

SENATE BILL No. 204

By Senator Steineger

2-4

9 AN ACT concerning governmental ethics; relating to the application of
10 the state governmental ethics law to certain local officers; amending
11 K.S.A. 46-214a, 46-217, 46-221, 46-222, 46-225, 46-226, 46-227, 46-
12 228, 46-232, 46-235, 46-236, 46-237, 46-238, 46-239, 46-240, 46-241,
13 46-242, 46-243, 46-246a, 46-259, 46-262, 46-263, 46-268, 46-269, 46-
14 271, 46-272, 46-273, 46-282 and 46-286 and K.S.A. 2004 Supp. 46-
15 233, 46-234 and 46-247 and repealing the existing sections.
16

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

18 New Section 1. (a) “Local office” means:

- 19 (1) The governing body of a city of the first class;
20 (2) a unified school district having 35,000 or more pupils regularly
21 enrolled in the preceding school year;
22 (3) a county; or
23 (4) the board of public utilities.

24 (b) “Local officer or employee” means:

- 25 (1) Any individual who is elected or appointed to a local office;
26 (2) all officers and employees of the local office, irrespective of how
27 compensated or period of employment or appointment; and
28 (3) any individual not listed in paragraph (2) who receives monthly
29 or semimonthly compensation for services from the local office.

30 Local officer does not include any justice or commissioner of the su-
31 preme court or judge of the judicial branch or employee or officer of the
32 judicial branch or any member of a board, council or commission who is
33 appointed by the supreme court or district court or who is elected or
34 appointed to exercise duties pertaining to functions of the judicial branch,
35 when such person is engaged in performing a function or duty for the
36 judicial branch.

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

40 Sec. 2. K.S.A. 46-214a is hereby amended to read as follows: 46-
41 214a. K.S.A. 46-215 through 46-293 and K.S.A. 46-237a, and *section 1*
42 *and* amendments thereto, shall be known and may be cited as the state
43 governmental ethics law.

1 Sec. 3. K.S.A. 46-217 is hereby amended to read as follows: 46-217.
2 “Economic opportunity” means any purchase, sale, lease, contract, op-
3 tion, or other transaction or arrangement involving property or services
4 wherein a state *or local* officer or employee or candidate for state *or local*
5 office may gain a personal economic benefit, but not including any gift.

6 Sec. 4. K.S.A. 46-221 is hereby amended to read as follows: 46-221.
7 (a) “State officer or employee” means (1) any individual who is an elected
8 or appointed state officer, (2) any individual who is in the classified service
9 or unclassified service of the Kansas civil service act, (3) all officers and
10 employees of the legislative branch and of the governor’s office, irre-
11 spective of how compensated or period of employment, and (4) any in-
12 dividual who receives monthly or semimonthly compensation for services
13 from the state or any state agency. State officer or employee does not
14 include any justice or commissioner of the supreme court or judge of the
15 judicial branch or employee or officer of the judicial branch or any mem-
16 ber of a board, council or commission who is appointed by the supreme
17 court or who is elected or appointed to exercise duties pertaining to func-
18 tions of the judicial branch, when such person is engaged in performing
19 a function or duty for the judicial branch. Also, state officer or employee
20 does not include any appointed member of an advisory council, commis-
21 sion or board, who serves without compensation other than amounts for
22 expense allowances or reimbursement of expenses as provided for in sub-
23 section (e) of K.S.A. 75-3223 and amendments thereto, when such mem-
24 ber is engaged in performing a function or duty for such council, com-
25 mission or board.

26 (b) “Candidate” means an individual who: (1) Appoints a treasurer
27 or a candidate committee; (2) makes a public announcement of intention
28 to seek nomination or election to state *or local* office; (3) makes any
29 expenditure or accepts any contribution for the purpose of influencing
30 such person’s nomination or election to any state *or local* office; or (4)
31 files a declaration or petition to become a candidate for state *or local*
32 office.

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

36 Sec. 5. K.S.A. 46-222 is hereby amended to read as follows: 46-222.

37 (a) “Lobbyist” means: (1) Any person employed in considerable degree
38 for lobbying; (2) any person formally appointed as the primary represen-
39 tative of an organization or other person to lobby in person on state-
40 owned or leased property *or property owned or leased by a local office*;
41 or (3) any person who makes expenditures in an aggregate amount of
42 \$100 or more, exclusive of personal travel and subsistence expenses, in
43 any calendar year for lobbying.

1 (b) Lobbyist shall not include: (1) Any state officer or employee *or*
2 *local officer or employee* engaged in carrying out the duties of their office;
3 (2) the employer of a lobbyist, if such lobbyist has registered the name
4 and address of such employer under K.S.A. 46-265 and amendments
5 thereto; (3) any nonprofit organization which has qualified under para-
6 graph (3) of subsection (c) of section 501 of the internal revenue code of
7 1954, as amended, which is interstate in its operations and of which a
8 primary purpose is the nonpartisan analysis, study or research of legisla-
9 tive procedures or practices and the dissemination of the results thereof
10 to the public, irrespective of whether such organization may recommend
11 a course of action as a result of such analysis, study or research; (4) any
12 justice or commissioner of the supreme court or judge of the judicial
13 branch or employee or officer of the judicial branch or, any member of
14 a board, council or commission who is appointed by the supreme court
15 or who is elected or appointed to exercise duties pertaining to functions
16 of the judicial branch, when such person is engaged in performing a
17 function or duty for the judicial branch; or (5) any appointed member of
18 an advisory council, commission or board, who serves without compen-
19 sation other than amounts for expense allowances or reimbursement of
20 expenses as provided for in subsection (e) of K.S.A. 75-3223 and amend-
21 ments thereto, when such member is engaged in performing a function
22 or duty for such council, commission or board.

23 Sec. 6. K.S.A. 46-225 is hereby amended to read as follows: 46-225.

24 (a) "Lobbying" means: (1) Promoting or opposing in any manner action
25 or nonaction by the legislature on any legislative matter or the adoption
26 or nonadoption of any rule and regulation by any state agency; or

27 (2) entertaining any state *or local* officer or employee or giving any
28 gift, honorarium or payment to a state *or local* officer or employee in an
29 aggregate value of \$40 or more within any calendar year, if at any time
30 during such year the person supplying the entertainment, gifts, honoraria
31 or payments has a financial interest in any contract with, or action, pro-
32 ceeding or other matter before the state agency *or local office* in which
33 such state *or local* officer or employee serves, or if such person is the
34 representative of a person having such a financial interest.

35 (c) "Lobbying" does not include any expenditure from amounts ap-
36 propriated by the legislature for official hospitality.

37 (d) "Lobbying" does not include representation of a claimant on a
38 claim filed by the claimant under K.S.A. 46-907 and 46-912 to 46-919,
39 inclusive, and amendments thereto in proceedings before the joint com-
40 mittee on special claims against the state.

41 (e) "Lobbying" does not include bona fide personal or business
42 entertaining.

43 (f) No legislator may be hired as a lobbyist to represent anyone before

1 any state agency *or local office*.

2 Sec. 7. K.S.A. 46-226 is hereby amended to read as follows: 46-226.
3 “Representation case” means the representation of any person, client,
4 principal, or third person, with compensation, in any matter before any
5 state agency where the action or non-action of the state agency *or local*
6 *office* involves the exercise of substantial discretion; but representation
7 case does not mean or include (a) any communication initiated by a leg-
8 islator on behalf of a constituent or other member of the public for which
9 no compensation is received or to be received, or (b) preparation and
10 filing of tax returns or other governmental forms, or (c) participation in
11 tax audit negotiations, or (d) any activity of a state *or local* officer or
12 employee in carrying out the duties of ~~his or her~~ *such officer’s or em-*
13 *ployee’s* office or employment, or (e) a preliminary inquiry by any person
14 into a matter before a state agency *or local office*.

15 Sec. 8. K.S.A. 46-227 is hereby amended to read as follows: 46-227.
16 “Associated person” means a person associated with a state *or local* officer
17 or employee in a partnership, limited partnership, association or profes-
18 sional service corporation as a partner or officer.

19 Sec. 9. K.S.A. 46-228 is hereby amended to read as follows: 46-228.
20 “Special interest” means an interest of any person as herein defined (1)
21 concerning action or non-action by the legislature on any legislative mat-
22 ter affecting such person as distinct from affect upon the people of the
23 state as a whole, or (2) in the action or non-action of any state agency *or*
24 *local office* or state *or local* officer or employee upon any matter affecting
25 such person as distinct from affect upon the people of the state *or those*
26 *governed by the the governing body of the local office* as a whole.

27 Sec. 10. K.S.A. 46-232 is hereby amended to read as follows: 46-232.
28 No state *or local* officer or employee shall engage in lobbying ~~his own~~
29 *such officer’s or employee’s* state agency *or local office*, if ~~he~~ *such officer*
30 *or employee* accepts compensation specifically attributable to such lob-
31 bying, other than that provided for the performance of ~~his~~ *such officer’s*
32 *or employee’s* official duties. Nothing in this section shall prohibit a state
33 *or local* officer or employee from lobbying without compensation other
34 than that which ~~he~~ *such officer or employee* is entitled to receive for
35 performance of ~~his~~ *such officer’s or employee’s* official duties.

36 Sec. 11. K.S.A. 2004 Supp. 46-233 is hereby amended to read as
37 follows: 46-233. (a) (1) No state *or local* officer or employee shall in the
38 capacity as such officer or employee be substantially involved in the prep-
39 aration of or participate in the making of a contract with any person or
40 business by which such officer or employee is employed or in whose
41 business such officer or employee or any member of such officer’s or
42 employee’s immediate family has a substantial interest and no such person
43 or business shall enter into any contract where any state *or local* officer

1 or employee, acting in such capacity, is a signatory to, has been substan-
2 tially involved in the preparation of or is a participant in the making of
3 such contract and is employed by such person or business or such officer
4 or employee or any member of such officer's or employee's immediate
5 family has a substantial interest in such person or business.

6 (2) Except as otherwise provided in this subsection, whenever any
7 individual has participated as a ~~state~~ *or local* officer or employee in the
8 making of any contract with any person or business, such individual shall
9 not accept employment with such person or business as an employee,
10 independent contractor or subcontractor until two years after perform-
11 ance of the contract is completed or until two years after the individual
12 terminates employment as a *state or local* officer or employee, whichever
13 is sooner. This prohibition on accepting employment shall not apply in
14 any case where a state officer or employee who participated in making a
15 contract while employed by the state of Kansas is laid off or scheduled
16 to be laid off from any state position on or after July 1, 2002. As used in
17 this subsection (a)(2), "laid off" and "layoff" mean a state officer or em-
18 ployee in the classified service under the Kansas civil service act, being
19 laid off under K.S.A. 75-2948, and amendments thereto.

20 (b) No individual shall, while a legislator or within one year after the
21 expiration of a term as legislator, be interested pecuniarily, either directly
22 or indirectly, in any contract with the state, which contract is funded in
23 whole or in part by any appropriation or is authorized by any law passed
24 during such term, except that the prohibition of this subsection (b) shall
25 not apply to any contract interest in relation to which a disclosure state-
26 ment is filed as provided by K.S.A. 46-239, and amendments thereto.

27 (c) No individual, while a legislator or within one year after the ex-
28 piration of a term as a legislator, shall represent any person in a court
29 proceeding attacking any legislative action taken or enactment made dur-
30 ing any term such individual served as a legislator as being unconstitu-
31 tional because of error in the legislative process with respect to such
32 action or enactment unless such legislator voted no upon the enactment
33 of the measure and declared on the record, during such term, that such
34 legislation was unconstitutional. The prohibition of this subsection (c)
35 shall not apply to a current or former legislator charged with a violation
36 of such legislative action or enactment.

37 (d) Subsections (a) and (b) shall not apply to the following:

38 (1) Contracts let after competitive bidding has been advertised for by
39 published notice; and

40 (2) contracts for property or services for which the price or rate is
41 fixed by law.

42 (e) When used in this section:

43 (1) "Substantial interest" shall have the same meaning ascribed

1 thereto by K.S.A. 46-229, and amendments thereto, and any such interest
2 held within the preceding 12 months of the act or event of participating
3 in the preparation of making a contract.

4 (2) “Substantially involved in the preparation or participate in the
5 making of a contract” means having approved or disapproved a contract
6 or having provided significant factual or specific information or advice or
7 recommendations in relation to the negotiated terms of the contract.

8 Sec. 12. K.S.A. 2004 Supp. 46-234 is hereby amended to read as
9 follows: 46-234. No elected state *or local* officer shall within one year
10 after the expiration of such officer’s last term receive any civil appoint-
11 ment to a state *or local* office which was created by law during the last
12 term for which such person had been elected, and all such appointments
13 shall be void. Upon resignation by an elected state *or local* officer, such
14 person may be appointed to any elective state *or local* office to fill a
15 vacancy. As used in this section, the term “civil appointment to a state *or*
16 *local* office” shall not include an additional district judge position created
17 by K.S.A. 20-355, and amendments thereto, or an additional court of
18 appeals judge position created by K.S.A. 20-3002, and amendments
19 thereto.

20 Sec. 13. K.S.A. 46-235 is hereby amended to read as follows: 46-235.
21 No state *or local* officer or employee shall accept compensation for per-
22 formance of official duties, other than that to which such person is entitled
23 for such performance. No person shall pay or offer to pay any state *or*
24 *local* officer or employee any compensation for performance of official
25 duties, except a state *or local* officer or employee performing official du-
26 ties in making payments to state *or local* officers and employees. The
27 receipt of wages or salary from an individual’s non-state *or non-local* em-
28 ployer during a period of service as a state *or local* officer or employee
29 shall not be construed as compensation for performance of official duties.

30 Sec. 14. K.S.A. 46-236 is hereby amended to read as follows: 46-236.
31 No state *or local* officer or employee, candidate for state *or local* office
32 or state *or local* officer elect shall solicit any economic opportunity, gift,
33 loan, gratuity, special discount, favor, hospitality, or service from any per-
34 son known to have a special interest, under circumstances where such
35 officer, employee, candidate or state *or local* officer elect knows or should
36 know that a major purpose of the donor in granting the same could be to
37 influence the performance of the official duties or prospective official
38 duties of such officer, employee, candidate or state *or local* officer elect.

39 Except when a particular course of official action is to be followed as
40 a condition thereon, this section shall not apply to: (1) Any contribution
41 reported in compliance with the campaign finance act; (2) a commercially
42 reasonable loan or other commercial transaction in the ordinary course
43 of business; (3) any solicitation for the benefit of any charitable organi-

1 zation which is required to file a registration statement with the secretary
2 of state pursuant to K.S.A. 17-1761, and amendments thereto, or which
3 is exempted from filing such statement pursuant to K.S.A. 17-1762, and
4 amendments thereto, or for the benefit of any educational institution or
5 such institution's endowment association, if such association has qualified
6 as a nonprofit organization under paragraph (3) of subsection (c) of sec-
7 tion 501 of the internal revenue code of 1986, as amended; (4) any solici-
8 tation for the benefit of any national nonprofit, nonpartisan organization
9 established for the purpose of serving, informing, educating and strength-
10 ening state legislatures in all states of the nation *or governing bodies of*
11 *local offices*; or (5) any solicitation for the benefit of any national, non-
12 profit organization established for the purpose of serving, informing and
13 educating elected executive branch officials in all states of the nation *or*
14 *elected officials of local offices*.

15 Sec. 15. K.S.A. 46-237 is hereby amended to read as follows: 46-237.

16 (a) Except as provided by this section, no state *or local* officer or em-
17 ployee, candidate for state *or local* office or state *or local* officer elect
18 shall accept, or agree to accept any (1) economic opportunity, gift, loan,
19 gratuity, special discount, favor, hospitality or service having an aggregate
20 value of \$40 or more in any calendar year or (2) hospitality in the form
21 of recreation having an aggregate value of \$100 or more in any calendar
22 year from any one person known to have a special interest, under circum-
23 stances where such person knows or should know that a major purpose
24 of the donor is to influence such person in the performance of their
25 official duties or prospective official duties.

26 (b) Except as provided by this section, no person with a special in-
27 terest shall offer, pay, give or make any (1) economic opportunity, gift,
28 loan, gratuity, special discount, favor, hospitality or service having an ag-
29 gregate value of \$40 or more in any calendar year or (2) hospitality in the
30 form of recreation having an aggregate value of \$100 or more in any
31 calendar year to any state *or local* officer or employee, candidate for state
32 *or local* office or state *or local* officer elect with a major purpose of influ-
33 encing such officer or employee, candidate for state *or local* office or state
34 *or local* officer elect in the performance of official duties or prospective
35 official duties.

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

42 (d) Hospitality in the form of food and beverages is presumed not to
43 be given to influence a state *or local* officer or employee, candidate for

1 state *or local* office or state *or local* officer elect in the performance of
2 official duties or prospective official duties, except when a particular
3 course of official action is to be followed as a condition thereon.

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

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

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

24 (h) No legislator shall solicit any contribution to be made to any or-
25 ganization for the purpose of paying for travel, subsistence and other
26 expenses incurred by such legislator or other members of the legislature
27 in attending and participating in meetings, programs and activities of such
28 organization or those conducted or sponsored by such organization, but
29 nothing in this act or the act of which this act is amendatory shall be
30 construed to prohibit any legislator from accepting reimbursement for
31 actual expenses for travel, subsistence, hospitality, entertainment and
32 other expenses incurred in attending and participating in meetings, pro-
33 grams and activities sponsored by the government of any foreign nation,
34 or any organization organized under the laws of such foreign nation or
35 any international organization or any national, nonprofit, nonpartisan or-
36 ganization established for the purpose of serving, informing, educating
37 and strengthening state legislatures in all states of the nation, when paid
38 from funds of such organization and nothing shall be construed to limit
39 or prohibit the expenditure of funds of and by any such organization for
40 such purposes.

41 Sec. 16. K.S.A. 46-238 is hereby amended to read as follows: 46-238.
42 No state *or local* officer or employee or candidate for state *or local* office
43 or associated person shall charge to or accept from a person known to

1 have a special interest a price, fee, compensation or other consideration
2 for the sale or lease of any property or the furnishing of services which
3 is substantially in excess of that which other persons in the same business
4 or profession would charge in the ordinary course of business.

5 Sec. 17. K.S.A. 46-239 is hereby amended to read as follows: 46-239.

6 (a) No state *or local* officer or employee shall accept employment in any
7 representation case, unless such officer or employee has properly filed
8 the disclosure statement prescribed by this section.

9 (b) Any state *or local* officer or employee who is employed in any
10 representation case shall, not later than 10 days after the acceptance of
11 employment for such case or on the first appearance before the state
12 agency *or local office* involved (whichever occurs first), file on a form
13 prescribed and provided by the commission a disclosure statement as
14 provided in this section.

15 (c) Any individual, within one year after the expiration of a term as a
16 legislator, who contracts to perform any service for a state agency *or local*
17 *office* other than the legislature, shall not later than 10 days after the
18 acceptance of such contract, file a disclosure statement as provided in
19 this section. Any agency of the state of Kansas *or local office* which enters
20 into a contract with any legislator, or any member of a firm of which such
21 legislator is a member, under which the legislator or the member of such
22 firm is to perform services for such agency *or local office* for compensation
23 shall make a report on a form prescribed and provided by the commission
24 giving the name of the state agency *or local office*, the purpose of the
25 employment and the method of determining and computing the com-
26 pensation for such employment. All such forms shall be filed quarterly in
27 the office of the secretary of state.

28 (d) The disclosure statement required by this section shall be filed
29 with the secretary of state in all cases. Any individual who files a statement
30 may file an amended statement (or, if permitted by the secretary of state,
31 amend the original filing) at any time after the statement is originally
32 filed. Copies of each such statement shall forthwith upon filing be trans-
33 mitted by the secretary of state to (1) in the case of members of the house
34 of representatives, the chief clerk of the house of representatives, or (2)
35 in the case of senators, the secretary of the senate. In addition to the
36 foregoing, a copy of every disclosure statement shall be transmitted by
37 the secretary of state to the state agency involved, if the state agency is
38 other than a part of the legislative branch.

39 (e) The disclosure statement provided for by this section shall be
40 signed by the person making the same and shall state (1) the name of the
41 employer, (2) the purpose of the employment and (3) the method of
42 determining and computing the compensation for the employment in the
43 representation case.

1 (f) Any person who is employed in a representation case and who is
2 required to file a disclosure statement pursuant to this section may file,
3 upon termination of such person's employment in such representation
4 case, a termination statement with the secretary of state. Such statement
5 shall be on a form prescribed and provided by the commission and shall
6 state (1) the name of the employer, (2) the state agency involved in the
7 case, and (3) the date of the termination of employment. The secretary
8 of state shall transmit a copy of such statement to the state agency
9 involved.

10 (g) Failure to file a true disclosure statement is intentionally (1) failing
11 to file a disclosure statement when and where required by this section,
12 or

13 (2) filing a disclosure statement under this section which contains any
14 material misrepresentation or false or fraudulent statement.

15 Failure to file a true disclosure statement is a class B misdemeanor.

16 Sec. 18. K.S.A. 46-240 is hereby amended to read as follows: 46-240.
17 No state *or local* officer or employee shall accept or agree to accept com-
18 pensation, or any part thereof, for employment in a representation case
19 of any kind, before a state agency *or local office*, except workmen's com-
20 pensation cases, which is contingent upon the result achieved or attained.

21 Sec. 19. K.S.A. 46-241 is hereby amended to read as follows: 46-241.
22 No state *or local* officer or employee shall disclose or use confidential
23 information acquired in the course of ~~his or her~~ *such officer's or em-*
24 *ployee's* official duties in order to further ~~his or her~~ *such officer's or*
25 *employee's* own economic interest or those of any other person.

26 Sec. 20. K.S.A. 46-242 is hereby amended to read as follows: 46-242.

27 (a) No state *or local* officer or employee shall accept a representation case
28 before a state agency *or local office* where such officer or employee knows
29 or should know that it is obviously without merit and is being offered
30 with intent to obtain improper influence over a state agency *or local office*.

31 (b) No state *or local* officer or employee shall use threat or promise
32 of official action in an attempt to influence a state agency *or local office*
33 in any representation case.

34 Sec. 21. K.S.A. 46-243 is hereby amended to read as follows: 46-243.

35 (a) Any state *or local* officer or employee or candidate for state *or local*
36 office who violates any provision of this act, and such violation is a mis-
37 demeanor, shall be subject to censure or forfeiture of office. Whenever
38 the commission determines that any officer or employee has violated any
39 provisions of this act and such violation is a misdemeanor or has violated
40 any provision of this act, or any rule and regulation of the commission,
41 the violation of which does not constitute a misdemeanor but the act does
42 merit censure, forfeiture or other disciplinary action, the commission shall
43 report such fact and the circumstances involved to the officer or agency

1 authorized to impose censure, forfeiture or other disciplinary measure
2 upon such officer or employee in accordance with this act.

3 (b) When this section applies to an impeachable officer, whether such
4 censure or forfeiture is to be imposed shall be determined by impeach-
5 ment proceedings.

6 (c) When this section applies to a legislator, the house of which the
7 legislator is a member shall determine whether such censure, forfeiture
8 or other disciplinary measure is to be imposed.

9 (d) When this section applies to any state officer or employee of the
10 legislative branch, except a legislator, the legislative coordinating council
11 shall determine whether such censure, forfeiture or other disciplinary
12 measure is to be imposed.

13 (e) When this section applies to any state officer or employee of the
14 judicial branch, the supreme court shall determine whether such censure,
15 forfeiture or other disciplinary measure is to be imposed.

16 (f) When this section applies to any state officer or employee of the
17 executive branch and such state officer or employee is not subject to
18 impeachment, the governor shall determine whether censure, removal of
19 such state officer or employee or other disciplinary measure is to be im-
20 posed. Upon a determination by the governor of removal under this sub-
21 section, no right of appeal under the Kansas civil service act shall exist,
22 but the determination of removal is subject to review in accordance with
23 the act for judicial review and civil enforcement of agency actions. In lieu
24 of direct removal, the governor may direct the attorney general, district
25 attorney or county attorney to bring appropriate ouster proceedings to
26 determine such forfeiture.

27 Sec. 22. K.S.A. 46-246a is hereby amended to read as follows: 46-
28 246a. (a) From and after the effective date of this act, no state *or local*
29 officer or employee shall advocate or cause the employment, appoint-
30 ment, promotion, transfer or advancement to any office or position of the
31 state *or any office or position of the local office*, of a member of such
32 officer's or employee's household or a family member.

33 (b) No state *or local* officer or employee shall participate in an action
34 relating to the employment or discipline of a member of the officer's or
35 employee's household or a family member.

36 (c) The provisions of this section shall not apply to appointments of
37 members of the governor's staff, nor to any action involving the employ-
38 ment, appointment, promotion, transfer or advancement of any officer or
39 employee occurring prior to the effective date of this act.

40 (d) The provisions of this section shall be subject to interpretation
41 and enforcement by the governmental ethics commission in the manner
42 provided by K.S.A. 46-253 through 46-263, and amendments thereto.

43 Sec. 23. K.S.A. 46-259 is hereby amended to read as follows: 46-259.

1 The commission shall maintain a record of its investigations, inquiries,
2 and proceedings. All records, complaints, documents, reports filed with
3 or submitted to or made by the commission, and all records and tran-
4 scripts of any investigations, inquiries or hearings of the commission un-
5 der this act shall be confidential and shall not be open to inspection by
6 any individual other than a member of the commission, an employee of
7 the commission, or a state *or local* officer or employee designated to assist
8 the commission, except as otherwise specifically provided in this act. The
9 commission may, by adoption of a resolution, authorize the release to the
10 attorney general of any information, records, complaints, documents, re-
11 ports, and transcripts in its possession material to any matter pending
12 before the attorney general. In addition the commission shall notify the
13 attorney general of any apparent violation of criminal law, other than laws
14 administered by the commission, discovered during the course of any
15 investigation conducted by the commission. All matters presented at a
16 public hearing of the commission and all reports of the commission stating
17 a final finding of fact pursuant to K.S.A. 46-262, *and amendments thereto*,
18 shall be public records and open to public inspection.

19 Violation of any provision of this section or the confidentiality provision
20 of K.S.A. 46-256, *and amendments thereto*, is a class B misdemeanor.

21 Sec. 24. K.S.A. 46-262 is hereby amended to read as follows: 46-262.
22 After a hearing of an alleged violation of this act, the commission shall
23 state its findings of fact. If the commission finds that the respondent has
24 not violated any provisions of this act, it shall order the action dismissed,
25 and shall notify the respondent and complainant thereof. If the commis-
26 sion finds that the respondent has violated any provisions of this act, it
27 shall state its findings of fact and submit a report thereon to the house in
28 which the respondent serves if ~~he or she~~ *the respondent* is a legislator, to
29 the legislative coordinating council if ~~he or she~~ *the respondent* is a state
30 officer or employee of the legislative branch other than a legislator, to
31 the supreme court if ~~he or she~~ *the respondent* is a state officer or em-
32 ployee of the judicial branch, *to the governing body of the local office of*
33 *the respondent is an officer or employee of the local office* and to the
34 governor in other cases, send a copy of such findings and report to the
35 complainant and respondent, and the commission shall also report
36 thereon, ~~except any act which is a violation of K.S.A. 1974 Supp. 46-245~~
37 ~~only~~ to the attorney general and to the county or district attorney of the
38 appropriate county.

39 Sec. 25. K.S.A. 46-263 is hereby amended to read as follows: 46-263.
40 When a report is submitted under K.S.A. 46-262 and amendments
41 thereto:

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

1 as a legislator, or the house may determine that neither censure nor dis-
2 qualification is justified.

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

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

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

25 (e) *If the respondent is an officer or employee of a local office, the*
26 *governing body of the local office shall consider the report and impose*
27 *censure or remove the local officer or employee from such officer's or*
28 *employee's position, or the governing body of the local office may deter-*
29 *mine that neither censure or removal from office is justified. Such deter-*
30 *mination by the governing body of the local office shall be final.*

31 (f) In the event the respondent is subject to impeachment, the com-
32 mission shall refer the report to the house of representatives, in lieu of
33 other procedures under this section.

34 Sec. 26. K.S.A. 46-268 is hereby amended to read as follows: 46-268.

35 (a) Except as otherwise provided in subsection (b), every lobbyist shall
36 file with the secretary of state a report of employment and expenditures
37 on a form and in the manner prescribed and provided by the commission.
38 *For lobbyists who lobby local offices or local officers, a report shall be*
39 *filed on or before the end of the months of March, June, September and*
40 *December. For all other lobbyists, a report shall be filed on or before the*
41 *10th day of the months of February, March, April, May, September and*
42 *January. Reports shall include all expenditures which are required to be*
43 *reported under K.S.A. 46-269, and amendments thereto, or a statement*

1 that no expenditures in excess of \$100 were made for such purposes,
2 during the preceding calendar month or months since the period for
3 which the last report was filed.

4 (b) For any calendar year in which a lobbyist expects to expend an
5 aggregate amount of less than \$100 for lobbying in each reporting period,
6 a lobbyist shall file an affidavit of such intent with the secretary of state.
7 Such lobbyist shall not be required to file the reports required under
8 subsection (a) for the year for which such affidavit is filed but shall file a
9 report on or before January 10, which shall include all expenditures made
10 in the preceding calendar year which are required to be reported under
11 K.S.A. 46-269, and amendments thereto. If in any reporting period a
12 lobbyist filing such affidavit expends in excess of \$100 in reportable ex-
13 penses, a report shall be filed for such period in the manner prescribed
14 by subsection (a).

15 Sec. 27. K.S.A. 46-269 is hereby amended to read as follows: 46-269.
16 Each report required to be filed by K.S.A. 46-268, and amendments
17 thereto, is a public record and shall be open to public inspection upon
18 request. Such report shall disclose the following:

19 (a) The full name and address of each person who has paid compen-
20 sation for lobbying to the lobbyist or has paid for expenses of lobbying by
21 the lobbyist during the period reported.

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

- 30 (1) Food and beverages provided as hospitality;
- 31 (2) entertainment, gifts, honoraria or payments;
- 32 (3) mass media communications;
- 33 (4) recreation provided as hospitality;
- 34 (5) communications for the purpose of influencing legislative or ex-
35 ecutive action; and

36 (6) all other reportable expenditures made in the performance of
37 services as a lobbyist. With regard to expenditures for entertainment or
38 hospitality which is primarily recreation, food and beverages, only
39 amounts expended on a state *or local* officer or employee or on such
40 officer or employee's spouse shall be considered to be for or in direct
41 relation to lobbying. Notwithstanding the requirements of this subsection
42 and subsection (d), no lobbyist shall be responsible to report any expend-
43 iture by the lobbyist's employer of which such person has no knowledge.

- 1 (c) (1) In addition to the information reported pursuant to subsection
2 (b), each lobbyist expending an aggregate amount of \$100 or more for
3 lobbying in any reporting period shall report any gift, entertainment or
4 hospitality provided to members of the legislature, members of the ju-
5 dicial branch of government ~~and~~, any employees of the legislature or
6 judicial branch of government *and any employees or member of the local*
7 *office*. Such report shall disclose the full name of the legislator, member
8 of the judicial branch and employee *and any employees or member of the*
9 *local office* who received such gift, entertainment or hospitality and the
10 amount expended on such gift, entertainment or hospitality.
- 11 (2) No report shall be required to be filed pursuant to this subsection
12 (c) for the following:
- 13 (A) Meals, the provision of which is motivated by a personal or family
14 relationship;
- 15 (B) meals provided at public events in which the person is attending
16 in an official capacity;
- 17 (C) meals provided to a person subject to this section when it is ob-
18 vious such meals are not being provided because of the person's official
19 position;
- 20 (D) food such as soft drinks, coffee or snack foods not offered as part
21 of a meal; and
- 22 (E) entertainment or hospitality in the form of recreation, food and
23 beverages provided at an event to which the following have been invited:
- 24 (i) All members of the legislature or all members of either house of
25 the legislature; or
- 26 (ii) all members of a political party caucus of the legislature or all
27 members of a political party caucus of either house of the legislature.
- 28 (d) Except as provided by subsection (c), whenever an individual lob-
29 byist contributes to a single special event, such lobbyist shall report only
30 the aggregate amount or value of the expenditure contributed by such
31 lobbyist.
- 32 (e) Whenever more than one lobbyist is employed by a single em-
33 ployer, the reports required by this section relating to such employer shall
34 be made by only one such lobbyist and that lobbyist shall be the lobbyist
35 who is most directly connected with the particular expenditure or gift,
36 honoraria or payment. No expenditure or gift, honoraria or payment re-
37 quired to be reported by this section shall be reported by more than one
38 lobbyist.
- 39 (f) All accounts, records and documents of the lobbyist which relate
40 to every expenditure reported or which should have been reported shall
41 be maintained and preserved by the lobbyist for a period of five years
42 from the date of the filing of such report or statement and may be in-
43 spected under conditions determined by the commission.

1 Sec. 28. K.S.A. 46-271 is hereby amended to read as follows: 46-271.
2 No lobbyist shall offer, pay, give or make any economic opportunity, gift,
3 loan, gratuity, special discount, favor, hospitality, or service having an
4 aggregate value of \$40 or more in any calendar year to any state *or local*
5 officer or employee or candidate for state *or local* office with a major
6 purpose of influencing such officer or employee in the performance of
7 official duties or prospective official duties. Hospitality in the form of
8 recreation, food and beverages are presumed not to be given to influence
9 a state *or local* officer or employee or candidate for state *or local* office
10 in the performance of official duties, except when a particular course of
11 official action is to be followed as a condition thereon.

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

17 Sec. 29. K.S.A. 46-272 is hereby amended to read as follows: 46-272.
18 No lobbyist shall pay or agree to pay to any state *or local* officer or em-
19 ployee, candidate for state *or local* office or an associated person thereof
20 a price, fee, compensation or other consideration for the sale or lease of
21 any property or the furnishing of services which is substantially in excess
22 of that which other persons in the same business or profession would
23 charge in the ordinary course of business.

24 Sec. 30. K.S.A. 46-273 is hereby amended to read as follows: 46-273.
25 (a) No lobbyist shall offer employment or employ any state *or local* officer
26 or employee or associated person thereof for a representation case, with
27 intent to obtain improper influence over a state agency.

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

32 Sec. 31. K.S.A. 46-282 is hereby amended to read as follows: 46-282.
33 “Designee” means:

34 (a) Any state officer, employee or member of any agency, depart-
35 ment, division, bureau or other unit of state government *or local officer*
36 *or employee* who holds a position: (1) Defined as a major policy making
37 position; (2) responsible for contracting, purchasing or procurement, ex-
38 cept persons whose sole responsibility is the purchasing of gasoline or
39 emergency repair for a state *or local* vehicle assigned to them for their
40 use or persons whose sole responsibility relating to purchasing or pro-
41 curement includes only transactions pursuant to preexisting state con-
42 tracts; (3) responsible for writing or drafting specifications for contracts;
43 (4) responsible for awarding grants, benefits or subsidies; or (5) respon-

1 sible for inspecting, licensing or regulating any person or entity.
2 (b) “Designee” does not include any driver’s license examiner of the
3 department of revenue or any person performing ministerial functions.
4 Sec. 32. K.S.A. 46-286 is hereby amended to read as follows: 46-286.
5 (a) No state *or local* officer or employee, in the officer’s or employee’s
6 official capacity, shall participate directly in the licensure, inspection or
7 administration or enforcement of any regulation of or in any contract with
8 any outside organization with which the officer or employee holds a
9 position.
10 (b) This section shall not apply to appointed or elected members of
11 a state board, council or commission, except that no member of such
12 board, council or commission shall participate in any license, inspection
13 or contract on behalf of their state board, council or commission with any
14 outside organization with which such member is associated or the holding
15 of a position as a member of an advisory board, council or commission of
16 an outside organization or of a position of a voluntary or charitable nature
17 if the advisory, voluntary or charitable position is taken without any ex-
18 pectation or acceptance of remuneration other than reimbursement of
19 necessary and actual expenses.
20 Sec. 33. K.S.A. 46-214a, 46-217, 46-221, 46-222, 46-225, 46-226, 46-
21 227, 46-228, 46-232, 46-235, 46-236, 46-237, 46-238, 46-239, 46-240, 46-
22 241, 46-242, 46-243, 46-246a, 46-259, 46-262, 46-263, 46-268, 46-269,
23 46-271, 46-272, 46-273, 46-282 and 46-286 and K.S.A. 2004 Supp. 46-
24 233, 46-234 and 46-247 are hereby repealed.
25 Sec. 34. This act shall take effect and be in force from and after its
26 publication in the statute book.