

HOUSE BILL No. 2489

By Committee on Federal and State Affairs

2-12

AN ACT concerning certain state officers and employees; relating to compensation; relating to limitations on acceptance of gifts, food and beverages; amending K.S.A. 46-137a, 46-225, 46-237, 46-269 and 46-271 and repealing the existing sections.

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

Section 1. K.S.A. 46-137a is hereby amended to read as follows: 46-137a. In addition to the compensation provided for by K.S.A. 46-137b, 46-137e and 75-3212 and amendments thereto, each member of the legislature shall receive the following amounts:

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

(b) the sum of \$80 per calendar day for subsistence allowance for any regular or special session of the legislature, except that if the amounts allowable for the capital city of Kansas under applicable federal law and regulations to employees of the executive branch of the federal government for per diem expenses, while away from home but serving in the United States, are amounts which total greater than \$80, then each member of the legislature shall receive such greater total amount per calendar day for subsistence allowance for any regular or special session of the legislature;

(c) ~~an allowance of \$270 commencing with the first pay period chargeable to fiscal year 2002, an allowance of \$450~~ for the two-week period which coincides with the first biweekly payroll period commencing in April and for each of the 19 ensuing two-week periods thereafter, to defray expenses incurred between sessions of the legislature for postage, telephone, office and other incidental expenses;

(d) an allowance for mileage in an amount equal to the rate per mile prescribed under the provisions of K.S.A. 75-3203a and amendments thereto multiplied by the number of miles traveled by the usual route in going to and returning from the member's place of residence for any regular or special session of the legislature. Such mileage allowances shall be paid for not to exceed the equivalent of one trip for each full week occurring between convening and adjournment sine die in any regular or special session. The mileage allowance provided under the provisions of

1 this subsection shall not be subject to the restrictions relating to the use
2 of vehicles prescribed by K.S.A. 75-3203 and 75-3203a and amendments
3 thereto but shall only be allowed for trips actually made. Compensation
4 and subsistence allowance shall not be allowed under the provisions of
5 subsections (a) and (b) of this section during any period in which the
6 legislature is adjourned for more than two days, Sundays excepted; and

7 ~~(e) whenever the rates of compensation of the pay plan for persons~~
8 ~~in the classified service under the Kansas civil service act are increased~~
9 ~~for payroll periods chargeable to fiscal years commencing after June 30,~~
10 ~~1999, the rate of compensation per calendar day for members of the~~
11 ~~legislature for service at any regular or special session of the legislature~~
12 ~~shall be increased on the effective date of any such pay plan increase by~~
13 ~~an amount computed by multiplying the average of the percentage in-~~
14 ~~creases in all steps of such pay plan by the rate of compensation per~~
15 ~~calendar day which is authorized by this section for service at any regular~~
16 ~~or special session of the legislature for the day upon which such increase~~
17 ~~is computed.~~

18 *(e) The amount of compensation and allowance received pursuant to*
19 *subsections (a) and (c) for payroll periods chargeable to fiscal years com-*
20 *mencing after June 30, 2002, shall be adjusted in the same amount and*
21 *manner provided by K.S.A. 75-3120I, and amendments thereto.*

22 *Nothing in this subsection shall be construed as authorizing the pay-*
23 *ment of a longevity bonus to legislators under K.S.A. 75-5541, and amend-*
24 *ments thereto.*

25 Sec. 2. K.S.A. 46-225 is hereby amended to read as follows: 46-225.

26 (a) "Lobbying" means:

27 —(1) promoting or opposing in any manner action or nonaction by the
28 legislature on any legislative matter or the adoption or nonadoption of
29 any rule and regulation by any state agency; or

30 —(2) ~~entertaining any state officer or employee or giving any gift, hon-~~
31 ~~orarium or payment to a state officer or employee in an aggregate value~~
32 ~~of \$40 or more within any calendar year, if at any time during such year~~
33 ~~the person supplying the entertainment, gifts, honoraria or payments has~~
34 ~~a financial interest in any contract with, or action, proceeding or other~~
35 ~~matter before the state agency in which such state officer or employee~~
36 ~~serves, or if such person is the representative of a person having such a~~
37 ~~financial interest.~~

38 ~~(e)~~ (b) "Lobbying" does not include any expenditure from amounts
39 appropriated by the legislature for official hospitality.

40 ~~(d)~~ (c) "Lobbying" does not include representation of a claimant on
41 a claim filed by the claimant under K.S.A. 46-907 and 46-912 ~~to 46-919,~~
42 ~~inclusive through 46-919,~~ and amendments thereto in proceedings before
43 the joint committee on special claims against the state.

1 ~~(e)~~ (d) "Lobbying" does not include bona fide personal or business
2 entertaining.

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

5 Sec. 3. K.S.A. 46-237 is hereby amended to read as follows: 46-237.

6 (a) Except as provided by this section *and K.S.A. 46-237a, and amend-*
7 *ments thereto*, no state officer or employee, candidate for state office or
8 state officer elect shall accept, or agree to accept any ~~(1)~~ economic op-
9 portunity, gift, loan, gratuity, special discount, favor, hospitality or service
10 ~~having an aggregate value of \$40 or more in any calendar year or (2)~~
11 ~~hospitality in the form of recreation having an aggregate value of \$100 or~~
12 ~~more in any calendar year~~ from any one person known to have a special
13 interest, under circumstances where such person knows or should know
14 that a major purpose of the donor is to influence such person in the
15 performance of their official duties or prospective official duties.

16 (b) Except as provided by this section *and K.S.A. 46-237a, and*
17 *amendments thereto*, no person with a special interest shall offer, pay,
18 give or make any ~~(1) economic opportunity, gift, loan, gratuity, special~~
19 ~~discount, favor, hospitality or service having an aggregate value of \$40 or~~
20 ~~more in any calendar year or (2) hospitality in the form of recreation~~
21 ~~having an aggregate value of \$100 or more in any calendar year~~ to any
22 state officer or employee, candidate for state office or state officer elect
23 with a major purpose of influencing such officer or employee, candidate
24 for state office or state officer elect in the performance of official duties
25 or prospective official duties *any economic opportunity, gift, loan, gra-*
26 *tuity, special discount, favor, hospitality or service.*

27 (c) No person licensed, inspected or regulated by a state agency shall
28 offer, pay, give or make any ~~economic opportunity, gift, loan, gratuity,~~
29 ~~special discount, favor, hospitality or service having an aggregate value of~~
30 ~~\$40 or more in any calendar year~~ to such agency or any state officer or
31 employee, candidate for state office or state officer elect of that agency
32 *any economic opportunity, gift, loan, gratuity, special discount, favor,*
33 *hospitality or service.*

34 ~~(d) Hospitality in the form of food and beverages is presumed not to~~
35 ~~be given to influence a state officer or employee, candidate for state office~~
36 ~~or state officer elect in the performance of official duties or prospective~~
37 ~~official duties, except when a particular course of official action is to be~~
38 ~~followed as a condition thereon.~~

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

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

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

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

32 (i) *Nothing in this section shall be construed as prohibiting the ac-*
33 *ceptance of:*

34 (1) *Gifts from relatives or gifts from personal friends when it is ob-*
35 *vious to the person that the gift is not being given because of the person's*
36 *official position; or*

37 (2) *anything of value received by the person on behalf of the state*
38 *that inures to the benefit of the state or that becomes the property of the*
39 *state; or*

40 (3) *contributions solicited on behalf of a nonprofit organization which*
41 *is exempt from taxation under paragraph (3) of subsection (c) of section*
42 *501 of the internal revenue code of 1986, as amended.*

43 (j) *Nothing in this section shall be construed as prohibiting the ac-*

1 *ceptance of:*

2 *(1) Food and beverages, the provision of which is motivated by a*
3 *personal or family relationship or provided at events that are widely at-*
4 *tended. An occasion is "widely attended" when it is obvious to the person*
5 *accepting the food or beverage that the reason for providing the food or*
6 *beverage is not a pretext for exclusive or nearly exclusive access to the*
7 *person;*

8 *(2) food or beverages provided at public events in which the person*
9 *is attending in an official capacity; and*

10 *(3) food or beverages provided to a person subject to this section when*
11 *it is obvious such meals are not being provided because of the person's*
12 *official position.*

13 Sec. 4. K.S.A. 46-269 is hereby amended to read as follows: 46-269.
14 Each report required to be filed by K.S.A. 46-268, and amendments
15 thereto, is a public record and shall be open to public inspection upon
16 request. Such report shall disclose the following:

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

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

28 ~~(1) Food and beverages provided as hospitality;~~

29 ~~—(2) Entertainment, gifts, honoraria or payments;~~

30 ~~—(3) (1) Mass media communications;~~

31 ~~(4) recreation provided as hospitality;~~

32 ~~(5) (2) communications for the purpose of influencing legislative or~~
33 ~~executive action; and~~

34 ~~(6) (3) all other reportable expenditures made in the performance of~~
35 ~~services as a lobbyist. With regard to expenditures for entertainment or~~
36 ~~hospitality which is primarily recreation, food and beverages, only~~
37 ~~amounts expended on a state officer or employee or on such officer or~~
38 ~~employee's spouse shall be considered to be for or in direct relation to~~
39 ~~lobbying. Notwithstanding the requirements of this subsection and sub-~~
40 ~~section (d) (c), no lobbyist shall be responsible to report any expenditure~~
41 ~~by the lobbyist's employer of which such person has no knowledge.~~

42 ~~(c) (1) In addition to the information reported pursuant to subsection~~

43 ~~(b), each lobbyist expending an aggregate amount of \$100 or more for~~

1 lobbying in any reporting period shall report any gift, entertainment or
2 hospitality provided to members of the legislature, members of the ju-
3 dicial branch of government and any employees of the legislature or ju-
4 dicial branch of government. Such report shall disclose the full name of
5 the legislator, member of the judicial branch and employee who received
6 such gift, entertainment or hospitality and the amount expended on such
7 gift, entertainment or hospitality.

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

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

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

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

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

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

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

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

25 ~~(d)~~ Except as provided by subsection ~~(c)~~,

26 ~~(c)~~ Whenever an individual lobbyist contributes to a single special
27 event, such lobbyist shall report only the aggregate amount or value of
28 the expenditure contributed by such lobbyist.

29 ~~(e)~~ ~~(d)~~ Whenever more than one lobbyist is employed by a single
30 employer, the reports required by this section relating to such employer
31 shall be made by only one such lobbyist and that lobbyist shall be the
32 lobbyist who is most directly connected with the particular expenditure
33 or gift, honoraria or payment. No expenditure or gift, honoraria or pay-
34 ment required to be reported by this section shall be reported by more
35 than one lobbyist.

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

41 Sec. 5. K.S.A. 46-271 is hereby amended to read as follows: 46-271.
42 No lobbyist shall offer, pay, give or make any economic opportunity, gift,
43 loan, gratuity, special discount, favor, hospitality; or service having an

1 ~~aggregate value of \$40 or more in any calendar year to any state officer~~
2 ~~or employee or candidate for state office with a major purpose of influ-~~
3 ~~encing such officer or employee in the performance of official duties or~~
4 ~~prospective official duties. Hospitality in the form of recreation, food and~~
5 ~~beverages are presumed not to be given to influence a state officer or~~
6 ~~employee or candidate for state office in the performance of official du-~~
7 ~~ties, except when a particular course of official action is to be followed as~~
8 ~~a condition thereon.~~

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

14 Sec. 6. K.S.A. 46-137a, 46-225, 46-237, 46-269 and 46-271 are
15 hereby repealed.

16 Sec. 7. This act shall take effect and be in force from and after its
17 publication in the statute book.

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