necessarily mean that an individual must register as a lobbyist. Simply put, everyone who lobbies need not register. Who must register is explained in the next section. By statutory definition, lobbying is:

- \* Promoting or opposing in any manner action or nonaction by the Legislature on any legislative matter.

- \* Promoting or opposing in any manner action or nonaction by any executive agency on any executive administrative matter.

- \* Promoting or opposing in any manner action or nonaction by any judicial agency on any judicial administrative matter.

- \* Providing entertainment, gifts, or payments by any person or their representative in an aggregate value of \$40 or more in any calendar year to a state officer or employee if at any time during such year the person supplying the entertainment, gifts or payments has a financial interest in any contract with, or action, proceeding or other matter before the state agency in which such state officer or employee serves, or if such person is the representative of a person having such a financial interest.

- \* See K.S.A. 46-219 and K.A.R. 19-61-1(a) for the definition and discussion of “legislative matter”.

## REGISTRATION

### **Who Must Register as a Lobbyist?**

Any person to whom any of the following applies must register as a lobbyist:

- \* Any person employed to a considerable degree to lobby;

- \* Any person formally appointed to a specific position as the primary representative of an organization or other person to lobby in person on state property; or

- \* Any person who spends \$1000 or more in a year for lobbying exclusive of personal travel and subsistence expenses;

- \* Any person hired as an independent contractor and compensated by an executive agency to lobby.

In addition, any other person may register if they wish.

### **When Must a Lobbyist Register?**

In any calendar year, before engaging in lobbying, a person must register. Such registration expires annually on December 31 of the year for which the lobbyist is registered. On or after October 1 in any year, any person may register for the succeeding calendar year.

### **What is the Lobbyist Registration Fee?**

Any person who registers to lobby must pay a registration fee for each employer, client, or organization such lobbyist represents. Registration fees are as follows:

- 1) \$50 if registering or renewing registration if lobbyist anticipates spending \$1000 or less for lobbying in a calendar year;
- 2) \$350 if registering or renewing registration if lobbyist anticipates spending more than \$1000 for lobbying in a calendar year; and
- 3) \$450 if registering or renewing registration as an employee of a lobbying group or firm.

### **Where Must a Lobbyist Register?**

A lobbyist must register online with the Secretary of State by electronically filing a Lobbyist Registration Statement and paying a registration fee. The form is available on the Secretary of State's website at <https://sos.Kansas.gov>. Only lobbyists who register electronically with the Secretary of State are permitted to electronically file their Lobbyist Employment and Expenditures Reports. The Secretary of State provides each lobbyist with a name tag that is to be worn by the lobbyist when lobbying in the State Capitol.

## **REPORTING REQUIREMENTS**

### **Who Must Report Expenditures?**

Every lobbyist must file a Lobbyist Employment and Expenditures Report on six dates throughout a calendar year **or** file one affidavit for the year stating that the lobbyist will not expend more than \$100 for lobbying in any reporting period. Any lobbyist filing such an affidavit and spending more than \$100 must

file all reports.

### **When Must Expenditure Reports Be Filed?**

Expenditure reports from those lobbyists not filing an affidavit must be filed on the 10th of the month following each of the reporting periods. The reporting dates and the periods covered are as follows:

February 10 .....	(January)
March 10 .....	(February)
April 10 .....	(March)
May 10 .....	(April)
September 10 .....	(May, June, July, August)
January 10 .....	(September, October, November, December)

### **What Must Be Reported?**

The report shall either state that lobbying expenditures did not exceed \$100 for the previous month or months **or** the total amount of expenditures made during the reporting period shall be reported in the following categories:

- 1) Food & beverage provided as hospitality;
- 2) Entertainment, gifts or payments;
- 3) Mass media communications;
- 4) Recreation provided as hospitality;
- 5) Communications for the purpose of influencing legislative or executive action; and
- 6) Other reportable expenditures.

In addition to the total amount of expenditures reported in the above categories, each lobbyist expending \$100 or more in a reporting period will list the name of any legislator, employee of the legislature, member of the judicial branch, employee of the judicial branch, member of the executive branch or employee of the executive branch who receives any gift, entertainment or hospitality in the form of food, beverage, or recreation, and the amount expended on such gift, entertainment or hospitality. Excluded from this listing will be events to which the following have been invited:

- 1) All members of the legislature;
- 2) All members of either house of the legislature;
- 3) All members of a political party caucus of the legislature; or
- 4) All members of a political party caucus of either house of the legislature.

## PROHIBITIONS

The law also provides that lobbyists cannot:

- \* Offer, pay or give anything of value aggregating \$40 or more during a calendar year to any legislator or employee in the legislative branch of state government or any candidate for state office with a major purpose of influencing such officer or employee in the performance of official duties or prospective official duties.

- \* Offer, pay or give hospitality in the form of recreation valued at \$100 or more during a calendar year to any legislator or employee of the legislative branch of state government.

- \* Pay or agree to pay any state officer or employee or candidate for state office compensation for property or services substantially in excess of that charged in the ordinary course of business.

- \* Offer employment or employ any state officer or employee for a representation case with the intent to obtain improper influence over the state agency. (“Representation case” means the representation of any person, with compensation, in any matter before any state agency where the action involves the exercise of substantial discretion.)

- \* Offer employment or employ any state officer or employee or any person associated with them in business to use or attempt to use the threat or promise of official action in an attempt to influence the state agency in a representation case.

- \* Accept or agree to accept compensation, or any part thereof, for lobbying that is contingent upon the result achieved or attained.

- \* Act as treasurer for any candidate or candidate committee.

- \* Make a campaign contribution to any legislator, candidate for the Legislature, state officer elected on a state-wide basis or candidate for state office elected on a state-wide basis, or any recognized political committee designated in the Senate or House of Representatives between January 1 and sine die adjournment of the Legislature each year.

## ADMINISTRATION OF THE LAW

### **Who Can Ask for an Advisory Opinion?**

The Commission upon its own initiative, or in response to a written request by any lobbyist or anyone else to whom the Act may apply, will render an opinion on questions concerning interpretations of the Act. Anyone who acts in accordance with the provisions of such an opinion is presumed to have complied with the law. All such opinions are available from the Commission and are published monthly in the Kansas Register and available on the Commission's web site.

### **Who May File a Complaint?**

Anyone may file a complaint alleging that someone has violated the law. In addition, the Commission may initiate an investigation on its own.

### **What Are the Penalties?**

Intentional violation of the lobbying laws is subject to a maximum criminal penalty of six months in jail and a \$1,000 fine. In addition, the Commission may assess civil fines not to exceed \$5,000 for the first violation, not to exceed \$10,000 for the second violation, and not to exceed \$15,000 for the third violation and for each subsequent violation.

This handbook is only a simplified guide and is not intended to be a full statement of the law applicable to all situations.

## LOBBYING STATUTES

**46-215. Application of definitions.** As used in K.S.A. 46-215 to 46-280, inclusive, and any amendments thereto, and K.S.A. 46-248a, unless the context otherwise requires, the words and terms defined in K.S.A. 46-216 to 46-231, inclusive, and any amendments thereto, shall have the meanings therein ascribed thereto.

**History:** L. 1974, ch. 353, § 1; L. 1981, ch. 171, § 42; July 1.

**46-217. "Economic opportunity" defined.** "Economic opportunity" means any purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services wherein a state officer or employee or candidate for state office

may gain a personal economic benefit, but not including any gift.

**History:** L. 1974, ch. 353, § 3; March 28.

**46-219. “Legislative matter” defined.** “Legislative matter” means any bill, resolution, nomination, or other issue or proposal pending before the legislature or any committee, subcommittee, or council thereof.

**History:** L. 1974, ch. 353, § 5; March 28.

**46-220. “Legislator” defined.** “Legislator” means a member or member-elect of the legislature.

**History:** L. 1974, ch. 353, § 6; March 28.

**46-221. “State officer or employee” and “candidate for state office” defined.** (a) “State officer or employee” means (1) any individual who is an elected or appointed state officer, (2) any individual who is in the classified service or unclassified service of the Kansas civil service act, (3) all officers and employees of the legislative branch and of the governor’s office, irrespective of how compensated or period of employment, and (4) any individual who receives monthly or semimonthly compensation for services from the state or any state agency. State officer or employee does not include any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch. Also, state officer or employee does not include any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board.

(b) “Candidate” means an individual who: (1) Appoints a treasurer or a candidate committee; (2) makes a public announcement of intention to seek nomination or election to state office; (3) makes any expenditure or accepts any contribution for the purpose of influencing such person’s nomination or

election to any state office; or (4) files a declaration or petition to become a candidate for state office.

(c) “State officer elect” means an individual who has been elected to state office or appointed to fill a vacancy in a state office but who has not yet taken the oath of office.

**History:** L. 1974, ch. 353, § 7; L. 1975, ch. 272, § 1; L. 1978, ch. 332, § 29; L. 1995, ch. 172, § 1; July 1.

**46-222. “Lobbyist” defined; exceptions.** (a) “Lobbyist” means:

(1) Any person employed in considerable degree for lobbying;

(2) any person formally appointed as the primary representative of an organization or other person to lobby in person on state-owned or leased property;

(3) any person who makes expenditures in an aggregate amount of \$1,000 or more, exclusive of personal travel and subsistence expenses, in any calendar year for lobbying; or

(4) any person hired as an independent contractor and compensated by an executive agency, as defined in K.S.A. 46-225, and amendments thereto, for the purpose of evaluation, management, consulting or acting as a liaison for the executive agency and who engages in lobbying, except an attorney or law firm representing the executive agency in a legal matter.

(b) “Lobbyist” shall not include:

(1) Any state officer or employee engaged in carrying out the duties of their office;

(2) the employer of a lobbyist, if such lobbyist has registered the name and address of such employer under K.S.A. 46-265, and amendments thereto;

(3) any nonprofit organization which has qualified under 501(c)(3) of the internal revenue code of 1986, as amended, which is interstate in its operations and of which a primary purpose is the nonpartisan analysis, study or research of legislative procedures or practices and the dissemination of the results thereof to the public, irrespective of whether such organization may recommend a course of action as a result of such analysis, study or research;

(4) any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or, any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a

function or duty for the judicial branch; or

(5) any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in K.S.A. 75-3223(e), and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board.

**History:** L. 1974, ch. 353, § 8; L. 1975, ch. 272, § 2; L. 1991, ch. 150, § 23; July 1.

**46-223. “Person” defined.** “Person” means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, group, or corporation, whether or not operated for profit, or a governmental agency unit, or subdivision.

**History:** L. 1974, ch. 353, § 9; March 28.

**46-224. “State agency” and “rules and regulations” defined.** (a) “State agency” means the legislature, legislators, legislative committees and councils and all executive departments, institutions, offices, officers, commissions, boards and authorities of the state, but does not include municipalities and other political subdivisions.

(b) “Rules and regulations” mean rules and regulations required by law to be filed with the secretary of state and does not include rules adopted by the judicial branch or any court.

**History:** L. 1974, ch. 353, § 10; L. 1975, ch. 272, § 24; L. 1988, ch. 366, § 12; June 1.

**46-225. “Lobbying” defined; exceptions; employment of legislator as a lobbyist prohibited.**

(a) Except as otherwise provided, “lobbying” means:

(1) Promoting or opposing in any manner action or nonaction by the legislature on any legislative matter;

(2) promoting or opposing in any manner an action or nonaction by any executive agency on any executive administrative matter;

(3) promoting or opposing in any manner an action or nonaction by any judicial agency on any judicial administrative matter; or

(4) entertaining any state officer or employee or giving any gift, honorarium or payment to a state officer or employee in an aggregate value of \$40 or more within any calendar year, if at any time during such year the person supplying the entertainment,

gifts, honoraria or payments has a financial interest in any contract with, or action, proceeding or other matter before the state agency in which such state officer or employee serves, or if such person is the representative of a person having such a financial interest.

(c) “Lobbying” does not include any expenditure from amounts appropriated by the legislature for official hospitality.

(d) “Lobbying” does not include representation of a claimant on a claim filed by the claimant under K.S.A. 46-907 and 46-912 through 46-919, and amendments thereto, in proceedings before the joint committee on special claims against the state.

(e) “Lobbying” does not include bona fide personal or business entertaining.

(f) No legislator may be hired as a lobbyist to represent anyone before any state agency.

(g) “Lobbying” does not include:

(1) Written communications by an employee of a private business seeking a contract, agreement or lease with an executive agency or judicial agency solely for the purpose of describing goods or services to be provided or for preparing a bid, proposal or other document relating to a contract, agreement or lease, such as factual information, specifications, terms, conditions, timing or similar technical or commercial information or communications by an employee of a private business awarded a bid or contract for the purpose of carrying out ongoing negotiations following the award of the bid or contract;

(2) communications by an attorney representing a client involving ongoing legal work with respect to an executive administrative matter or judicial administrative matter, or an administrative proceeding or hearing and negotiations conducted by and with attorneys for executive agencies or judicial agencies, or interactions between parties in litigation or other contested matters, and testimony by a witness in an administrative hearing or communications to or by investigators or authorities in the course of any investigation;

(3) communications among and between members of the legislature or executive or judicial officials or employees;

(4) providing written information in response to a written request from an executive agency for technical advice or factual information regarding a standard, rate, rule or regulation, policy or procurement or from a judicial agency regarding a procurement;

(5) communications regarding a contract, lease or agreement of \$5,000 or less;

(6) communications made by or on behalf of a private business for the purpose of securing a grant, loan or tax benefit pursuant to a Kansas economic development program for the purpose of locating, relocating or expanding a private business within or into Kansas; or

(7) communications made by officers or employees of a certified business or disabled veteran business, as defined in K.S.A. 75-3740, and amendments thereto.

(h) As used in this section, “executive administrative matter” means any rule and regulation, utility ratemaking decision, any agreement, contract, bid or bid process, or any procurement decision, including, but not limited to, any financial services agreement, software licensing, servicing or procurement agreement, any lease, grant, award, loan, bond issue, certificate, license, permit, administrative order or any other matter that is within the official jurisdiction or cognizance of the executive agency.

(i) As used in this section, “judicial administrative matter” means any administrative matter regarding an agreement, contract, bid or bid process, any procurement decision, including, but not limited to, any financial services agreement, software licensing, servicing or procurement agreement, lease, or any other administrative procurement or contractual matter.

(j) As used in this section, “executive agency” means any state agency, state office or state officer, state officer elect, or employee of the executive branch and includes, but is not limited to, the board of regents and state board of education, but does not include local boards of education of school districts or municipalities or other political subdivisions.

(k) As used in this section, “judicial agency” means any department, institution, office, officer, employee, commission, board or bureau, or any agency, division or unit thereof, of the judicial branch of government and includes any justice or commissioner of the supreme court or judge or judge elect of the judicial branch, or any member of a board, council or commission who is appointed by the supreme court or who is elected and is performing a function or duty of the judicial branch that constitutes a judicial administrative matter.

(l) As used in this section, “written communications” or “written information” includes

email or other electronic forms of communication that are retained as a record by the executive agency or judicial agency.

**History:** L. 1974, ch. 353, § 11; L. 1975, ch. 272, § 3; L. 1981, ch. 171, § 43; L. 1991, ch. 150, § 24; July 1.

**46-226. “Representation case” defined.** “Representation case” means the representation of any person, client, principal, or third person, with compensation, in any matter before any state agency where the action or non-action of the state agency involves the exercise of substantial discretion; but representation case does not mean or include (a) any communication initiated by a legislator on behalf of a constituent or other member of the public for which no compensation is received or to be received, or (b) preparation and filing of tax returns or other governmental forms, or (c) participation in tax audit negotiations, or (d) any activity of a state officer or employee in carrying out the duties of his or her office or employment, or (e) a preliminary inquiry by any person into a matter before a state agency.

**History:** L. 1974, ch. 353, § 12; L. 1975, ch. 272, § 4; July 1.

**46-228. “Special interest” defined.** “Special interest” means an interest of any person as herein defined (1) concerning action or non-action by the legislature on any legislative matter affecting such person as distinct from affect upon the people of the state as a whole, or (2) in the action or non-action of any state agency or state officer or employee upon any matter affecting such person as distinct from affect upon the people of the state as a whole.

**History:** L. 1974, ch. 353, § 14; March 28.

**46-232. Lobbying by state officer or employee; prohibited acts; exception.** No state officer or employee shall engage in lobbying his own state agency, if he accepts compensation specifically attributable to such lobbying, other than that provided for the performance of his official duties. Nothing in this section shall prohibit a state officer or employee from lobbying without compensation other than that which he is entitled to receive for performance of his official duties.

**History:** L. 1974, ch. 353, § 18; March 28

**46-236. Certain solicitations by state officers and employees and candidates for state offices and state officers elect prohibited; exceptions.** No state officer or employee or candidate for state office or state officer elect shall solicit any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service from any person known to have a special interest, under circumstances where such officer, employee or candidate knows or should know that a major purpose of the donor in granting the same could be to influence the performance of the official duties or prospective official duties of such officer, employee or candidate.

Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to: (1) Any contribution reported in compliance with the campaign finance act; (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business; (3) any solicitation for the benefit of any charitable organization which is required to file a registration statement with the secretary of state pursuant to K.S.A. 17-1761, and amendments thereto, or which is exempted from filing such statement pursuant to K.S.A. 17-1762, and amendments thereto, or for the benefit of any educational institution or such institution's endowment association, if such association has qualified as a nonprofit organization under paragraph (3) of subsection (c) of section 501 of the internal revenue code of 1986, as amended; (4) any solicitation for the benefit of any national nonprofit, nonpartisan organization established for the purpose of serving, informing, educating and strengthening state legislatures in all states of the nation; or (5) any solicitation for the benefit of any national, nonprofit organization established for the purpose of serving, informing and educating elected executive branch officials in all states of the nation.

**History:** L. 1974, ch. 353, § 22; L. 1975, ch. 272, § 7; L. 1995, ch. 172, § 2; L. 2000, ch. 124, § 1; July 1.

**46-237. Gifts to state agencies, state officers and employees, candidates for state office and state officers elect; limitations and prohibitions; exceptions; hospitality; honoraria; gifts from foreign governments; reimbursement of legislators for travel and subsistence expenses by certain national and international organizations and**

**foreign governments.** (a) Except as provided by this section, no state officer or employee, candidate for state office or state officer elect shall accept, or agree to accept any:

(1) Economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$40 or more in any calendar year; or

(2) hospitality in the form of recreation having an aggregate value of \$100 or more in any calendar year from any one person known to have a special interest, under circumstances where such person knows or should know that a major purpose of the donor is to influence such person in the performance of their official duties or prospective official duties.

(b) Except as provided by this section, no person with a special interest shall offer, pay, give or make any:

(1) Economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$40 or more in any calendar year; or

(2) hospitality in the form of recreation having an aggregate value of \$100 or more in any calendar year to any state officer or employee, candidate for state office or state officer elect with a major purpose of influencing such officer or employee, candidate for state office or state officer elect in the performance of official duties or prospective official duties or to a member or member elect or employee of the judicial branch with a major purpose of influencing the member or member elect or employee of the judicial branch in the performance of official duties or prospective official duties pertaining to a judicial administrative matter, as defined in K.S.A. 46-225, and amendments thereto.

(c) No person licensed, inspected or regulated by a state agency shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$40 or more in any calendar year to such agency or any state officer or employee, candidate for state office or state officer elect of that agency.

(d) Hospitality in the form of food and beverages is presumed not to be given to influence a state officer or employee, candidate for state office or state officer elect in the performance of official duties or prospective official duties, or to influence a member or

member elect or employee of the judicial branch in the performance of official duties or prospective official duties pertaining to a judicial administrative matter as defined in K.S.A. 46-225, and amendments thereto, except when a particular course of official action is to be followed as a condition thereon.

(e) Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to: (1) Any contribution reported in compliance with the campaign finance act; or (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business.

(f) No state officer or employee shall accept any payment of honoraria for any speaking engagement except that a member of the state legislature or a part-time officer or employee of the executive branch of government shall be allowed to receive reimbursement in the preparation for and the making of a presentation at a speaking engagement in an amount fixed by the commission prior to the acceptance of the speaking engagement. Nothing in this section shall be construed to prohibit the reimbursement of state officers and employees for reasonable expenses incurred in attending seminars, conferences and other speaking engagements.

(g) The provisions of this section shall not be applicable to or prohibit the acceptance of gifts from governmental agencies of foreign nations except that any gift accepted from such foreign governmental agency, having an aggregate value of \$100 or more, shall be accepted on behalf of the state of Kansas.

(h) No legislator shall solicit any contribution to be made to any organization for the purpose of paying for travel, subsistence and other expenses incurred by such legislator or other members of the legislature in attending and participating in meetings, programs and activities of such organization or those conducted or sponsored by such organization, but nothing in this act or the act of which this act is amendatory shall be construed to prohibit any legislator from accepting reimbursement for actual expenses for travel, subsistence, hospitality, entertainment and other expenses incurred in attending and participating in meetings, programs and activities sponsored by the government of any foreign nation, or any organization organized under the laws of such foreign nation or any international organization or any national, nonprofit, nonpartisan organization established for the purpose of serving, informing, educating and strengthening state

legislatures in all states of the nation, when paid from funds of such organization and nothing shall be construed to limit or prohibit the expenditure of funds of and by any such organization for such purposes.

**History:** L. 1974, ch. 353, § 23; L. 1983, ch. 172, § 11; L. 1990, ch. 122, § 18; L. 1991, ch. 150, § 26; L. 1995, ch. 172, § 3; L. 1998, ch. 117, § 19; L. 2000, ch. 124, § 4; July 1.

**46-237a. Gifts to certain state officers, employees and members of boards and commissions; limitations and prohibitions; penalties.** (a) The provisions of this section shall apply to:

- (1) The governor;
- (2) the lieutenant governor;
- (3) the governor's spouse;
- (4) all officers and employees of the executive branch of state government; and
- (5) all members of boards, commissions and authorities of the executive branch of state government.

(b) No person subject to the provisions of this section shall solicit or accept any gift, economic opportunity, loan, gratuity, special discount or service provided because of such person's official position, except:

- (1) A gift having an aggregate value of less than \$40 given at a ceremony or public function where the person is accepting the gift in such person's official capacity;
- (2) gifts from relatives or gifts from personal friends when it is obvious to the person that the gift is not being given because of the person's official position;
- (3) anything of value received by the person on behalf of the state that inures to the benefit of the state or that becomes the property of the state; or
- (4) contributions solicited on behalf of a nonprofit organization which is exempt from taxation under paragraph (3) of subsection (c) of section 501 of the internal revenue code of 1986, as amended.

(c) No person subject to the provisions of this section shall solicit or accept free or special discount meals from a source outside of state government, except:

- (1) Meals, the provision of which is motivated by a personal or family relationship or provided at events that are widely attended. An occasion is "widely attended" when it is obvious to the person accepting the meal that the reason for providing the meal is not a pretext for exclusive or nearly exclusive access to the

person;

(2) meals provided at public events in which the person is attending in an official capacity;

(3) meals provided to a person subject to this act when it is obvious such meals are not being provided because of the person's official position;

(4) food such as soft drinks, coffee or snack foods not offered as part of a meal;

(5) any meal, the value of which is \$40 or less, not provided by a lobbyist registered pursuant to K.S.A. 46-265, and amendments thereto;

(6) meals provided to a person when the person's presence at the event or meeting at which the meal is provided serves a legitimate state purpose or interest and the agency of which such person is an officer or employee authorizes such person's attendance at such event or meeting;

(7) meals provided to the governor's spouse and members of the governor's immediate family at the event or meeting at which the meal is provided serve a legitimate state purpose or interest; and

(8) any meal, if provided by a lobbyist registered pursuant to K.S.A. 46-265, and amendments thereto, and the lobbyist reports providing the meal as required pursuant to K.S.A. 46-269, and amendments thereto, except when a particular course of official action is to be followed as a condition of accepting the meal.

(d) No person subject to the provisions of this section shall solicit or accept free or special discount travel or related expenses from a source outside state government, except:

(1) When it is obvious to the person accepting the same that the free or special discount travel and related expenses are not being provided because of the person's official position; or

(2) when the person's presence at a meeting, seminar or event serves a legitimate state purpose or interest and the person's agency authorizes or would authorize payment for such travel and expenses.

(e) No person subject to the provisions of this section shall solicit or accept free or special discount tickets or access to entertainment or sporting events or activities such as plays, concerts, games, golf, exclusive swimming, hunting or fishing or other recreational activities when the free or special discount tickets or access are provided because of the person's official position. The provisions of this subsection shall not apply to persons whose official position requires or obliges them to be present at such events or

activities.

(f) (1) Violations of the provisions of this section by any classified employee in the civil service of the state of Kansas shall be considered personal conduct detrimental to the state service and shall be a basis for suspension, demotion or dismissal, subject to applicable state law.

(2) Violations of the provisions of this section by any unclassified employee shall subject such employee to discipline up to and including termination.

(3) In addition to the penalty prescribed under paragraphs (1) and (2), the commission may assess a civil fine, after proper notice and an opportunity to be heard, against any person for a violation of this section, in an amount not to exceed \$5,000 for the first violation, not to exceed \$10,000 for the second violation and not to exceed \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics fee fund established by K.S.A. 25-4119e, and amendments thereto.

(4) Receiving a meal provided by a lobbyist who is not registered pursuant to K.S.A. 46-265, and amendments thereto, or who fails to report providing the meal as required pursuant to K.S.A. 46-269, and amendments thereto, or as required by subsection (c)(8), shall not be considered a violation of this section, unless the recipient knew the lobbyist was not registered or requested that the lobbyist not report the meal.

**History:** L. 1997, ch. 155, § 4; L. 2000, ch. 124, § 2; L. 2001, ch. 5, § 151; L. 2007, ch. 121, § 1; July 1.

**46-253. “Commission” defined; rules and regulations.** “Commission” as used in K.S.A. 46-215 to 46-280, inclusive, 46-248a and K.S.A. 1997 Supp. 46-237a, and any amendments thereto, means the governmental ethics commission. The commission may adopt rules and regulations for the administration of the provisions of K.S.A. 46-215 to 46-280, K.S.A. 46-248a, and K.S.A. 1997 Supp. 46-237a and amendments thereto. Any rules and regulations adopted by the Kansas commission on governmental standards and conduct shall continue in force and effect and shall be

deemed to be the rules and regulations of the commission, until revised, amended, repealed or nullified pursuant to law. All rules and regulations of the commission shall be subject to the provisions of article 4 of chapter 77 of Kansas Statutes Annotated.

**History:** L. 1974, ch. 353, § 39; L. 1974, ch. 354, § 1; L. 1975, ch. 272, § 16; L. 1981, ch. 171, § 44; L. 1991, ch. 150, § 29; L. 1998, ch. 117, § 21; July 1.

**46-254. Opinions; effect of compliance with opinion; filing, publication and disposition.** The commission upon its own initiative may, and upon the request of any individual to which this act applies shall, render an opinion in writing on questions concerning the interpretation of this act. Any person who acts in accordance with the provisions of such an opinion, shall be presumed to have complied with the provisions of this act. A copy of every opinion rendered by the commission shall be filed with the secretary of state, and any opinion so filed shall be open to public inspection. The secretary of state shall publish all opinions rendered under this section monthly and each such publication shall be cumulative. Copies of each opinion shall be filed with the secretary of the senate and the chief clerk of the house on the same date as the same are filed with the secretary of state. The secretary of state shall cause adequate copies of all filings under this section to be supplied to the state library.

**History:** L. 1974, ch. 353, § 40; March 28.

**46-255. Verified complaints; filing with commission; conditions; transmittal of copy to respondent.** Any individual, including any member of the commission, may file with the commission a verified complaint in writing stating the name of any person to whom or which this act applies alleged to have violated any provision of this act, and which shall set forth the particulars thereof. If a member of the commission files a complaint, he must disqualify himself from the commission consideration of that complaint. Whenever a complaint is filed with the commission, the commission shall promptly send a copy thereof to the person complained of, who shall thereafter be designated as the respondent. No complaint alleging a violation of section 31 [\*] may be filed with the commission after the expiration of thirty (30) days from the date upon which the alleged

violation occurred.

**History:** L. 1974, ch. 353, § 41; March 28.

\* Section 46-246 now repealed.

**46-256. Same; confidentiality and determination of sufficiency; investigation; notification of attorney general of violation of other laws; dismissal or hearing on complaint; remedies and protections for state employees filing complaints.**

(a) If the commission determines that a verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any provision of this act, it shall dismiss the complaint and notify the complainant and respondent thereof.

(b) Whenever a complaint is filed with the commission alleging a violation of any provision of this act, such filing and the allegations therein shall be confidential and shall not be disclosed except as provided in this act.

(c) If the commission determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of this act, the commission promptly shall investigate the alleged violation.

(d) The commission shall notify the attorney general of any apparent violation of criminal law or other laws not administered by the commission, which is discovered during the course of any such investigation.

(e) If, after the investigation, the commission finds that probable cause does not exist for believing the allegations of the complaint, the commission shall dismiss the complaint. If after such preliminary investigation, the commission finds that probable cause exists for believing the allegations of the complaint, such complaint shall no longer be confidential and may be disclosed. Upon making any such finding, the commission shall fix a time for a hearing in the matter, which shall be not more than 30 days after such finding. In either event the commission shall notify the complainant and respondent of its determination.

(f) The remedies and protections provided by K.S.A. 75-2973 and amendments thereto shall be available to any state employee against whom disciplinary action has been taken for filing a complaint pursuant to this act.

**History:** L. 1974, ch. 353, § 42; L. 1988, ch. 181, § 1; L. 1991, ch. 150, § 30; July 1.

**46-257. Same; examination and copying of evidence and hearing transcript by respondent; subpoenas; hearing before subcommittee of commission; powers of presiding officer; witness fees and mileage; depositions; contempt.** After a verified complaint alleging violation of any provision of this act has been filed with the commission, the respondent shall be entitled to examine and make copies of all evidence in the possession of the commission relating to the complaint, including the transcript of the hearing, if any. If a hearing is to be held pursuant to K.S.A. 46-256, the commission, before the hearing has commenced, shall issue subpoenas and subpoenas *duces tecum* at the request of any party. Any hearing held under K.S.A. 46-256 may be conducted and held by a subcommittee of not less than five members of the commission, of whom not more than a majority shall be of the same political party. Final determination of all complaints shall be made by the commission as a whole. The chairperson of the commission or other member presiding over the commission or the presiding officer of any subcommittee of the commission shall have the power to: (a) Administer oaths and affirmations; and (b) compel, by subpoena, the attendance of witnesses and the production of pertinent books, papers and documents. Witnesses shall be entitled to receive fees and mileage as provided by law for witnesses in civil actions, which shall be paid out of appropriations to the commission. Depositions may be taken and used in the same manner as in civil actions. Any person subpoenaed to appear and give testimony or to produce books, papers or documents, who fails or refuses to appear or to produce such books, papers or documents, or any person, having been sworn to testify, who refuses to answer any proper question, may be cited for contempt of the district court of Shawnee county, Kansas. The commission shall report to such court the facts relating to any such contempt. Thereupon proceedings before such court shall be had as in cases of other civil contempt.

**History:** L. 1974, ch. 353, § 43; March 28, L. 1990, ch. 306, § 11; May 31.

**46-258. Hearings by commission; limitations on oral evidence; rights of parties; open to public.** At any hearing held by the commission: (a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: To be represented by legal counsel; to call and examine witnesses; to introduce exhibits; and to cross-examine opposing witnesses.

(c) The hearing shall be open to the public.

**History:** L. 1974, ch. 353, § 44; March 28.

**46-259. Record of commission's investigations, inquiries and proceedings; confidentiality of records, complaints, documents and reports; release of information or material to prosecutor; report of criminal law violations; public records; classification of certain violations as crimes.** The commission shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the commission, and all records and transcripts of any investigations, inquiries or hearings of the commission under this act shall be confidential and shall not be open to inspection by any individual other than a member of the commission, an employee of the commission, or a state officer or employee designated to assist the commission, except as otherwise specifically provided in this act. The commission may, by adoption of a resolution, authorize the release to the attorney general of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the attorney general. In addition, the commission shall notify the attorney general of any apparent violation of criminal law, other than laws administered by the commission, discovered during the course of any investigation conducted by the commission. All matters presented at a public hearing of the commission and all reports of the commission stating a final finding of fact pursuant to K.S.A. 46-262 shall be public records and open to public inspection.

Violation of any provision of this section or the confidentiality provision of K.S.A. 46-256 is a class B misdemeanor.

**History:** L. 1974, ch. 353, § 45; L. 1975, ch. 272, § 17; L. 1982, ch. 219, § 1; July 1.

**46-260. Investigations by commission; administration of oaths and subpoena of witnesses, documents and records.** (a) The commission may investigate, or cause to be investigated, any matter required to be reported upon by any person under the provisions of the governmental ethics law, or any matter to which the governmental ethics law applies, irrespective of whether a complaint has been filed in relation thereto.

(b) (1) After a preliminary investigation of any matter reported to the commission pursuant to subsection (a), and upon specific written findings of fact and conclusions of law by the commission that there is a reasonable suspicion that a violation of the state governmental ethics law has occurred, the commission or any officer designated by the commission may, administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commission deems relevant or material to the investigation. The commission shall reimburse the reasonable costs of production of documents subject to subpoena. All subpoenas and subpoenas duces tecum issued under this section shall be authorized by the affirmative vote of not less than  $\frac{3}{4}$  of the members of the commission. Any vote authorizing the issuance of a subpoena or subpoena duces tecum shall be taken at a meeting where the commissioners are in physical presence. Subpoenas duces tecum shall be limited to items reasonably relevant to such alleged violations. Upon the request of any person subpoenaed to appear and give testimony or to produce books, papers or documents, the commission shall provide a copy of the written findings of fact and conclusions of laws relating to the alleged violation committed by such person.

(2) In case of contumacy by, or refusal to obey a subpoena issued to any person, the district court of Shawnee county, upon application by the commission, or any officer designated by the commission, may issue to that person an order requiring the person to appear before the commission or any officer designated by the commission, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court

may be punished by the court as a contempt of court.

**History:** L. 1974, ch. 353, § 46; L. 1991, ch. 150, § 31; L. 1998, ch. 29, § 1; July 1.

**46-261. Withdrawal of complaint by complainant; civil action, when; admissibility of certain evidence.** The commission may permit a complainant to withdraw his or her complaint at any time. The respondent may bring a civil action in the district court against the complainant for malicious prosecution for the filing or prosecution of any complaint with the commission under this act, whenever under like circumstances an action for malicious prosecution would arise for filing or prosecution of an action or complaint in a court. All papers in the possession of the commission relating thereto shall be admissible.

**History:** L. 1974, ch. 353, § 47; March 28.

**46-262. Statement of commission's findings of facts after hearing; disposition.** After a hearing of an alleged violation of this act, the commission shall state its findings of fact. If the commission finds that the respondent has not violated any provisions of this act, it shall order the action dismissed, and shall notify the respondent and complainant thereof. If the commission finds that the respondent has violated any provisions of this act, it shall state its findings of fact and submit a report thereon to the house in which the respondent serves if he or she is a legislator, to the legislative coordinating council if he or she is a state officer or employee of the legislative branch other than a legislator, to the supreme court if he or she is a state officer or employee of the judicial branch, and to the governor in other cases, send a copy of such findings and report to the complainant and respondent, and the commission shall also report thereon, except any act which is a violation of K.S.A. 1974 Supp. 46-245 only to the attorney general and to the county or district attorney of the appropriate county.

**History:** L. 1974, ch. 353, § 48; March 28.

**46-263. Action upon commission's findings.** When a report is submitted under K.S.A. 46-262 and amendments thereto:

(a) If the respondent is a legislator, the house to which such a report is made shall consider the report and impose censure or disqualification as a legislator,

or the house may determine that neither censure nor disqualification is justified.

(b) If the respondent is a state officer or employee of the legislative branch, other than a legislator, the legislative coordinating council shall consider the report and impose censure or remove the state officer or employee from state service, or such council may determine that neither censure nor removal from office is justified. Such a determination by the legislative coordinating council shall be final.

(c) If the respondent is a state officer or employee of the judicial branch, the supreme court shall consider the report and impose censure or remove the state officer or employee from state service, or such court may determine that neither censure nor removal from office is justified. Such a determination by the supreme court shall be final.

(d) If the respondent is not a legislator and is not a state officer or employee of the legislative branch and is not subject to impeachment or of the judicial branch, the governor shall consider the report and impose censure or remove the state officer or employee from state service, or the governor may determine that neither censure nor removal from office is justified. Upon a determination by the governor of removal under this subsection, no right of appeal under the Kansas civil service act shall exist, but the determination of removal is subject to review in accordance with the Kansas judicial review act. In lieu of direct removal, the governor may direct the attorney general to bring ouster proceedings against the respondent.

(e) In the event the respondent is subject to impeachment, the commission shall refer the report to the house of representatives, in lieu of other procedures under this section.

**History:** L. 1974, ch. 353, § 49; L. 1986, ch. 318, § 67; L. 2010, ch. 17, § 83; July 1.

**46-264. History: L. 1974, ch. 353, § 50; Repealed, L. 1975, ch. 272, § 25; July 1.**

**46-265. Registration of lobbyists; form and contents; lobbying concerning legislative matters, copies of registrations and reports; fees; termination statement; failure to pay civil penalties, registration prohibited.** (a) Every lobbyist shall register with the secretary of state by completing and signing a

registration form prescribed and provided by the commission. The registration shall show the name and address of the lobbyist, the name and address of the person compensating the lobbyist for lobbying, the purpose of the employment, the name of each state agency or state office and any agency, division or unit thereof and each judicial department, institution, office, commission, board or bureau and any agency, division or unit thereof and whether the lobbyist will lobby the legislative branch and the method of determining and computing the compensation of the lobbyist. If the lobbyist is compensated or to be compensated for lobbying by more than one employer or is to be engaged in more than one employment, the relevant facts listed above shall be stated separately for each employer and each employment. Whenever any new lobbying employment or lobbying position is accepted by a lobbyist already registered as provided in this section, the lobbyist shall report the same on forms prescribed and provided by the commission before engaging in any lobbying activity related to the new employment or position, and the report shall be filed with the secretary of state. When a lobbyist is an employee of a lobbying group or firm which contracts to lobby and not an owner or partner of the lobbying group or firm, the lobbyist shall report each client of the group, firm or entity whose interest the lobbyist represents. Whenever the lobbying of a lobbyist concerns a legislative matter, the secretary of state promptly shall transmit copies of each registration and each report filed under this act to the secretary of the senate and the chief clerk of the house of representatives.

(b) On or after October 1, in any year any person may register as a lobbyist under this section for the succeeding calendar year. The registration shall expire annually on December 31 of the year for which the lobbyist is registered. In any calendar year, before engaging in lobbying, persons to whom this section applies shall register or renew their registration as provided in this section. Except for employees of lobbying groups or firms, every person registering or renewing registration who anticipates spending \$1,000 or less for lobbying in the registration year on behalf of any one employer shall pay to the secretary of state a fee of \$50 for lobbying for each employer. Except for employees of lobbying groups or firms, every person registering or renewing registration who anticipates spending more than \$1,000 for lobbying in

the registration year on behalf of any one employer shall pay to the secretary of state a fee of \$350 for lobbying for the employer. Any lobbyist who at the time of initial registration anticipated spending less than \$1,000, on behalf of any one employer, but at a later date spends in excess of that amount, within three days of the date when expenditures exceed that amount, shall file an amended registration form which shall be accompanied by an additional fee of \$300 for the year. Every person registering or renewing registration as a lobbyist who is an employee of a lobbying group or firm and not an owner or partner of the lobbying group or firm shall pay an annual fee of \$450. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

(c) Any person who has registered as a lobbyist pursuant to this act may file, upon termination of the person's lobbying activities, a statement terminating the person's registration as a lobbyist. The statement shall be on a form prescribed by the commission and shall state the name and address of the lobbyist, the name and address of the person compensating the lobbyist for lobbying and the date of the termination of the lobbyist's lobbying activities.

(d) No person who has failed or refused to pay any civil penalty imposed pursuant to K.S.A. 46-280, and amendments thereto, shall be authorized or permitted to register as a lobbyist in accordance with this section until the penalty has been paid in full.

**History:** L. 1974, ch. 353, § 51; L. 1975, ch. 272, § 18; L. 1982, ch. 363, § 15; L. 1989, ch. 93, § 3; L. 1991, ch. 150, § 32; L. 1993, ch. 94, § 1; L. 1994, ch. 144, § 3; L. 1998, ch. 117, § 22; L. 2000, ch. 168, § 3; L. 2001, ch. 5, § 152; July 1.

**46-266. Alphabetical listing of lobbyists by secretary of state; supplemental indices; public inspection of registration papers and reports; printing, publication and distribution of lists and indices.** The secretary of state shall maintain alphabetical listings of all lobbyists showing their employers and appointing authorities and the purpose of their employment or position. Such listing

shall be supplemented by indices showing employers and the appointing authorities and relevant information as to each. All registration papers and reports made under K.S.A. 46-265 shall be open to public inspection at all reasonable times. The listings and supplemental indices provided for by this section shall be maintained current at all times and from time to time each year shall be printed, published and distributed by the secretary of state.

**History:** L. 1974, ch. 353, § 52; March 28.

**46-267. Lobbyists; contingent fees and referral fees prohibited; lobbying contracts.** (a) No person shall pay or accept or agree to pay or accept or arrange for a third party to pay or agree to pay present, future, promised or contingent compensation, or any part thereof, for lobbying which is contingent upon the result achieved or attained.

(b) No person shall pay or accept or agree to pay or accept present, future, promised or contingent compensation, or any part thereof, for the referral of a person or persons to a lobbyist for lobbying services.

(c) No lobbying contract or agreement shall be valid or enforceable in a court of law unless it is in writing, signed by all parties thereto and was executed prior to the lobbyist's commencement of lobbying for the represented person under such contract or agreement. Any such lobbying contract or agreement shall be invalid and unenforceable unless such lobbyist complies with all lobbying laws and lobbyist reporting requirements of this act.

**History:** L. 1974, ch. 353, § 53; L. 1997, ch. 155, § 3, July 1.

**46-268. Reports filed by lobbyists; form, time of filing and contents; filed with secretary of state.** (a) Except as otherwise provided in subsection (b), every lobbyist shall file electronically with the secretary of state a report of employment and expenditures on a form and in the manner prescribed and provided by the commission. A report shall be filed on or before the 10th day of the months of February, March, April, May, September and January. Reports shall include all expenditures which are required to be reported under K.S.A. 46-269, and amendments thereto, or a statement that no expenditures in excess of \$100 were made for such purposes, during the preceding calendar month or months since the period for which the last

report was filed.

(b) For any calendar year in which a lobbyist expects to expend an aggregate amount of less than \$100 for lobbying in each reporting period, a lobbyist shall file electronically an affidavit of such intent with the secretary of state. Such lobbyist shall not be required to file the reports required under subsection (a) for the year for which such affidavit is filed. If in any reporting period a lobbyist filing such affidavit expends in excess of \$100 in reportable expenses, a report shall be filed for such period in the manner prescribed by subsection (a).

**History:** L. 1974, ch. 353, § 54; L. 1975, ch. 272, § 19; L. 1983, ch. 173, § 1; L. 1991, ch. 150, § 33; L. 1995, ch. 172, § 4; July 1.

**46-269. Same; public record; content of report; contribution to a single special event; reports by lobbyists; requirements; maintenance of records; inspection by commission.** Each report required to be filed by K.S.A. 46-268, and amendments thereto, is a public record and shall be open to public inspection upon request. Such report shall disclose the following:

(a) The full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying by the lobbyist during the period reported.

(b) The aggregate amount or value of all expenditures made, except for expenses of general office overhead, by the lobbyist or by the lobbyist's employer for or in direct relation to lobbying during the reporting period, if such expenditures exceed \$100. Individual expenditures of less than \$2 shall not be required to be reported under this subsection. Every lobbyist shall keep detailed accounts of all expenditures required to be reported pursuant to K.S.A. 46-268, and amendments thereto. The expenditures shall be reported according to the following categories of expenditures:

- (1) Food and beverages provided as hospitality;
- (2) entertainment, gifts, honoraria or payments;
- (3) mass media communications;
- (4) recreation provided as hospitality;
- (5) communications for the purpose of influencing legislative or executive action; and
- (6) all other reportable expenditures made in the performance of services as a lobbyist.

With regard to expenditures for entertainment or hospitality that is primarily recreation, food and

beverages, only amounts expended on a state officer or employee or state officer elect or on an employee or officer or officer elect of the judicial branch or on such officer or employee's spouse shall be considered to be for or in direct relation to lobbying. Notwithstanding the requirements of this subsection and subsection (d), no lobbyist shall be responsible to report any expenditure by the lobbyist's employer of which such person has no knowledge.

(c) (1) In addition to the information reported pursuant to subsection (b), each lobbyist expending an aggregate amount of \$100 or more for lobbying in any reporting period shall report any gift, entertainment or hospitality provided to state officers or employees or state officers elect or to members, members elect or employees of the judicial branch of government. Such report shall disclose the full name of the legislator or legislator elect, member, member elect or employee of the judicial branch or the state officer or employee or state officer elect who received such gift, entertainment or hospitality, the amount expended on such gift, entertainment or hospitality and the date the gift, entertainment or hospitality was provided.

(2) No report shall be required to be filed pursuant to this subsection (c) for the following:

(A) Meals, the provision of which is motivated by a personal or family relationship;

(B) meals provided at public events in which the person is attending in an official capacity;

(C) meals provided to a person subject to this section when it is obvious such meals are not being provided because of the person's official position;

(D) food such as soft drinks, coffee or snack foods not offered as part of a meal; and

(E) entertainment or hospitality in the form of recreation, food and beverages provided at an event to which the following have been invited:

(i) All members of the legislature or all members of either house of the legislature; or

(ii) all members of a political party caucus of the legislature or all members of a political party caucus of either house of the legislature.

(d) Except as provided by subsection (c), whenever an individual lobbyist contributes to a single special event, such lobbyist shall report only the aggregate amount or value of the expenditure contributed by such lobbyist.

(e) Whenever more than one lobbyist is employed by a single employer, the reports required by this

section relating to such employer shall be made by only one such lobbyist and that lobbyist shall be the lobbyist who is most directly connected with the particular expenditure or gift, honoraria or payment. No expenditure or gift, honoraria or payment required to be reported by this section shall be reported by more than one lobbyist.

(f) All accounts, records and documents of the lobbyist which relate to every expenditure reported or which should have been reported shall be maintained and preserved by the lobbyist for a period of five years from the date of the filing of such report or statement and may be inspected under conditions determined by the commission.

**History:** L. 1974, ch. 353, § 55; L. 1975, ch. 272, § 20; L. 1981, ch. 171, § 45; L. 1983, ch. 173, § 2; L. 1987, ch. 199, § 1; L. 1990, ch. 306, § 12; L. 1991, ch. 150, § 44; L. 1997, ch. 155, § 1; L. 2000, ch. 124, § 3; July 1.

**46-270. Name tags for registered lobbyists; dimensions and specifications; duties of secretary of state; tags to be worn in state capitol.** The secretary of state shall obtain suitable name tags in two colors, of a size not smaller than two inches by three inches, to be fastened on the outside of the wearer's garment with lettering adequate in size and clarity to be readable at a distance of three feet by individuals of normal vision, bearing the name of the lobbyist, the names of the persons compensating or appointing the lobbyist and the year. The secretary of state shall present to each individual registering under K.S.A. 1974 Supp. 46-264 and K.S.A. 46-265 one such tag, and such tag shall be worn by the lobbyist when lobbying in the state capitol building.

**History:** L. 1974, ch. 353, § 56; March 28.

**46-271. Lobbying restrictions; gifts or contributions; hospitality; exceptions.**

No lobbyist shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year to any state officer or employee or candidate for state office or to any officer or candidate for office or employee of the judicial branch with a major purpose of influencing the state officer or employee or candidate for state office in the performance of official duties or prospective official duties or the officer or

candidate for office or employee of the judicial branch in the performance of any judicial administrative matter, as defined in K.S.A. 46-225, and amendments thereto. Hospitality in the form of recreation, food and beverages are presumed not to be given to influence a state officer or employee or candidate for state office in the performance of official duties, or an officer or candidate for office or employee of the judicial branch in the performance of any judicial administrative matter, as defined in K.S.A. 46-225, and amendments thereto, except when a particular course of official action is to be followed as a condition thereon.

Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to: (1) Any contribution reported in compliance with the campaign finance act as amended; or (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business.

**History:** L. 1974, ch. 353, § 57; L. 1974, ch. 354, § 2; L. 1991, ch. 150, § 51; July 1.

**46-272. Same; purchase or lease of property or acquisition of services from state officer or employee, candidate for state office or associated person.** No lobbyist shall pay or agree to pay to any state officer or employee, candidate for state office or an associated person thereof a price, fee, compensation or other consideration for the sale or lease of any property or the furnishing of services which is substantially in excess of that which other persons in the same business or profession would charge in the ordinary course of business.

**History:** L. 1974, ch. 353, § 58; March 28.

**46-273. Same; improper influence over state agency in representation case.** (a) No lobbyist shall offer employment or employ any state officer or employee or associated person thereof for a representation case, with intent to obtain improper influence over a state agency.

(b) No lobbyist shall offer employment or employ any state officer or employee or associated person to use or attempt to use threat or promise of official action in an attempt to influence a state agency in any representation case.

**History:** L. 1974, ch. 353, § 59; March 28.

**46-274. Unlawful lobbying defined and classified as crime.** Unlawful lobbying is (1) lobbying without being registered as provided by this act, or (2) lobbying when a current report under K.S.A. 46-268 and 46-269, has not been filed and is past due. Unlawful lobbying is a class B misdemeanor.

**History:** L. 1974, ch. 353, § 60; L. 1975, ch. 272, § 21; July 1.

**46-275. Giving false lobbying information defined and classified as crime.** Giving false lobbying information is intentionally (1) making a false or incomplete statement on any registration paper under K.S.A. 46-265, or

(2) making a false or incomplete report under K.S.A. 46-268 and 46-269.

Giving false lobbying information is a class B misdemeanor.

**History:** L. 1974, ch. 353, § 61; L. 1975, ch. 272, § 22; July 1.

**46-276. Violations of certain sections classified as crimes.** Violation of any provision of K.S.A. 46-232, 46-233, 46-235 to 46-238, 46-240, 46-241, 46-242, 46-267 and 46-271 to 46-273, inclusive, and amendments thereto, and K.S.A. 46-286, and amendments thereto, is a class B misdemeanor.

**History:** L. 1974, ch. 353, § 62; L. 1975, ch. 272, § 23; L. 1983, ch. 172, § 12; L. 1995, ch. 40, § 1, July 1.

**46-277. Intent required for act, action or conduct to constitute violation.** No act, action or conduct of any person shall constitute a violation of this act which is actionable by complaint before the commission, or by criminal complaint, unless such act, action or conduct is intentionally violative of a provision of this act or intentionally violative of more than one provision of this act.

**History:** L. 1974, ch. 353, § 63; March 28.

**46-278. Severability.** If any provision of this act or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this act which can be given effect without the invalid application or provision, and to this end the provision of this act are declared to be severable.

**History:** L. 1974, ch. 353, § 64; March 28.

**46-279.** History: L. 1974, ch. 353, § 65; L. 1975, ch. 273, § 1; Repealed, L. 1990, ch. 306, § 24; May 31.

**46-280. Failure to register or file reports; civil penalty.** (a) Except as provided in subsection (b), the commission shall send a notice by registered or certified mail to any person failing to register or to file any report or statement as required by K.S.A. 46-247, or 46-265, and amendments thereto, within the time period prescribed therefor. The notice shall state that the required registration, report or statement had not been filed with the office of secretary of state. The notice also shall state that such person shall have five days from the date of receipt of such notice to comply with the registration and reporting requirements before a civil penalty shall be imposed for each day that the required documents remain unfiled. If such person fails to comply within such period, such person shall pay to the state a civil penalty of \$10 per day for each day that such person remains unregistered or that such report or statement remains unfiled, except that no such civil penalty shall exceed \$300. The commission may waive, for good cause, payment of any civil penalty imposed hereunder.

(b) Subject to the notice provisions of subsection (a), reports required for lobbyists under K.S.A. 46-268, and amendments thereto, that are late more than 48 hours shall be subject to civil penalties as provided in subsection (b)(2).

(2) The lobbyist shall be liable for a civil penalty of \$100 for the first day the report is more than 48 hours late and \$50 for each subsequent day the report is late, but in no case shall the civil penalty exceed \$1,000. The commission may waive, for good cause, payment of any civil penalty imposed by this section.

(c) Whenever the commission shall determine that any report filed by a lobbyist as required by K.S.A. 46-269, and amendments thereto, is incorrect, incomplete or fails to provide the information required by such section, the commission shall notify such lobbyist by registered or certified mail, specifying the deficiency. Such notice shall state that the lobbyist shall have 30 days from the date of the receipt of such notice to file an amended report correcting such deficiency before a civil penalty will be imposed and the registration of such lobbyist revoked, and the badge be required to be returned to the office of the secretary of state. A copy of such notice shall be sent to the office of the

secretary of state. If such lobbyist fails to file an amended report within the time specified, such lobbyist shall pay to the commission a civil penalty of \$10 per day for each day that such person fails to file such report except that no such civil penalty shall exceed \$300. On the 31st day following the receipt of such notice, the registration of any lobbyist failing to file such amended report shall be revoked.

(d) Civil penalties provided for by this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

(e) (1) Except as provided in paragraph (2), if a person fails to pay a civil penalty provided for by this section, it shall be the duty of the commission to bring an action to recover such civil penalty in the district court of the county in which such person resides.

(2) If a person required to file under K.S.A. 46-247(f), and amendments thereto, fails to pay a civil penalty provided for by this section, it shall be the duty of the commission to bring an action to recover the civil penalty in the district court of Shawnee county, Kansas.

**History:** L. 1978, ch. 146, § 1; L. 1981, ch. 171, § 46; L. 1988, ch. 180, § 2; L. 1991, ch. 150, § 48; L. 1998, ch. 117, § 23; L. 1998, ch. 168, § 4; L. 2001, ch. 5, § 153; July 1.

**46-287. Advertising to influence legislative action; prohibited acts.** (a) No person shall publish or cause to be published in any newspaper or other periodical or cause to be distributed as an insert or flyer in any newspaper or periodical any paid advertisement promoting or opposing action or nonaction by the legislature on any legislative matter unless such advertisement is followed by the word “advertisement” or the abbreviation “adv.” in a separate line, together with the name of the chairperson of the organization or other individual causing the advertisement to be published.

(b) No person shall broadcast or cause to be broadcast by any radio or television station any paid advertisement promoting or opposing action or nonaction by the legislature on any legislative matter unless such advertisement is followed by a statement that the preceding was an advertisement, together with the name

of the chairperson of the organization or other individual causing the advertisement to be broadcast.

(c) Violation of this section is a class C misdemeanor.

(d) The provisions of this section shall be subject to interpretation and enforcement in the manner provided by K.S.A. 46-254 through 46-263, and amendments thereto, and the commission shall have the powers and duties provided by such sections with respect to interpretation and enforcement of this section.

(e) Terms used in this section have the meanings provided by K.S.A. 46-216 through 46-231, and amendments thereto.

**History:** L. 1988, ch. 179, § 1; L. 1990, ch. 306, § 13; May 31.

**46-288. Violations of state governmental ethics laws; civil fine.** The commission, in addition to any other penalty prescribed under K.S.A. 46-215 through 46-286, and amendments thereto, may assess a civil fine, after proper notice and an opportunity to be heard, against any person for a violation pursuant to K.S.A. 46-215 through 46-286, and amendments thereto, in an amount not to exceed \$5,000 for the first violation, not to exceed \$10,000 for the second violation and not to exceed \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

**History:** L. 1988, ch. 181, § 2; L. 1991, ch. 150, § 34; L. 1998, ch. 117, § 24; L. 2001, ch. 5, § 154, July 1.

**46-289. Same; cease and desist order; emergencies.** (a) If the commission determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of K.S.A. 46-215 through 46-286, and amendments thereto, or any rule and regulation or order hereunder, the commission by order may require that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the

commission will carry out the purposes of K.S.A. 46-215 through 46-286, and amendments thereto.

(b) If the commission makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commission may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502 and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536 and amendments thereto. Upon the entry of such an order, the commission shall promptly notify the person subject to the order that it has been entered, of the reasons therefor and that upon written request the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commission, the order will remain in effect until it is modified or vacated by the commission. If a hearing is requested or ordered, the commission, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order. Any such order shall be enforceable in any court of competent jurisdiction.

**History:** L. 1988, ch. 181, § 3; L. 1991, ch. 150, § 35; July 1.

**46-290. Same; injunction; restraining order; mandamus.** Whenever it appears to the commission that any person has engaged in any act or practice constituting a violation of any provision of K.S.A. 46-215 through 46-286, and amendments thereto, or any rule and regulation or order hereunder, the commission may bring an action in any court of competent jurisdiction to enjoin the acts or practices and to enforce compliance with K.S.A. 46-215 through 46-286, and amendments thereto, or any rule and regulation or order hereunder. Upon a proper showing, a permanent or temporary injunction, restraining order, restitution, writ of mandamus or other equitable relief shall be granted.

**History:** L. 1988, ch. 181, § 4; L. 1991, ch. 150, § 36; July 1.

**46-291. Same; consent decree.** The commission may enter into a consent decree with any person who has violated any provision of K.S.A. 46-215 through 46-286, and amendments thereto.

**History:** L. 1988, ch. 181, § 5; L. 1991, ch. 150, § 37; July 1.

**46-292. Same; appeal of commission orders.** Any person aggrieved by any order of the commission pursuant to this act may appeal such order in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

**History:** L. 1988, ch. 181, § 6; L. 1991, ch. 150, § 38; July 1.

**46-293. Severability of chapter 150 of the Laws of 1991.** If any provision of this act or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this act which can be given effect without the invalid application or provision, and to this end the provisions of this act are declared to be severable.

**History:** L. 1991, ch. 150, § 52; July 1.

**46-295. Lobbying; governmental entities; report required.** (a) Every person who is registered as a lobbyist shall file with the secretary of state a detailed report listing the amount of public funds paid to hire or contract for the lobbying services on behalf of:

(1) a governmental entity; or

(2) an association of governmental entities that receive public funds. The report shall include a listing of the amount of public funds paid to hire or contract for the lobbying services of such lobbyist and which association of governmental entities that receive public funds hired such lobbyist on a form and in the manner prescribed and provided by the governmental ethics commission. Each report required to be filed by this section is a public record and shall be open to public inspection upon request. A report shall be filed on or before January 10, 2017, and on or before January 10 of each subsequent year for the reporting period containing the preceding calendar year.

(b) The reports filed with the secretary of state pursuant to subsection (a) shall be made available on a searchable public website by the secretary of state.

(c) As used in this section:

(1) “governmental entity” has the meaning as defined in K.S.A. 75-6102, and amendments thereto.

(2) “Lobbying” has the meaning as defined in K.S.A. 46-225, and amendments thereto.

(3) “Public funds” means moneys appropriated by the state or any of its subdivisions.

**History:** L. 2015, ch. 85, § 1; July 1.

## LOBBYING RULES & REGULATIONS

### Article 60.—LOBBYING REGULATION PROVISIONS

**19-60-1.** (Authorized by K.S.A. 1979 Supp. 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-60-2. Construction.** K.A.R. 19-60 to K.A.R. 19-63, inclusive, shall be liberally construed to accomplish the purposes of the act including providing for the greatest disclosure of lobbying expenditures possible while not hindering citizen involvement in the political process. (Authorized by K.S.A. 1976 Supp. 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20 May 1, 1976; effective Feb. 15, 1977.)

**19-60-3. Definitions.** The following words and phrases shall have these meanings:

(a) “Employer” means any of the following:

(1) A person who employs another person to a considerable degree for the purpose of lobbying;

(2) a person who formally appoints a person as the primary representative of an organization or of other persons to lobby in person on state-owned or state-leased property; or

(3) a person on whose behalf a person otherwise registers or is required to register as a lobbyist. If a lobbyist has more than one employer, the provisions of articles 60, 61, 62, and 63 of these regulations that relate to employers shall apply independently to each of the lobbyist’s employers.

(b) “Expenditure” means a payment or a contract to pay for any of the following:

(1) The provision of hospitality in the form of recreation, food, and beverage to any state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect, or their spouses, except bona fide personal or business entertainment as defined in subsection (c) below;

(2) the provision of any entertainment, gift, honoraria, or payment to any state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect, or their spouses, except bona fide personal or business gifts, entertainment, honoraria, or payments;

(3) the production and communication of lobbying information to any state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect by any person other than an individual; or

(4) the production and dissemination of mass media communications, letter-writing campaigns, and similar transactions that explicitly promote or oppose a clearly identified legislative matter or regulation and that urge or request the recipient to communicate directly with state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect regarding that matter.

A person shall be considered to have made an expenditure if the person does so directly or if another person does so on the person's behalf. In addition, in the case of membership organizations, associations, or similar entities, the entity shall be deemed to make an expenditure associated with membership events if the entity plays an integral role initiating, planning, or operating these membership events.

(5) The term "expenditure" shall not mean a payment or contract that meets any of the following conditions:

(A) Is made for the preparation of proposals, position papers, and similar documents;

(B) is made to employ another to lobby on one's behalf;

(C) is made for personal travel and subsistence of an individual engaged in lobbying;

(D) is reported in compliance with the campaign finance act;

(E) is made in association with any news story, commentary, or editorial distributed in the ordinary course of business by a broadcasting station, newspaper, or other periodical publication; or

(F) is made for contributions to membership organizations, associations, or similar entities in which the funds are used to make expenditures attributable to the entity or its representatives.

(c) "Bona fide personal or business entertainment or gifts" means entertainment or gifts provided to state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect, or their spouses, that are based solely on a business or personal relationship totally unrelated to the duties of the state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect. The factors that shall be taken into consideration

in determining whether a specific entertainment or gift falls within this definition include the following:

- (1) The intent of the parties;
- (2) the length of time a business or personal relationship has existed;
- (3) the topics of discussion;
- (4) the setting;
- (5) the persons attending;
- (6) the reimbursement of the person providing the entertainment or gift by an organization that engages in lobbying; and
- (7) the deduction by the person providing the entertainment or gift, or that person's principal, of the expenditures as lobbying expenditures.

(d) (1) "Gift" means the transfer of money or anything of value without receiving legal consideration of a reasonably equal or greater value in return. The value of a gift shall be the fair market value or a reasonable estimate of it. If a transfer is made for less than reasonable consideration, the amount by which the value of the transfer exceeds the value of the consideration received shall be deemed a gift.

(2) The term "gift" shall not include any of the following:

(A) The provision of hospitality in the form of recreation with a value of less than \$100, food, or beverage;

(B) any bona fide personal or business gift or entertainment; or

(C) any contribution reported in compliance with the campaign finance act.

(e) "Hospitality in the form of recreation, food and beverage" means the provision of recreation to or consumption of food and beverage by a state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect while the state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect is in the company of the donor or the donor's authorized agent.

(f) "Entertainment" means the provision of recreation, food, or beverage to a state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect, when the state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect is not in the company of the donor or the donor's authorized agent.

(g) Invitations. In order for an invitation to comply with K.S.A. 46-269(c)(2)(E)(i) or (c)(2)(E)(ii) and

amendments thereto, an invitation shall be meaningful and issued in good faith. In determining whether an invitation is meaningful and issued in good faith, the factors that shall be considered include the following:

(1) Actual notice. The person extending the invitation shall provide notification in a manner that ensures that the majority of the invitees received actual notice. The manner in which the invitation is distributed or communicated to the invitees shall remain within the discretion of the invitor.

(2) Timeliness of notice. The invitees shall receive notice in a manner sufficiently timely to allow them a reasonable likelihood of attending the event. Considerations shall include the location of the event, the location of the invitees, the necessity of travel to the event, and the scheduling of other events generally attended by a significant portion of the invitees.

(3) Likelihood of attendance. There shall be a reasonable likelihood that the majority or a reasonable mix of the invitees will or reasonably could attend the event. An invitation to an event that is historically attended only by certain individuals and that carries no reasonable likelihood that the majority or a reasonable mix of the invitees will attend shall not be deemed to be an invitation pursuant to K.S.A. 46-269(c)(2)(E)(i) or (c)(2)(E)(ii) and amendments thereto. (Authorized by K.S.A. 46-253; implementing K.S.A. 46-237 and 46-271; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992; amended Jan. 23, 2004.)

## **Article 61.—LOBBYING**

**19-61-1. Legislative matters.** (a) General. Promoting or opposing in any manner action or nonaction by the legislature on any legislative matter constitutes lobbying. Legislative matters include any bills, resolutions, nominations, or other issues or proposals pending before the legislature or any committee, subcommittee, or council thereof. An issue or proposal is pending before any such body if it is being directly considered by such body, if it has been communicated to such body or a member thereof even if not directly considered by it, or if it is an issue subject to continuing review by any such body.

(1) Any communication which is intended to advocate action or nonaction by the legislature on a

legislative matter, including communications with other persons with the intent that such persons communicate with legislators in regard thereto, constitutes lobbying.

(2) The provision of entertainment, recreation or gifts to any state officer or employee involved in action or nonaction by the legislature on any legislative matter, except those provided as bona fide personal or business entertainment, recreation or gifts, constitutes lobbying.

The fact that a particular activity constitutes “lobbying” does not necessarily mean that an individual must register as a lobbyist. See K.A.R. 19-62 on the issue of registration.

(b) Exceptions. The communication of factual material which is not intended to promote or oppose action or nonaction on a legislative matter and which is not accompanied by active advocacy does not constitute lobbying. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-225; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992.)

**19-61-2. Agency rules and regulations.** (a) General. Promoting or opposing in any manner the adoption or nonadoption of any rule and regulation by any state agency constitutes lobbying.

“Rules and regulations” means such rules and regulations as are required by law to be filed with the secretary of state and does not include those adopted by the judicial branch or any court.

(1) Any communication which is intended to advocate action or nonaction by any state agency on the adoption or nonadoption of any rule and regulation, including communications with other persons with the intent that such other person communicate with agency personnel in regard thereto, constitutes lobbying.

(2) The provision of entertainment, recreation or gifts, except those provided as bona fide personal or business entertainment, recreation or gifts, to any state officer or employee when the state officer or employee is involved in the adoption or nonadoption of rules and regulations and when provided in a situation where it can reasonably be attributed to contemplated or completed rules and regulations constitutes lobbying.

The fact that a particular activity constitutes “lobbying” does not necessarily mean that an individual must register as a lobbyist. See K.A.R. 19-62 on the issue of registration.

(b) Exceptions. The communication of factual material which is not intended to promote or oppose the adoption or nonadoption of rules and regulations and which is unaccompanied by active advocacy does not constitute lobbying. In addition, the preparation of proposed or recommended rules and regulations or the monitoring of the adoption process does not constitute lobbying. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-225; effective, E-77-7, March 19, 1976; effective, E-77-29, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992.)

**19-61-3.** (Authorized by K.S.A. 1976 Supp. 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked June 22, 1992.)

## **Article 62.—LOBBYIST REGISTRATION**

**19-62-1. Who must register.** (a) Employed lobbyists. Each person whose employment is, to a considerable degree, for the purpose of lobbying shall register as a lobbyist. A person is employed if the person receives compensation for or in direct relation to lobbying regardless of the technical legal definition of the relationship between the principal and the lobbyist. An executive of an organization who as part of the executive's duties only incidentally lobbies shall not be required to register under this subsection. However, where a person is employed to a considerable degree for the purpose of lobbying, it is irrelevant that the lobbying employment is not a substantial amount of the person's overall business. In determining whether an individual is employed to a considerable degree to lobby, that portion of the employment which relates to preparation for lobbying shall be taken into consideration.

(b) Appointed lobbyists. Any person formally appointed as the primary representative of an organization or of another person to lobby on state-owned or leased property shall register as a lobbyist regardless of whether the person receives compensation for lobbying. Formal appointment as a primary representative may be indicated by election to a specific office or designation, including a specific post where the members of the organization or appointing person recognize such election or

designation to include the right or duty to lobby as its primary representative on state-owned or leased property. Generally, where an organization or other person has an employed lobbyist, members lobbying on behalf of the organization shall not be deemed the primary representative of the organization or other person for the purposes of this registration provision. Where an appointment is made in conjunction with an employment status as set out in subsection (a) of this section, the provisions of that subsection shall control as to whether the employed person must register as a lobbyist.

(c) Persons making lobbying expenditures. Any person who makes “expenditures” for lobbying as defined in K.A.R. 19-60-3(c), in an aggregate amount of \$100 or more in any calendar year shall register as a lobbyist.

(d) Exceptions to the rules governing who must register.

(1) Those persons covered by K.S.A. 1991 Supp. 46-222(b) shall not be required to register as lobbyists.

(2) When an individual accepts a limited number of bona fide invitations from a state agency or subdivision thereof to appear before it for the purpose of providing information to such agency, the individual shall not be required to register as a lobbyist under subsections (a) and (b) of this section solely on account of such appearances. However, subsection (c) of this regulation applies to such situations. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-265; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992.)

**19-62-2. When and where to register.** Every person required to register as a lobbyist shall register with the secretary of state on a form prescribed and provided by the commission. The registration shall be filed prior to lobbying in any calendar year. Whenever any new lobbying position is accepted by a registered lobbyist, the lobbyist shall file an additional registration in the same manner as the original. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-265; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended June 22, 1992.)

## **Article 63.—LOBBYIST REPORTING PROVISIONS**

**19-63-1.** (Authorized by K.S.A. 1979 Supp. 46-253, 46-268, 46-269; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; revoked May 1, 1984.)

**19-63-2. When to report.** (a) Reporting periods. Each lobbyist shall report all expenditures, allocable to that period by the 10th day of the month a report is due.

(b) Allocation of expenditures. Each expenditure shall be allocated to the reporting period in which the debt is incurred.

(c) Entertainment, gifts, honoraria and payments. Entertainment, gifts, honoraria and payments shall be allocated to the reporting period in which accepted by the state officer or employee. When entertainment, a gift, honoraria or payment is composed of separate transfers deferred over more than one reporting period, the total value thereof shall be allocated to the reporting period in which the state officer or employee accepts the initial transfer. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-268, 46-269; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1984; amended June 22, 1992.)

**19-63-3. What to report.** (a) Expenditures. When any lobbyist's total expenditures for the reporting period exceed \$100, the lobbyist shall report the aggregate amount of all individual expenditures of \$2 and over made by the lobbyist and by the lobbyist's employer, if the lobbyist is the lobbyist most directly connected. The individual expenditures shall be reported according to the following categories:

(1) expenditures for hospitality provided in the form of food and beverage;

(2) expenditures for entertainment, gifts, honoraria or payments to state officers and employees;

(3) expenditures for mass media communications;

(4) expenditures for recreation provided as hospitality;

(5) expenditures for communication for the purpose of influencing legislative or executive action; and

(6) other reportable expenditures.

A lobbyist shall be considered most directly connected with an expenditure if the lobbyist incurs the debt, regardless of how the actual payment is made. The name and address of the lobbyist's employer shall be listed for all reportable expenditures.

(b) Entertainment, gifts, honoraria and payments. Entertainment, gifts, honoraria and payments made by the lobbyist's employer shall be reported by the lobbyist if, by themselves or in combination with entertainment, gifts, honoraria or payments made by the lobbyist, the reporting threshold is exceeded and if the lobbyist is the lobbyist of the employer most directly connected therewith. A lobbyist shall be considered most directly connected with entertainment, a gift, honoraria or payment if the lobbyist reaches the agreement for its acceptance, regardless of how the underlying debt is paid. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-269; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1984; amended June 22, 1992.)

**19-63-4. Material errors or omissions.** The following shall be considered material errors or omissions on any report required by this article:

(a) Failure to use the form prescribed by the commission;

(b) incomplete identification of the person filing;

(c) failure to show the correct period covered;

(d) failure to sign or date the statement;

(e) illegibility;

(f) inadequate or omitted address;

(g) inadequate or omitted description or purpose of statement;

(h) incorrect or omitted expenditures or no check mark in the box indicating \$100 or less was spent;

(i) failure to report any reportable expenditure;

(j) incomplete identification of the person or employer on whose behalf the report is filed; and

(k) any other error or omission which leads to less than full disclosure as required by this regulation. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-280; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended June 22, 1992.)

**19-63-5.** (Authorized by K.S.A. 1979 Supp. 46-253; effective, E-79-24, Sep. 21, 1978; effective May 1, 1979; revoked May 1, 1980.)

**19-63-6. Lobbyist's records.** Records in support of every report or statement filed shall be maintained and preserved by the lobbyist for five years from the date of filing the report or statement and may be inspected by and under conditions determined by the commission. At a minimum, each lobbyist shall maintain the following records: (a) A detailed account of all lobbying expenditures, including the following:

(1) The full name and address of each person to whom the payment is made;

(2) the purpose of the expenditure;

(3) the date of the expenditure, including both the date of contracting and the date of payment; and

(4) the amount of the expenditure;

(b) receipts and invoices to substantiate all expenditures and reimbursements;

(c) all bills, statements, contracts, or other documentation for services relating to reportable lobbying activities;

(d) the canceled check or copy supplied from a financial institution or other instrument by which payment for reportable lobbying activities was made;

(e) a chart of accounts, if applicable;

(f) a general ledger;

(g) the following documentation for all bank and credit card accounts held or used in connection with lobbying activities, including any personal accounts used in connection with lobbying:

(1) Account statements;

(2) deposit slips; and

(3) canceled checks or copies supplied from a financial institution;

(h) lists of persons accepting gifts that shall be reported pursuant to K.S.A. 46-269 and amendments thereto;

(i) lists of persons consuming meals or attending entertainment or recreational events that shall be reported pursuant to K.S.A. 46-269 and amendments thereto; and

(j) contracts or agreements for lobbying services between the lobbyist and the lobbyist's employer or appointing authority. (Authorized by K.S.A. 46-253; implementing K.S.A. 46-269; effective June 22, 1992; amended Jan. 23, 2004.)