

**SENATE BILL No. 286**

By Committee on Federal and State Affairs

3-4

1 AN ACT concerning the state governmental ethics law; relating to the  
2 definitions of lobbying and lobbyist; providing for a new definition of  
3 lobbying client; amending K.S.A. 46-222 and 46-225 and repealing the  
4 existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) "Lobbying client" means any person or entity that  
8 employs or retains another person for financial or other compensation to  
9 conduct lobbying activities on behalf of such person or entity. A person or  
10 entity whose employees act as lobbyists on such person's or entity's behalf  
11 is both a lobbying client and an employer of such employees. In the case  
12 of a coalition or association that employs or retains other persons to  
13 conduct lobbying activities, the lobbying client is the coalition or  
14 association and not its individual members.

15 (b) This section shall be a part of and supplemental to the state  
16 governmental ethics law.

17 Sec. 2. K.S.A. 46-222 is hereby amended to read as follows: 46-222.

18 (a) "Lobbyist" means:

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

20 (2) any person formally appointed as the primary representative of an  
21 organization or other person to lobby in person on state-owned or leased  
22 property *and who is compensated at least as much annually as an elected*  
23 *member of the legislature;*

24 (3) any person who ~~makes expenditures in an aggregate amount of~~  
25 ~~\$1,000 or more~~ *is retained by another person for financial or other*  
26 *compensation to conduct lobbying activities on behalf of such person or*  
27 *entity and receives at least \$5,000 in financial or other compensation from*  
28 *such person for such lobbying activities, exclusive of excluding personal*  
29 *travel and subsistence expenses, in any calendar year for lobbying; or*

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

35 (b) "Lobbyist" ~~shall~~ *does not include:*

36 (1) Any state officer or employee engaged in carrying out the duties

1 of their office;

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

5 (3) any nonprofit organization ~~which~~ *that* has qualified under 501(e)  
6 ~~(3)(a)~~ of the internal revenue code of 1986, as amended, ~~which is interstate~~  
7 ~~in its operations~~ and of which a primary purpose is the nonpartisan  
8 analysis, study or research of legislative procedures or practices and the  
9 dissemination of the results thereof to the public *or its members*,  
10 irrespective of whether such organization may recommend a course of  
11 action as a result of such analysis, study or research;

12 (4) any justice or commissioner of the supreme court or judge of the  
13 judicial branch or employee or officer of the judicial branch, or; any  
14 member of a board, council or commission who is appointed by the  
15 supreme court or ~~who is~~ elected or appointed to exercise duties pertaining  
16 to functions of the judicial branch, ~~when~~ *if* such person is engaged in  
17 performing a function or duty for the judicial branch; or

18 (5) any appointed member of an advisory council, commission or  
19 board; who serves without compensation other than amounts for expense  
20 allowances or reimbursement of expenses as provided for in K.S.A. 75-  
21 3223(e), and amendments thereto, ~~when~~ *if* such member is engaged in  
22 performing a function or duty for such council, commission or board.

23 Sec. 3. K.S.A. 46-225 is hereby amended to read as follows: 46-225.

24 (a) Except as otherwise provided, "lobbying" means:

25 (1) ~~Promoting or opposing in any manner action or nonaction by the~~  
26 ~~legislature on any legislative matter~~ *Providing any oral or written*  
27 *communication by an individual, including electronic communication, that*  
28 *is made on behalf of a lobbying client to a member of the legislature,*  
29 *elected officer of either chamber of the legislature, any employee of a*  
30 *member of the legislature, any employee of a committee of the legislature*  
31 *and any employee of the leadership staff of the legislature with regard to*  
32 *the formulation, modification or adoption of legislation;*

33 (2) ~~promoting or opposing in any manner an action or nonaction~~  
34 ~~by~~ *providing any oral or written communication by an individual,*  
35 *including electronic communication, that is made on behalf of a lobbying*  
36 *client to the governor or the head of any executive agency on any*  
37 *executive administrative matter;*

38 (3) ~~promoting or opposing in any manner an action or nonaction~~  
39 ~~by~~ *providing any oral or written communication by an individual,*  
40 *including electronic communication, that is made on behalf of a lobbying*  
41 *client to any judicial agency on any judicial administrative matter; or*

42 (4) entertaining any state officer or employee or giving any gift,  
43 honorarium or payment to a state officer or employee in an aggregate

1 value of \$40 or more within any calendar year, if at any time during such  
2 year the person supplying the entertainment, gifts, honoraria or payments  
3 has a financial interest in any contract with; or action, proceeding or other  
4 matter before the state agency in which such state officer or employee  
5 serves, or if such person is the representative of a person having such a  
6 financial interest.

7 ~~(e)(b)~~ "Lobbying" does not include:

8 ~~(1)~~ Any expenditure from amounts appropriated by the legislature for  
9 official hospitality;

10 ~~(d)(2)~~ "Lobbying" does not include representation of a claimant on a  
11 claim filed by the claimant under K.S.A. 46-907 and 46-912 through 46-  
12 919, and amendments thereto, in proceedings before the joint committee  
13 on special claims against the state;

14 ~~(e)(3)~~ "Lobbying" does not include bona fide personal or business  
15 entertaining;

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

18 ~~(g)~~ "Lobbying" does not include:

19 ~~(1)(4)~~ written communications by an employee of a private business  
20 seeking a contract, agreement or lease with an executive agency or judicial  
21 agency solely for the purpose of describing goods or services to be  
22 provided or for preparing a bid, proposal or other document relating to a  
23 contract, agreement or lease, such as factual information, specifications,  
24 terms, conditions, timing or similar technical or commercial information or  
25 communications by an employee of a private business awarded a bid or  
26 contract for the purpose of carrying out ongoing negotiations following the  
27 award of the bid or contract;

28 ~~(2)(5)~~ communications by an attorney representing a client involving  
29 ongoing legal work with respect to an executive administrative matter or  
30 judicial administrative matter, or an administrative proceeding or hearing  
31 and negotiations conducted by and with attorneys for executive agencies  
32 or judicial agencies, or interactions between parties in litigation or other  
33 contested matters, and testimony by a witness in an administrative hearing  
34 or communications to or by investigators or authorities in the course of  
35 any investigation;

36 ~~(3)(6)~~ communications among and between members of the  
37 legislature or executive or judicial officials or employees;

38 ~~(4)(7)~~ providing written information in response to a written request  
39 from an executive agency for technical advice or factual information  
40 regarding a standard, rate, rule or regulation, policy or procurement or  
41 from a judicial agency regarding a procurement;

42 ~~(5)(8)~~ communications regarding a contract, lease or agreement of  
43 \$5,000 or less;

1       ~~(6)~~(9) communications made by or on behalf of a private business for  
 2 the purpose of securing a grant, loan or tax benefit pursuant to a Kansas  
 3 economic development program for the purpose of locating, relocating or  
 4 expanding a private business within or into Kansas; or

5       ~~(7)~~(10) communications made by officers or employees of a certified  
 6 business or disabled veteran business, as defined in K.S.A. 75-3740, and  
 7 amendments thereto; or

8       (11) a communication that is:

9       (A) Made by a public official acting in the public official's official  
 10 capacity;

11       (B) made by a representative of a media organization if the purpose  
 12 of the communication is gathering and disseminating news and  
 13 information to the public;

14       (C) made in a speech, article, publication or other material that is  
 15 distributed and made available to the public, or through radio, television,  
 16 cable television, internet or other medium of mass communication;

17       (D) a request for a meeting, a request for the status of an action, or  
 18 any other similar administrative request, if the request does not include an  
 19 attempt to influence official action;

20       (E) testimony given before a committee or task force, or submitted for  
 21 inclusion in the public record of a hearing conducted by such committee  
 22 or task force;

23       (F) information provided in writing in response to an oral or written  
 24 request by the legislature, governor, any executive agency or any judicial  
 25 agency for specific information; or

26       (G) made in response to any matter covered by the rules and  
 27 regulations filing act.

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

30       ~~(H)~~(d) As used in this section;

31       (1) "Executive administrative matter" means any rule and regulation,  
 32 utility ratemaking decision, any agreement, contract, bid or bid process, or  
 33 any procurement decision, including, but not limited to, any financial  
 34 services agreement, software licensing, servicing or procurement  
 35 agreement, any lease, grant, award, loan, bond issue, certificate, license,  
 36 permit, administrative order or any other matter that is within the official  
 37 jurisdiction or cognizance of the executive agency;

38       ~~(i)~~(2) ~~As used in this section,~~ "judicial administrative matter" means  
 39 any administrative matter regarding an agreement, contract, bid or bid  
 40 process, any procurement decision, including, but not limited to, any  
 41 financial services agreement, software licensing, servicing or procurement  
 42 agreement, lease, or any other administrative procurement or contractual  
 43 matter;

1       ~~(j)(3) As used in this section,~~"executive agency" means any state  
2 agency, state office or state officer, state officer elect, or employee of the  
3 executive branch and includes, but is not limited to, the board of regents  
4 and state board of education, but does not include local boards of  
5 education of school districts or municipalities or other political  
6 subdivisions;

7       ~~(k)(4) As used in this section,~~"judicial agency" means any  
8 department, institution, office, officer, employee, commission, board or  
9 bureau, or any agency, division or unit thereof, of the judicial branch of  
10 government and includes any justice or commissioner of the supreme court  
11 or judge or judge elect of the judicial branch, or any member of a board,  
12 council or commission who is appointed by the supreme court or who is  
13 elected and is performing a function or duty of the judicial branch that  
14 constitutes a judicial administrative matter; *and*

15       ~~(l)(5) As used in this section,~~"written communications" or "written  
16 information" includes email or other electronic forms of communication  
17 that are retained as a record by the executive agency or judicial agency.

18       Sec. 4. K.S.A. 46-222 and 46-225 are hereby repealed.

19       Sec. 5. This act shall take effect and be in force from and after its  
20 publication in the statute book.