

3
4 **Substitute for HOUSE BILL No. 2490**

5
6 By Committee on Ethics and Elections

7
8 3-6

9
10 AN ACT concerning state officers and employees; concerning compen-
11 sation of state officers and employees; concerning governmental ethics;
12 amending K.S.A. 46-137a, 46-229, 46-237, 46-269 and 46-271 and re-
13 pealing the existing sections; also repealing K.S.A. 46-237a and 46-
14 3101.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. (a) As used in this section:

18 (1) "Commission" means the legislative and executive officer com-
19 pensation commission.

20 (2) "Executive officer" means the governor, lieutenant governor, at-
21 torney general, secretary of state, state treasurer and insurance
22 commissioner.

23 (3) "Compensation" means compensation, expense allowances ~~and~~,
24 reimbursements[, **retirement benefits and methods or formulas**
25 **used to determine retirement benefits**] of state officers.

26 (4) "State officer" means members of the legislature and executive
27 officers.

28 (b) There is hereby created the legislative and executive officer com-
29 pensation commission. Such commission shall be composed of nine mem-
30 bers. Each of the following officers shall appoint a member to the com-
31 mission the: President of the senate, minority leader of the senate,
32 speaker of the house of representatives, minority leader of the house of
33 representatives, governor, secretary of state, attorney general, state trea-
34 surer and insurance commissioner. No person may be appointed to the
35 commission who is a registered lobbyist, who is a member of the legis-
36 lature or who has been a member of the legislature within two years
37 previous to the date of appointment to the commission. Members of the
38 commission shall be appointed on or before April 2, 2001.

39 The terms of the members of the commission shall expire on June 30,
40 2002.

41 **[Any vacancy on the commission shall be filled by the appointing**
42 **authority.]**

43 (c) The member appointed by the governor shall serve as chairperson

1 of the commission. The commission shall meet on call of the chairperson
2 or on the request of four members of the commission. Five members of
3 the commission shall constitute a quorum. All actions of the commission
4 shall be taken by a majority of all members of the commission.

5 (d) It shall be the duty of the commission to make a study of the
6 compensation of state officers. The commission, by resolution, shall fix
7 the amount of compensation for members of the legislature and shall
8 make recommendations concerning the amount of compensation for ex-
9 ecutive officers. The commission shall submit a report to the legislative
10 coordinating council and to the governor on or before June 1, 2001. Such
11 report shall specify the amount of compensation fixed by the commission
12 for members of the legislature and the recommendations concerning ex-
13 ecutive officers. The report also shall specify the basis on which the com-
14 mission made its decision and any other recommendations and informa-
15 tion the commission deems appropriate. If the recommendations of the
16 commission contained in such report require legislation to implement, a
17 bill shall be introduced at the commencement of the next legislative ses-
18 sion to carry out such recommendations.

19 The amount of compensation fixed by the commission for members of
20 the legislature shall become effective on July 1, 2001. Any state officer
21 may decline to accept any increase in compensation fixed by the
22 commission.

23 (e) The staff of the office of the revisor of statutes, the legislative
24 research department, the division of legislative posts audit and the divi-
25 sion of legislative administrative services shall provide such assistance as
26 may be requested by the commission and authorized by the legislative
27 coordinating council.

28 (f) The members of the commission attending meetings of such com-
29 mission, or attending a subcommittee meeting thereof authorized by such
30 commission, shall be paid compensation, subsistence allowances, mileage
31 and other expenses as provided in K.S.A. 75-3223, and amendments
32 thereto, from appropriations for operations of the legislature upon vouch-
33 ers approved by the chairperson of the commission or a person or persons
34 designated by the chairperson.

35 (g) In the year 2008, and each seven years thereafter, a commission
36 shall be appointed in the manner provided by subsection (b) to fix, and
37 make recommendations concerning, the compensation of state officers in
38 the manner provided by this section. Any change in the amount of com-
39 pensation fixed by a commission appointed pursuant to this section shall
40 be effective on July 1 of such year. Terms of members appointed pursuant
41 to this subsection shall expire on June 30 of the year next following the
42 year in which such members were appointed.

43 Sec. 2. K.S.A. 46-137a is hereby amended to read as follows: 46-

1 137a. In addition to the compensation provided for by K.S.A. 46-137b,
2 46-137e and 75-3212 and amendments thereto, *and unless a different*
3 *amount is fixed by the legislative and executive officer compensation com-*
4 *mission as provided by section 1, and amendments thereto*, each member
5 of the legislature shall receive the following amounts:

6 (a) The sum of ~~§72.06~~ \$76.44 per calendar day for service at any
7 regular or special session, except as otherwise provided in subsection (e);

8 (b) the sum of \$80 per calendar day for subsistence allowance for any
9 regular or special session of the legislature, except that if the amounts
10 allowable for the capital city of Kansas under applicable federal law and
11 regulations to employees of the executive branch of the federal govern-
12 ment for per diem expenses, while away from home but serving in the
13 United States, are amounts which total greater than \$80, then each mem-
14 ber of the legislature shall receive such greater total amount per calendar
15 day for subsistence allowance for any regular or special session of the
16 legislature;

17 (c) an allowance of \$270 for the two-week period which coincides
18 with the first biweekly payroll period commencing in April and for each
19 of the 19 ensuing two-week periods thereafter, to defray expenses in-
20 curred between sessions of the legislature for postage, telephone, office
21 and other incidental expenses;

22 (d) an allowance for mileage in an amount equal to the rate per mile
23 prescribed under the provisions of K.S.A. 75-3203a and amendments
24 thereto multiplied by the number of miles traveled by the usual route in
25 going to and returning from the member's place of residence for any
26 regular or special session of the legislature. Such mileage allowances shall
27 be paid for not to exceed the equivalent of one trip for each full week
28 occurring between convening and adjournment sine die in any regular or
29 special session. The mileage allowance provided under the provisions of
30 this subsection shall not be subject to the restrictions relating to the use
31 of vehicles prescribed by K.S.A. 75-3203 and 75-3203a and amendments
32 thereto but shall only be allowed for trips actually made. Compensation
33 and subsistence allowance shall not be allowed under the provisions of
34 subsections (a) and (b) of this section during any period in which the
35 legislature is adjourned for more than two days, Sundays excepted; and

36 ~~(e) whenever the rates of compensation of the pay plan for persons~~
37 ~~in the classified service under the Kansas civil service act are increased~~
38 ~~for payroll periods chargeable to fiscal years commencing after June 30,~~
39 ~~1999, the rate of compensation per calendar day for members of the~~
40 ~~legislature for service at any regular or special session of the legislature~~
41 ~~shall be increased on the effective date of any such pay plan increase by~~
42 ~~an amount computed by multiplying the average of the percentage in-~~
43 ~~creases in all steps of such pay plan by the rate of compensation per~~

1 ~~calendar day which is authorized by this section for service at any regular~~
2 ~~or special session of the legislature for the day upon which such increase~~
3 ~~is computed.~~

4 *(e) (1) Whenever the rates of compensation of the pay plan for per-*
5 *sons in the classified service under the Kansas civil service act are in-*
6 *creased for payroll periods chargeable to fiscal years commencing after*
7 *June 30, 2002, amounts received under subsections (a), (b) and (c) or the*
8 *amounts fixed by the legislative and executive officer compensation com-*
9 *mission as provided by section 1, and amendments thereto, shall be in-*
10 *creased on the effective date of any such pay plan increase by an amount*
11 *computed by multiplying the average of the percentage increases in all*
12 *steps of such pay plan by each such rate which is authorized by this*
13 *section and which is in effect prior to the effective date of such pay plan*
14 *increase.*

15 *(2) If increases in the biweekly rates of compensation from step move-*
16 *ments of the pay plan for persons in the classified service under the Kansas*
17 *civil service act are authorized for the fiscal year ending June 30, 2003,*
18 *or any fiscal year thereafter, the amounts received under subsections (a),*
19 *(b) and (c) or the amounts fixed by the legislative and executive officer*
20 *compensation commission as provided by section 1, and amendments*
21 *thereto, shall be increased by an amount computed by multiplying the*
22 *average percentage increase in the biweekly rate of compensation from*
23 *step movements on the pay plan for persons in the classified service under*
24 *the Kansas civil service act determined under paragraph (3) of this sub-*
25 *section (e) by each such rate which is authorized by this section and which*
26 *is in effect prior to the effective date of such increase. The increase in the*
27 *amounts received under subsections (a), (b) and (c) or the amounts fixed*
28 *by the legislative and executive officer compensation commission as pro-*
29 *vided by section 1, and amendments thereto, shall take effect on the first*
30 *day of the first payroll period which is chargeable to the fiscal year in*
31 *which such step movements on the pay plan are authorized to take effect.*

32 *(3) For purposes of paragraph (2) of this subsection (e), the average*
33 *percentage increase in the biweekly rate of compensation from step move-*
34 *ments on the pay plan for persons in the classified service under the*
35 *Kansas civil service act shall be equal to the percentage certified by the*
36 *secretary of administration which equals the estimated average of the*
37 *percentage increases in all biweekly rates of compensation from step*
38 *movements on the pay plan for persons in the classified service under the*
39 *Kansas civil service act which are authorized to take effect during the*
40 *fiscal year in which such step movements on the pay plan are authorized*
41 *to take effect.*

42 *(4) If the increase under paragraph (1) of this subsection (e) takes*
43 *effect on the first day of the first payroll period chargeable to a fiscal year,*

1 *the percentage rate increases determined under paragraphs (1) and (2)*
2 *of this subsection (e) shall be added together and such aggregate per-*
3 *centage increase shall be used to increase the amounts received under*
4 *subsections (a), (b) and (c) instead of applying the increases under sub-*
5 *sections (1) and (2) of this subsection (e) separately.*

6 Sec. 3. K.S.A. 46-229 is hereby amended to read as follows: 46-229.

7 (a) “Substantial interest” means any of the following:

8 ~~(a)~~ (1) If an individual or an individual’s spouse, either individually
9 or collectively, has owned within the preceding 12 months a legal or
10 equitable interest exceeding ~~\$5,000~~ \$15,000 or 5% of any business, which-
11 ever is less, the individual has a substantial interest in that business.

12 ~~(b)~~ (2) If an individual or an individual’s spouse, either individually
13 or collectively, has received during the preceding calendar year compen-
14 sation which is or will be required to be included as taxable income on
15 federal income tax returns of the individual and spouse in an aggregate
16 amount of \$2,000 from any business or combination of businesses, the
17 individual has a substantial interest in that business or combination of
18 businesses.

19 ~~(c)~~ (3) If an individual or an individual’s spouse, either individually
20 or collectively, has received directly or indirectly in the preceding 12
21 months, gifts or honoraria having an aggregate value of \$500 or more
22 from any person, the individual has a substantial interest in that person.
23 If a gift is received for which the value is unknown, the individual shall
24 be deemed to have a substantial interest in the donor. A substantial inter-
25 est does not exist under this subsection by reason of: ~~(1)~~ (A) A gift or
26 bequest received as the result of the death of the donor; ~~(2)~~ (B) a gift
27 from a spouse, parent, grandparent, sibling, aunt or uncle; or ~~(3)~~ (C)
28 acting as a trustee of a trust for the benefit of another.

29 ~~(d)~~ (4) If an individual or an individual’s spouse holds the position of
30 officer, director, associate, partner or proprietor of any business, the in-
31 dividual has a substantial interest in that business, irrespective of the
32 amount of compensation received by the individual or individual’s spouse.

33 ~~(e)~~ (5) If an individual or an individual’s spouse receives compensa-
34 tion which is a portion or percentage of each separate fee or commission
35 paid to a business or combination of businesses, the individual has a sub-
36 stantial interest in any client or customer who pays fees or commissions
37 to the business or combination of businesses from which fees or com-
38 missions the individual or the individual’s spouse, either individually or
39 collectively, received an aggregate of \$2,000 or more in the preceding
40 calendar year.

41 ~~As used in this subsection, (b)~~ “Client or customer” means a business
42 or combination of businesses.

43 Sec. 4. K.S.A. 46-237 is hereby amended to read as follows: 46-237.

1 (a) Except as provided by this section, no state officer or employee, candi-
2 dicate for state office or state officer elect shall accept, or agree to accept
3 any (1) economic opportunity, gift, loan, gratuity, special discount, favor,
4 hospitality or service having an aggregate value of \$40 or more in any
5 calendar year or (2) hospitality in the form of recreation having an aggre-
6 gate value of \$100 or more in any calendar year from any one person
7 known to have a special interest, under circumstances where such person
8 knows or should know that a major purpose of the donor is to influence
9 such person in the performance of their official duties or prospective
10 official duties.

11 (b) Except as provided by this section, no person with a special inter-
12 est shall offer, pay, give or make any (1) economic opportunity, gift,
13 loan, gratuity, special discount, favor, hospitality or service having an ag-
14 gregate value of \$40 or more in any calendar year or (2) hospitality in the
15 form of recreation having an aggregate value of \$100 or more in any
16 calendar year to any state officer or employee, candidate for state office
17 or state officer elect with a major purpose of influencing such officer or
18 employee, candidate for state office or state officer elect in the perform-
19 ance of official duties or prospective official duties.

20 (c) No person licensed, inspected or regulated by a state agency shall
21 offer, pay, give or make any economic opportunity, gift, loan, gratuity,
22 special discount, favor, hospitality or service having an aggregate value of
23 \$40 or more in any calendar year to such agency or any state officer or
24 employee, candidate for state office or state officer elect of that agency.

25 (d) Hospitality in the form of food and beverages is presumed not to
26 be given to influence a state officer or employee, candidate for state office
27 or state officer elect in the performance of official duties or prospective
28 official duties, except when a particular course of official action is to be
29 followed as a condition thereon.

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

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

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

6 (h) No legislator shall solicit any contribution to be made to any or-
7 ganization for the purpose of paying for travel, subsistence and other
8 expenses incurred by such legislator or other members of the legislature
9 in attending and participating in meetings, programs and activities of such
10 organization or those conducted or sponsored by such organization, but
11 nothing in this act or the act of which this act is amendatory shall be
12 construed to prohibit any legislator from accepting reimbursement for
13 actual expenses for travel, subsistence, hospitality, entertainment and
14 other expenses incurred in attending and participating in meetings, pro-
15 grams and activities sponsored by the government of any foreign nation,
16 or any organization organized under the laws of such foreign nation or
17 any international organization or any national, nonprofit, nonpartisan or-
18 ganization established for the purpose of serving, informing, educating
19 and strengthening state legislatures in all states of the nation, when paid
20 from funds of such organization and nothing shall be construed to limit
21 or prohibit the expenditure of funds of and by any such organization for
22 such purposes.

23 (i) *The agency head of any state agency may adopt written policies*
24 *which impose limitations which are stricter than those specified in this*
25 *section. Violations of such policies shall be considered conduct detrimental*
26 *to the state service and shall be a basis for suspension, demotion or dis-*
27 *missal, subject to applicable state law.*

28 Sec. 5. K.S.A. 46-269 is hereby amended to read as follows: 46-269.
29 Each report required to be filed by K.S.A. 46-268, and amendments
30 thereto, is a public record and shall be open to public inspection upon
31 request. Such report shall disclose the following:

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

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

43 (1) Food and beverages provided as hospitality;

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

6 (6) all other reportable expenditures made in the performance of
7 services as a lobbyist. With regard to expenditures for entertainment or
8 hospitality which is primarily recreation, food and beverages, only
9 amounts expended on a state officer or employee or on such officer or
10 employee's spouse shall be considered to be for or in direct relation to
11 lobbying. Notwithstanding the requirements of this subsection and sub-
12 section (d), no lobbyist shall be responsible to report any expenditure by
13 the lobbyist's employer of which such person has no knowledge.

14 (c) (1) In addition to the information reported pursuant to subsection
15 (b), each lobbyist expending an aggregate amount of \$100 or more for
16 lobbying in any reporting period shall report any gift, entertainment or
17 hospitality provided to ~~members of the legislature, members of the ju-~~
18 ~~dicial branch of government and any employees of the legislature or ju-~~
19 ~~dicial branch of government~~ *state officers and employees*. Such report
20 shall disclose the full name of the ~~legislator, member of the judicial branch~~
21 ~~and state officer or~~ employee who received such gift, entertainment or
22 hospitality and the amount expended on such gift, entertainment or
23 hospitality.

24 (2) *Subject to the provisions of paragraph (4) of this subsection, no*
25 *report shall be required to be filed pursuant to this subsection (c) for the*
26 *following:*

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

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

31 ~~—(C) meals provided to a person subject to this section when it is ob-~~
32 ~~vious such meals are not being provided because of the person's official~~
33 ~~position;~~

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

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

38 ~~—(i) All members of the legislature or all members of either house of~~
39 ~~the legislature; or~~

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

42 (A) *Gifts having a value of \$15 or less;*

43 (B) *food or beverage having a value of \$15 or less;*

1 (C) food or beverage, the provision of which is motivated by a per-
2 sonal or family relationship;

3 (D) food or beverage provided to a person subject to this section when
4 it is obvious such food or beverage is not provided because of such person's
5 official position; and

6 (E) entertainment or hospitality in the form of recreation, food or
7 beverage provided at a public event.

8 (3) When used in this paragraph and paragraph (2) of this subsection:

9 (A) "Public event" means:

10 (i) Any event to which the general public is invited or may attend;

11 (ii) any event which is held for or by a membership organization;

12 (iii) any event which is held by, or in connection with, any national
13 nonprofit nonpartisan organization established for the purpose of serving,
14 informing and educating state legislators or elected executive branch
15 officers;

16 (iv) any event to which all members of the legislature or all members
17 of either house of the legislature are invited;

18 (v) any event to which all members of a political party caucus of the
19 legislature or all members of a political party caucus of either house of
20 the legislature are invited; or

21 (vi) to which all members of a bona fide legislative delegation are
22 invited;

23 (B) "in connection with" means any meeting or other event held by
24 or for a person attending an event defined in paragraph (c)(3)(A)(iii);

25 (C) "event" means, but is not limited to, a meeting or other gathering,
26 meal, reception, party, sporting, civic or cultural activity;

27 (D) "membership organization" means a group of persons composed
28 of members having a common interest or purpose for organizing, includ-
29 ing, but not limited to, teacher associations, medical associations, labor
30 organizations, trade associations, farm organizations, municipal associa-
31 tions and veterans' organizations; and

32 (E) "bona fide legislative delegation" means, but is not limited to, the
33 Johnson county legislative delegation, Sedgwick county legislative dele-
34 gation or other county legislative delegation, the south central Kansas
35 legislative delegation or other regional legislative delegation.

36 (4) On July 1, 2002, and on July 1 of each year thereafter, the value
37 of gifts, entertainment and food or beverages requiring disclosure of in-
38 dividual names of officers and employees under subsection (c)(1) shall be
39 increased each year by an amount which equals the product of the amount
40 allowed under subsection (e)(1) during the next preceding year multiplied
41 by a fraction the numerator of which is the average consumer price index
42 for all urban consumers published by the federal department of labor as
43 of the close of the 12-month period ending on August 31 of the first cal-

1 *endar year preceding the year in which the adjustment is made and the*
2 *denominator of which is such index as of such period ending on august*
3 *31 of the second calendar year preceding the year in which the adjustment*
4 *is made.*

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

9 (e) Whenever more than one lobbyist is employed by a single em-
10 ployer, the reports required by this section relating to such employer shall
11 be made by only one such lobbyist and that lobbyist shall be the lobbyist
12 who is most directly connected with the particular expenditure or gift,
13 honoraria or payment. No expenditure or gift, honoraria or payment re-
14 quired to be reported by this section shall be reported by more than one
15 lobbyist.

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

21 Sec. 6. K.S.A. 46-271 is hereby amended to read as follows: 46-271.

22 *(a) Except as provided by this section, no lobbyist shall offer, pay, give or*
23 *make within a calendar year (1) any economic opportunity, gift, loan,*
24 *gratuity, special discount, favor, hospitality; in the form of food or bev-*
25 *erages or service having an aggregate value of \$40 or ~~more in any calendar~~*
26 *year (2) hospitality in the form of recreation having an aggregate value*
27 *of \$100 to any state officer or employee or candidate for state office with*
28 *a major purpose of influencing such officer or employee in the perform-*
29 *ance of official duties or prospective official duties. ~~Hospitality in the form~~*
30 *of recreation, food and beverages*

31 *(b) Except when a particular course of official action is to be followed*
32 *as a condition thereon, the following are presumed not to be given to*
33 *influence a state officer or employee or candidate for state office in the*
34 *performance of official duties, ~~except when a particular course of official~~*
35 *action is to be followed as a condition thereon:*

36 (1) *Hospitality in the form of recreation, food and beverages; and*
37 (2) *publications published on a regular basis by trade associations,*
38 *professional associations, foundations and tax exempt organizations, when*
39 *provided by the lobbyist therefor.*

40 (c) Except when a particular course of official action is to be followed
41 as a condition thereon, this section shall not apply to:

42 (1) Any contribution reported in compliance with the campaign fi-
43 nance act ~~as amended, or; or~~

1 (2) a commercially reasonable loan or other commercial transaction
2 in the ordinary course of business.

3 **[New Sec. 7. The legislative and executive officer compensa-**
4 **tion commission may provide for retirement benefits, methods or**
5 **formulas used to determine retirement benefits, eligibility**
6 **requirements, participation and waiting period requirements and**
7 **other retirement benefit related issues which may be alternative**
8 **or supplemental to any laws relating thereto.]**

9 Sec. ~~7~~ **[8.]** K.S.A. 46-137a, 46-237, 46-237a, 46-269, 46-271 and 46-
10 3101 are hereby repealed.

11 Sec. ~~8~~ **[9.]** This act shall take effect and be in force from and after
12 its publication in the Kansas register.

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