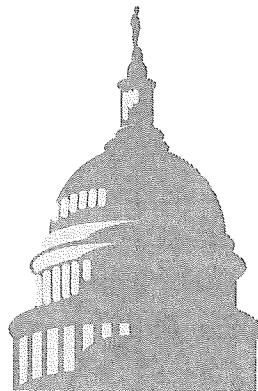


Kentucky Legislative Ethics Commission

ANNUAL REPORT



FY 2023-2024

July 1, 2023 - June 30, 2024

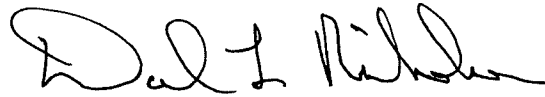
FOREWORD

I am pleased to submit the 31st Annual Report of the Kentucky Legislative Ethics Commission to the members of the Legislative Research Commission.

The past year has been a busy one for the Commission and its staff. As evidenced by the large number of requests for informal opinions from individuals, businesses, and organizations covered by the Legislative Ethics Code, there is widespread interest in complying with it.

The continued support the Commission has received from the members of the General Assembly and its leadership has been gratifying.

We respectfully submit this report of activities of the Legislative Ethics Commission as required by KRS 6.666(16).

A handwritten signature in black ink, appearing to read "David L. Nicholas", written in a cursive style.

David L. Nicholas, Chairman

Ernie Harris – Former Senator Harris was appointed to the Commission by the President of the Senate in May 2021. Mr. Harris is a native of Oldham County and graduated from the University of Kentucky with a bachelor's degree in business administration. He also has a master's in management from Webster University. Mr. Harris served his country for 20 years in the U.S. Air Force and retired as a Lt. Colonel. After his Air Force career, he flew for UPS as a Boeing 757/767 captain. He served in the Kentucky Senate from 1995 until his retirement in 2020. He lives on the family farm in Oldham County.

Marie Rader - Former State Representative Marie Rader was appointed to the Commission by the Senate President in January, 2023. Rader represented a district comprised of Jackson and portions of Laurel and Madison Counties in the Kentucky House of Representatives from 1997 to 2018. She chaired the House Committee on Transportation and was a member of the Natural Resources and Energy, Appropriations and Revenue, and Education Committees. A native of McKee, she served as executive director of the Public Housing Authority, and as a member of the Jackson County Development Association and the Jackson County Industrial Authority. She is a graduate of Berea College. She has been active in the Jackson County Kiwanis, Eastern Kentucky Concentrated Employment Program, Daniel Boone Development Council, Cumberland Valley ADD, and City of McKee Council.

Katherine Gail Russell – Ms. Russell was appointed to the Commission by the Speaker of the House in May, 2021. She has a private law practice with the law firm of Tilford Dobbins & Schmidt PLLC in the area of bankruptcy, banking and collections, and serves on the Uniform Law Commission and on the Visiting Committee of the University of Kentucky, J. David Rosenberg College of Law. A former Secretary of the Public Protection Cabinet, she also served as Counsel to the House Speaker, as a member of the Kentucky Racing Commission, the Kentucky Economic Development Partnership Board, the Kentucky 911 Services Board, and as the Small Business Ombudsman for the Public Protection Cabinet. She also has served as a Special Justice on the Kentucky Supreme Court. A native of Murray, Kentucky, she received her B.A. with highest distinction from the University of Mississippi and received her J.D. from the University of Kentucky.

Anthony Wilhoit (*term ended 4/2024*) – Judge Wilhoit was appointed to the Commission by the Speaker of the House in 2016. He was Executive Director of the Legislative Ethics Commission from 1997 until he retired in 2015. In 1976, he joined the Kentucky Court of Appeals, and retired as Chief Judge in 1997. Judge Wilhoit also served as a police judge, Versailles City Attorney, Woodford County Attorney, state public defender, and deputy secretary of the Justice Cabinet. He earned an A.B. from Thomas More College, a J.D. from the University of Kentucky, and an L.L.M. from the University of Virginia. In 2012, Judge Wilhoit received the COGEL Award, the highest international award given to a person working in the fields of ethics, campaign finance, and election law. He lives in Versailles.

James Curless – Investigator – Mr. Curless worked for the Lexington Police Department from 1986-2012. He worked in patrol from 1986-1990, the detective bureau from 1990-1997 and internal affairs. He started out in residential burglary for about a year and then the robbery/homicide unit for about 6 years, then he was promoted to sergeant from 1997-2002 assigned to patrol before transferring back to robbery/Homicide (or the newer name Personal Crimes Section) as the incoming section commander (lieutenant). During his time overseeing the Personal Crimes Section, his section had some of the highest solved murder rates. During this time, he oversaw the creation of the Cold Case Unit and obtained a grant to allow dedicated resources for the unit operation. Also, during this time frame the Personal Crimes Section included the following units: Homicide, Robbery, Sex Crimes, Cold Case, ROPE (repeat offender prosecution enforcement), US Marshal's Task Force and the SANE Program (Sexual Assault Nurse Examiner). During the 1990's he worked as a part time Legislative Ethics investigator but since retiring in 2012, he has returned to working part time as an investigator for the Ethics Commission.

Mark Brengelman – Enforcement Counsel – Mr. Brengelman was the Enforcement Counsel for the Commission from 2018-2023. He became interested in the law when he graduated with both Bachelor's and Master's degrees in Philosophy from Emory University in Atlanta. He earned a J.D. from the University of Kentucky College of Law and became an Assistant Attorney General working in the area of administrative and professional law as the assigned counsel and prosecuting attorney to numerous health professions licensure boards. Mark retired from state government in 2012, became certified as a hearing officer, and opened his own law practice. He is a frequent participant in continuing education having presented for multiple state and national organizations and private companies. He also represents children as Guardian ad Litem and parents as Court Appointed Counsel in confidential child abuse and neglect proceedings in family court.

**Legislative Ethics Commission
Registration of Lobbyists and Employers
FY 2023-2024**

Number of Employers: 891
Number of Legislative Agents: 694

Updated Registration Statements were filed on:

- September 15, 2023
- January 15, 2024
- February 15, 2024
- March 15, 2024
- April 15, 2024
- May 15, 2024

The Kentucky Legislative Ethics Commission (KLEC) continues to enhance its database and website, making more information available to the public regarding legislative agents (lobbyists) and their employers.

By accessing KLEC's web site, citizens can review a variety of reports, including legislator and candidate financial disclosure forms, a list of legislative agents and their employers, legislative agent compensation, employer expenses sorted by the employer's name, and employer expenses sorted by industries, such as "gaming" or "health care", and bills lobbied.

LOBBYING EXPENSES AS REPORTED 1993 - 2024

YEAR	EMP FB	EMP AE	EMP RME	EMP EXP	LA FB	LA RME	LA EXP	LA COMP	TOTAL
2024	N/A	454,382	409,464	681,595	N/A	59,686	564,217	18,050,538	20,219,882
2023	N/A	1,090,387	407,979	666,765	N/A	57,535	571,170	22,722,488	25,516,324
2022	N/A	330,595	316,260	621,942	N/A	53,588	582,267	23,114,432	\$25,019,084
2021	N/A	\$525,072	\$131,211	\$811,969	N/A	\$24,897	\$524,444	\$19,351,022	\$21,368,615
2020	N/A	\$367,201	\$171,539	\$646,643	N/A	\$5,607	\$613,013	\$19,116,673	\$20,920,676
2019	N/A	\$317,860	\$222,083	\$568,784	N/A	\$24,235	\$726,440	\$20,432,842	\$22,292,244
2018	N/A	\$478,349	\$251,382	\$992,151	N/A	\$14,908	\$1,007,980	\$20,428,445	\$23,173,215
2017	N/A	\$227,917	\$192,375	\$690,639	N/A	\$17,542	\$846,917	\$18,856,830	\$20,832,220
2016	N/A	\$300,431	\$236,495	\$667,428	N/A	\$6,027	\$888,039	\$18,690,350	\$20,788,770
2015	N/A	\$1,017,588	\$190,100	\$603,505	N/A	\$13,484	\$781,811	\$16,696,699	\$19,303,187
2014	\$149	N/A	\$185,402	\$563,386	\$0	\$8,685	\$831,507	\$16,822,398	\$18,411,527
2013	\$429	N/A	\$154,182	\$453,074	\$30	\$11,648	\$852,342	\$14,970,623	\$16,442,328
2012	\$539	N/A	\$143,154	\$858,368	\$0	\$16,407	\$945,621	\$15,813,368	\$17,777,457
2011	\$228	N/A	\$160,435	\$393,916	\$16	\$17,491	\$905,572	\$13,613,009	\$15,090,667
2010	\$530	N/A	\$189,059	\$904,378	\$0	\$28,206	\$1,188,642	\$14,382,024	\$16,692,839
2009	\$236	N/A	\$135,943	\$462,256	\$0	\$19,126	\$985,833	\$13,659,283	\$15,262,677
2008	\$434	N/A	\$248,463	\$691,801	\$82	\$35,100	\$1,196,922	\$14,729,726	\$16,902,528
2007	\$160	N/A	\$160,087	\$530,195	\$0	\$18,175	\$1,025,796	\$11,951,309	\$13,685,722
2006	\$423	N/A	\$227,190	\$803,103	\$157	\$19,631	\$1,061,624	\$13,362,476	\$15,474,604
2005	\$420	N/A	\$214,397	\$615,303	\$268	\$24,663	\$902,410	\$10,808,709	\$12,566,170
2004	\$561	N/A	\$204,701	\$819,692	\$150	\$10,003	\$213,134	\$10,836,866	\$12,085,107
2003	\$542	N/A	\$193,663	\$848,670	\$0	\$4,639	\$0*	\$8,141,073	\$9,188,587
2002	\$262	N/A	\$188,446	\$1,008,768	\$20	\$8,248	\$0*	\$9,088,595	\$10,294,339
2001	\$160	N/A	\$136,819	\$608,853	\$73	\$4,201	\$0*	\$6,132,887	\$6,882,993
2000	\$95	N/A	\$136,032	\$857,075	\$0	\$13,424	\$0*	\$8,295,998	\$9,302,624
1999	\$248	N/A	\$30,082	\$411,981	\$0	\$1,562	\$0*	\$3,989,617	\$4,433,490
1998	\$20	N/A	\$82,741	\$939,643	\$10	\$4,500	\$0*	\$7,086,054	\$8,112,968
1997	\$14	N/A	\$22,072	\$420,529	\$0	\$4,019	\$0*	\$3,137,175	\$3,583,809
1996	\$589	N/A	\$40,822	\$880,518	\$301	\$3,939	\$341,893	\$6,037,002	\$7,305,064
1995	\$177	N/A	\$15,692	\$318,105	\$107	\$534	\$144,098	\$2,254,114	\$2,732,827
1994	\$852	N/A	\$34,117	\$1,356,719	\$350	\$2,305	\$514,701	\$4,557,014	\$6,466,058
1993	\$81	N/A	\$1,426	\$552,648	\$3	\$108	\$0	\$986,811	\$1,541,077
Totals	\$7,149	\$5,109,782	\$5,433,813	\$22,250,402	\$1,567	\$534,123	\$18,216,393	\$408,116,450	\$459,669,679

Guide to Abbreviations:

EMP.FB (Emp. Food and Beverage)

EMP.RME (Emp. Reception, Meals & Events)

EMP.EXP (Emp. Expenses)

EMP.AE (Emp. Advertising Expense)

LA. FB (Legislative Agent Food and Beverage)

LA. RME (Legislative Agent Reception, Meals & Events)

LA. EXP (Legislative Agent Expenses)

LA. COMP (Legislative Agent Compensation)

* Employer forms were amended to delete section dealing with reimbursed expenses to legislative agents.

2015 was first year for reporting EMP AE.

2024 figures include totals through August 31, 2024.

Any amendments made after October 23, 2024 are not included in this report and will alter the report data.

NOTE: Numbers have been rounded to the closest dollar for convenience.

The Ethics Reporter

JULY 2023

KENTUCKY LEGISLATIVE ETHICS COMMISSION
22 MILL CREEK PARK
FRANKFORT KY 40601 (502) 573-2863
KLEC.KY.GOV

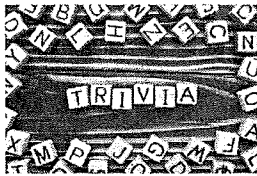
Legislative Ethics Code applies to legislators' campaigns for other offices

Did you know?



The next filing date for employers' and legislative agents' spending disclosures is **Friday, September 15, 2023.**

The easiest and quickest way to file is to visit the Commission's website klec.ky.gov and click "file forms online."



Is there a guide-book for the Code of Legislative Ethics?

Answer on page 4

The Legislative Ethics Commission has received several questions regarding contributions to current legislators' campaigns for non-legislative offices.

KRS 6.767 prohibits a member of the General Assembly or his or her campaign committee from accepting a campaign contribution from a legislative lobbyist. KRS 6.811 prohibits a legislative lobbyist from making a campaign contribution to a member of the General Assembly or his or her campaign committee.

Additionally, KRS 6.811 prohibits a legislative lobbyist from serving as a legislator's campaign treasurer, or from directly soliciting, controlling, or delivering a campaign contribution, for a legislator.

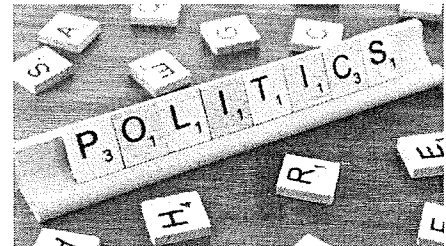
An opinion of the Ethics Commission states that a lobbyist may not make a campaign contribution to a gubernatorial slate which includes a legislator, as the legislator's campaign committee and the slate's campaign committee are one and the same. OLEC

07-02.

In OLEC 93-55, the Commission advised that a legislative lobbyist is prohibited by the Code from making a campaign contribution to a member of the General Assembly seeking a state-wide office.

The full text of formal opinions are available on the Commission's website under the "Advisory Opinions" tab.

Commission staff are available to provide guidance if there are any questions regarding these provisions.



New and terminated lobbying employers

Several organizations recently registered to lobby legislators in Kentucky: **Christ Hospital (The); Harlan County Fiscal Court; National Stem Cell Foundation; and Vision RNG.**

No organizations terminated lobbying in the previous month.

"Live long, your principles to prove."

-Effie Walker Smith

Black Poet from Pike County, Kentucky

1904

**from lines written on a book of her poetry presented to Mary Elliott Flanery, the first woman elected to the Kentucky General Assembly, who recognized Ms. Smith's talent and paid to have her work published.*

Can public officials block critics on social media? Supreme Court to decide

National Conference of State Legislatures—by Susan Frederick, Senior Federal Affairs Counsel, NCSL—May 2, 2023

The U.S. Supreme Court will determine whether blocking critics from personal social media accounts also used for official communication with the public constitutes state action and violates the First Amendment.

The court took up two appeals last week that address a legal question left unresolved in a previous case involving former President Donald Trump's Twitter account.

The first case, *O'Connor-Ratcliff v. Garnier*, involves two members of a California school district, the Poway Unified School District Board of Trustees, who used personal public Facebook and Twitter accounts to communicate with the public about official business matters related to the board and the district. The board members created the pages before they were elected and used them as campaign tools.

They also had private social media accounts where they posted to family and friends. Parents of children attending schools in the district were blocked from board members' social media accounts after they criticized board members' posts and responded with numerous repetitive replies and hundreds of comments.

The parents sued the board under 42 U.S.C. section 1983, claiming that blocking them constituted a "state action" that deprived parents of their First Amendment freedom of speech rights. The district court and the 9th U.S. Circuit Court of Appeals agreed.

The appeals court held that although it is undisputed that the board members were not posting pursuant to any governmental authority or carrying out any governmental duty, and they created and maintained their social media pages without any district funding or other support, they used their pages to communicate with the public about "events which arose out of their

official status," including matters they had the ability to discuss only "due to their positions."

Despite that, the court said, the board members' continual blocking of the parents' comments and replies was "not adequately tailored to an appropriate government interest."

In *Lindke v. Freed*, James Freed, the Port Huron, Mich., city manager, blocked Kevin Lindke from his Facebook account and deleted his critical comments. Freed created his Facebook account as a college student and maintained it over the years as his personal account. Before he was hired as a city manager, he converted his personal Facebook account to a public figure page. He posted family pictures and events as well as his press releases and other information as city manager.

Lindke began criticizing Freed on other Facebook accounts, then began posting critical comments about Freed on Freed's personal Facebook page. Freed deleted the comments and eventually blocked Lindke from his page entirely. Subsequently, Facebook deactivated and reactivated his page several times, and Freed eventually decided to unpublish his page because he did not want a page he could not manage.

Before Freed unpublished his page, Lindke filed suit under Section 1983 alleging Freed's deletion of his comments and subsequent blocking constituted state action and violated his First Amendment rights. Freed argued that there was no state action under Section 1983. The district court and the 6th Circuit Court of Appeals agreed with Freed.

The appeals court held that social media activity may be considered a state action when it is part of the officeholder's actual or apparent duties, or couldn't happen in the same way without the authority of the

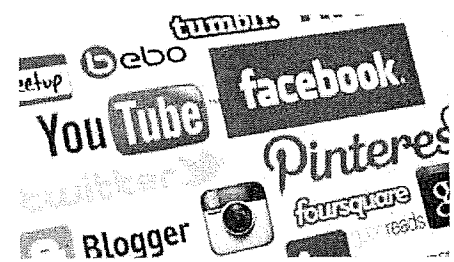
office.

The court then determined that there was no law or ordinance requiring Freed to have a Facebook page, that operating a Facebook page was not a requirement of his job as city manager, and that no government funds were used to operate the page.

It rejected Lindke's argument that Freed's personal page communicated with the public about his job and duties as city manager, holding that "[w]hen Freed visits the hardware store, chats with neighbors or attends church services, he isn't engaged in state action merely because he's 'communicating'—even if he's talking about his job."

With many elected officials using social media, these cases will give the Supreme Court an opportunity to resolve this difference of opinion at the circuit court level and define when an official's use of social media should be considered personal and when it should be considered a governmental function.

The court may consolidate the cases, with a decision expected next year.



The Ethics Reporter

AUGUST 2023

KENTUCKY LEGISLATIVE ETHICS COMMISSION
22 MILL CREEK PARK
FRANKFORT KY 40601 (502) 573-2863
KLEC.KY.GOV

Two-year registration period for lobbyists and employers opens on December 1, 2023

Did you know?



The next filing date for employers' and legislative agents' spending disclosures is **Friday, September 15, 2023**.

The easiest and quickest way to file is to visit the Commission's website klec.ky.gov and click "file forms online." The online system is open **now** for this filing period!

Employers' and legislative agents' registration with the Legislative Ethics Commission will expire on December 31, 2023. Check the Ethics Commission's website [http://klec.ky.gov/](http://klec.ky.gov) for the Initial Registration Statement for the two-year period beginning January 1, 2024 and ending on December 31, 2025. For your convenience, we will also send out an email mid-November with instructions and forms attached.

Beginning December 1, 2023, the Commission will start accepting completed registrations. Initial registration forms CANNOT be filed online.

A registration fee of \$250 must be paid by the employer of one or more legislative agents. This fee may be paid by cash, check, Visa, MasterCard, American Express, or Discover. If the registration is mailed with a check, the check should be payable to **Kentucky State Treasurer**.

If paid by credit card, the registration may be faxed, or scanned and e-mailed, along with the completed credit card form. The Initial Registration Statement may be copied.

Please remember the employer must sign the registration form of each legislative agent. If more information is needed, please contact the Commission at (502) 573-2863, or e-mail

Donnita.Crittenden@lrc.ky.gov



Are lobbyists required to have ethics training?

Answer on page 4

New and terminated lobbying employers

Several organizations recently registered to lobby legislators in Kentucky: **Diageo North America; Harmony Fields 2017, LLC; Innocence Project; Kinship; Soccer Holdings, LLC; and Transit Authority of River City.**

Harmony Fields 2017, LLC's stated area of lobbying is tourism, and Christina Lee Brown, a member of the Brown family associated with Brown-Forman, is listed as manager of the LLC. **Innocence Project** was previously registered in January, 2021, **Transit Authority of River City** in **December, 2022**, and **Diageo North America** in December, 2017.

Kinship is a senior care company based in New York. **Soccer Holdings, LLC** is the parent company of soccer teams Louisville City FC and Racing Louisville FC.

"No, no, we are not satisfied, and we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream."

Dr. Martin Luther King, Jr.

"I Have A Dream" Speech, March on Washington, August 28, 1963

Ad giant plans to use people's data to regulate data *POLITICO*—by Alfred Ng—August 18, 2023

One of the world's largest advertising firms is crafting a campaign to thwart a California bill intended to enhance people's control over the data that companies collect on them. According to emails obtained by *POLITICO*, the Interpublic Group is coordinating an effort against a bill that would make it easier for people to request that data brokers — firms that collect and sell personal information — delete their dossiers.

SB 362, known as the Delete Act, would require companies to delete all data on individuals upon request — including data purchased or acquired from third parties. This would shrink the trove of personal information they hold, such as browsing history, birthdates and past purchases. Data brokers compile this information to build profiles of people, which can be used to craft advertisements tailored to an individual's preferences. But that also grants them access to some of people's most sensitive details, such as whether they are pregnant or suffering from mental illness.

The IPG emails reveal how an advertising company could use that same personal data and targeting capabilities to undermine a public policy proposal that threatens its bottom line.

The emails show an exchange between the company's global chief digital responsibility and public policy officer, Sheila Colclasure, and other executives discussing what the firm can do to block the bill.

"We would like to mount an 'opposition campaign' using in-house digital advertising capabilities, targeting California," Colclasure wrote in an Aug. 14 email sent to others at IPG and reviewed by *POLITICO*. Those capabilities could include creating ads targeted at California residents to foment public opposition to the bill, and prominently placing those ads on popular websites.

In the email exchange, IPG notes it was "pulling out all the stops" to fight the bill. It also said data broker and major credit monitoring agency Experian plans to launch its own attack on the bill this week. The discussion included other IPG executives and Chad Engelgau, CEO of Acxiom, a data broker owned by IPG.

Engelgau in a separate email exchange said Acxiom would provide data to target

the ad campaign against SB 362.

Engelgau did not directly respond to questions about the effort, but said in a statement on behalf of IPG, Acxiom and Colclasure that the companies disagree with state regulations and are advocating for a national privacy law. Tech industry groups have been pushing for a federal data privacy law that would overwrite state regulations, saying it would be too hard to abide by different rules in each of the 50 states.

"We are offering our view as subject matter experts to trade organizations and legislative bodies on why this proposal will damage the economy, negatively impacting both small and large businesses, and have asked our industry partners to join the dialogue," he said. "We will continue our work to help create common sense rules at a federal level."

Experian spokesperson Jordan Takeyama said that the company is not launching any advertising related to SB 362, but does oppose the legislation.

"We believe the proposed legislation has many unintended consequences and would severely harm the ability for companies to best serve consumers on many levels," he said.

The IPG campaign already includes a website called NoToSB362.org, which urges visitors to contact state Sen. Josh Becker, the bill's main author, and voice opposition to the bill. Concerns on the website include how the ability to delete data en masse would raise health costs and make it difficult for government agencies to detect fraud. There is one mention of the bill's effects on advertisers, noting that data deletions would hurt small businesses.

The emails obtained by *POLITICO* note that the Consumer Data Industry Association and the law firm Venable built and sponsored the website, while Interpublic Group worked on the effort to promote the campaign. But the site, which was registered last week, originally did not disclose who was behind it.

And when *POLITICO* revealed the website's similarities of an ad industry push on Wednesday, Interpublic Group spokesperson Thomas Cunningham and Acxiom's Engelgau denied their compa-

nies were involved. Engelgau's statement to *POLITICO* Thursday did not respond to questions about this discrepancy.

The CDIA has since updated the No to SB 362 website to include the industry's affiliation.

"We are considering other options as well [as] including ads but have not made a final decision," Justin Hakes, the CDIA's vice president of communications and public affairs, said in an email. "CDIA will work with policymakers to avoid significant unintended consequences undermining privacy and data security for California consumers."

This isn't the first time a tech platform was accused of using its capabilities in an attempt to sway legislation in California.

In 2020, privacy advocates accused Google of blocking political ads that favored California privacy legislation the company opposed, while approving similar ads against the regulations. Google told California lawmakers in response that it doesn't insert political bias into its results.

Gov. Gavin Newsom signed a law in 2022 requiring that businesses disclose to the secretary of state if they use their products or services to target online ads for political purposes. But the regulations don't go into effect until January 2024.

On Thursday, the CDIA, alongside 13 industry trade organizations, including the Association of National Advertisers, the Interactive Advertising Bureau and NetChoice, sent an opposition letter to every member of the California Assembly and Becker.

Collectively, those groups represent companies including Google, Amazon and Meta, owners of Facebook.

Becker said he knew there was an opposition campaign against his bill, but wasn't aware of who was behind it until this week. He said his staff has met with IPG representatives in the past, who urged him to delay the bill.

He said he has no intention to delay his legislation, and that IPG's strategy to use its own advertising resources to promote its opposition campaign gave companies an unfair advantage in the political debate.

"They're able to target individual consumers based on this treasure trove of data that they've amassed," Becker said in an interview. "The fact that they're using that to lobby against the bill even more highlights the reason for concern here."

The Ethics Reporter

SEPTEMBER
2023

KENTUCKY LEGISLATIVE ETHICS COMMISSION
22 MILL CREEK PARK
FRANKFORT KY 40601 (502) 573-2863
KLEC.KY.GOV

Marking 30 years of Legislative Ethics reform

Did you know?



The next filing date for employers' and legislative agents' spending disclosures is **Tuesday, January 16, 2024.**

The easiest and quickest way to file is to visit the Commission's website klec.ky.gov and click "file forms online."



How long did the federal BOP-TROT investigation last?

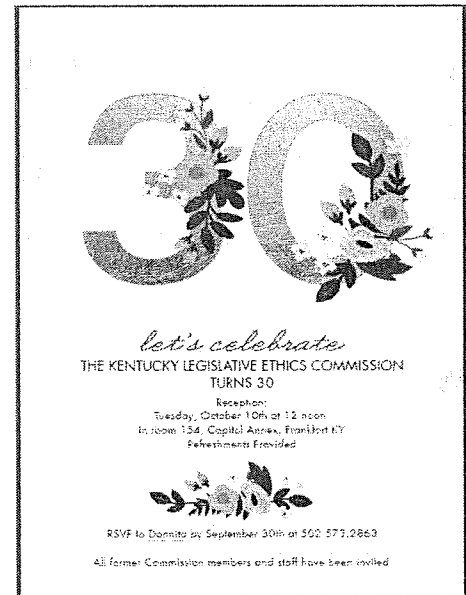
Answer on page 4

The Kentucky Legislative Ethics Commission (KLEC) was created by the Kentucky General Assembly as part of a sweeping ethics reform package in 1993. Following a devastating federal investigation involving legislators and lobbyists, BOPTR0T, and the conviction of 21 persons including 15 legislators for such crimes as extortion, bribery, profiteering, racketeering, and lying to the FBI, the legislature created a Task Force charged with drafting a new Code of Ethics for the legislative and executive branches, as well as campaign finance and contracting laws. Late Governor Brereton Jones called a special session and the General Assembly passed the Legislative Ethics Code, as well as the Executive Ethics Code, ushering in a new era for ethics in Kentucky.

With the passage of the law 30 years ago, KLEC was established as the only ethics board for a state legislature comprised of no sitting legislators, ensuring independent and nonpartisan administration of the Code. Tasked with the Code's enforcement, registration, reporting, education and advisory functions, KLEC has helped to change the culture which led to BOPTR0T by giving timely, confidential, and practical advice, setting clear standards, and working diligently to ensure the legislative and lobbying community's knowledge and adherence to high standards of conduct, and the public's knowledge of lobbying activity.

To promote public confidence in the legislative process, provisions of the Code prohibit lobbyists from making political contributions to legislators, require 6 yearly detailed public reports of employers' and lobbyists' spending, which are readily available via KLEC's online searchable register, set out clear standards for conflict of interest and legislative conduct, require yearly ethics training for legislators, restrict individual legislators' influence over executive branch decision-making, prohibit a legislator from becoming a lobbyist for 2 years after leaving office, and require detailed financial disclosures from legislators and major management staff of the legislature. KLEC adjudicates sworn complaints, which may be filed by anyone, has subpoena power, and may impose penalties, including revocation of lobbying for up to 5 years.

The General Assembly passed strong 2014 revisions to the Code which created a "no cup of coffee" rule for the legislature, required advertising by lobbying groups to be reported



to ensure transparency about spending during legislative sessions, and completely banned out of state trips for legislators paid for by lobbying entities.

Since KLEC's inception 30 years ago, and the passage of the Code, no sitting Kentucky legislator has been convicted of a felony arising from the use of his or her office. Fundamentally and most importantly, the culture in the Capitol has changed, due in large part to the diligent education and advisory efforts of the Commission members and staff, the continued strong support of Kentucky's legislators and lobbying entities, and public expectation that the core principles of the Code are maintained.

The Commission is proud to celebrate 30 years of the Ethics Code and renews its continued commitment to ensuring that public confidence in the integrity of its government and public officials is maintained.

To mark this milestone, KLEC is hosting a public reception on October 10, 2023, starting at noon, in Room 154 of the Capitol Annex. Please join us!

Laura Hendrix
Executive Director

Missouri lawmaker accused of 'unlawful' conduct in push for contract, drawing FBI scrutiny

MISSOURI—Missouri Independent—by Jason Hancock—September 22, 2023

The Missouri House Speaker is facing allegations he threatened to terminate the employment of a nonpartisan legislative staffer who resisted his months-long push to hire a private company to manage constituent information.

House Speaker Dean Plocher vehemently denies the accusations, which were uncovered through public records obtained by The Independent under Missouri's Sunshine Law.

But Dana Miller, chief clerk of the House since 2018 and a chamber staff member since 2001, wrote in an email to a lawmaker last week about "threats made by Speaker Plocher concerning my future employment."

She wrote that Plocher made statements to her "connecting this contract with campaign activity" — suggesting the speaker's motivation was his 2024 campaign for lieutenant governor — and expressed that she had "growing concerns of unethical and perhaps unlawful conduct."

Miller wasn't the only legislative staffer expressing concerns. In another message obtained through the Sunshine Law, a House employee complained that the pressure for the contract was "insanely inappropriate" and would lead to more bad behavior if Plocher got his way.

Plocher insists that every action he took while pushing for the House to consider contracting with a private company was "open and transparent in the interest of good government and delivering efficient

services to Missourians."

He added: "No one has asked, received, nor will receive, any special treatment in regard to software contracts or any contracts while I am speaker."

In the short term, the issue is dead, as a legislative committee voted last week to stick with the free, in-house constituent management program already in use.

But the saga's fallout is far from over, and has drawn attention from federal law enforcement, with an FBI agent attending the legislative hearing last week where the idea was discussed. The FBI investigates public corruption, surveilling federal, state and local governments.

Nine months ago, the House revamped the software legislative offices can use to contact constituents and assist them when they reach out to their representatives. The redesign came after a working group of legislative staff spent months developing new features in an effort to make it more user friendly. A Washington, D.C., -based company called Fireside promised to provide a web-based program to replace the system at a cost of nearly \$400,000 a year.

Plocher began advocating for making the change in May, soon after the legislative session adjourned for the year. Also working on Fireside's behalf was Bardgett and Associates, an influential Jefferson City lobbying firm.

The Fireside program could lead to lawmakers exporting data to use for cam-

paign activity, Miller wrote in her memo, and switching from the current program housed on an internal server to a web-based program could leave constituent information vulnerable to hacking. But among her biggest concerns at the time was the cost for something the House was already providing for free.

Over the course of the summer, records show staff were increasingly expressing concern about what was happening behind the scenes. In early July, a handful of lawmakers began submitting nearly identical letters to Wright's office advocating for the Fireside contract. A draft of the letter, shows it was originally sent to the lawmakers by an employee of Bardgett and Associates.

Despite the pushback from legislative staff, Plocher pressed ahead, presenting the idea to his colleagues at the party's annual summer caucus in August and asking Wright to hold a public hearing to consider switching to Fireside when lawmakers convened for a veto session in September.

On a voice vote, a legislative committee unanimously decided to stick with the in-house system for at least the next two years. Miller stood by her actions in opposing the contract and voicing concerns about the lobbying effort.

"As an officer of the House of Representatives," she said, "I take an oath to uphold the constitution, and this includes protecting the House as an institution. I take those responsibilities seriously."

SEC files fraud charges against 'ComEd' and CEO found guilty in bribery case surrounding ex Illinois House Speaker Mike Madigan

ILLINOIS—ABC7—by ABC7 Chicago Digital Team—September 28, 2023

The Securities and Exchange Commission charged ComEd and its former CEO Anne Pramaggiore Thursday with fraud in connection to the alleged corruption scheme involving former house speaker Mike Madigan. Commonwealth Edison and its parent company Exelon agreed to settle, paying a penalty of more than \$46 million. However, charges against Pramaggiore will move forward.

The complaint filed by the SEC accuses Pramaggiore of participating in, and at some points, directing a bribery scheme, which involved bribing Madigan to pass legislation favorable to ComEd. Earlier this year, Pramaggiore and the rest of the so-called "ComEd Four," were all found guilty of federal charges, including conspiracy and bribery.

Madigan, who's charged in a separate federal racketeering indictment, will go to trial in April.

The Ethics Reporter

OCTOBER 2023

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Two-year *mandatory* re-registration for all lobbyists and employers opens December 1, 2023

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Must legislative candidates file financial disclosures with KLEC?

Answer on page 4

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Hawaii bribery scandal casts a shadow over Lahaina's ruins*New York Times*—by Blaze Lovell— October 25, 2023

After a major contracting scandal broke out in Hawaii last year, the mayor of Maui County appeared on television to express outrage and announce a sweeping audit of contracts awarded to a corrupt business owner.

But no one told the county auditor, who said he only heard about the audit on the news. In the end, the audit was never completed, and the county's flawed system for awarding contracts — a system marred by bribery and a lack of competition — remains largely the way it was.

Now, as Maui recovers from the devastating wildfires that swept across parts of the island in August and killed at least 99 people, millions of dollars will be spent on rebuilding critical infrastructure using the same flawed contract-monitoring system.

The bribery case involving the business owner, Milton Choy, prompted some county officials to begin phasing out the use of sole-source contracts — which are awarded without competitive bidding when officials determine that only one vendor is able to supply a particular good or service — but the practice is still in use in the county.

A look at Choy's case reveals pitfalls in a procurement system that could confront the county as it prepares to handle millions of dollars in new spending. That very little has changed since the bribery scandal was revealed could leave the door open for some contractors to take advantage of the disaster or for government money to be wasted.

Maui County has already issued more than \$3 million worth of contracts in the first several weeks after the fires, and millions more are expected.

Most of the money spent so far has gone to firms hired to clear debris from roads and to manage traffic in the burned area. Consultants were also hired to assess damage to Lahaina's water system and to develop temporary holding facilities for toxic debris. And most of the contracts awarded so far went through without competitive bidding.

Abuse of single-source contracts was at

the heart of the scandal involving Choy, and while his company also won government contracts on Kauai and Oahu, Maui County is where he made the most money that way.

The Maui County Board of Ethics, which is responsible for investigating possible wrongdoing by public officials, has neither a dedicated budget nor the staff necessary to conduct investigations — even now, after two county officials and two state lawmakers from Maui who took bribes from Choy have been sent to prison.

Choy was charged with one count of bribery last year and sentenced to more than three years in prison. During his sentencing hearing, he apologized to his competitors, the people of Maui and most of all, he said, to his family for the harm his criminal acts caused them.

Former associates of Choy recalled him as a charming salesperson who could deftly navigate his way to the people who would buy his products and services. Introductions were often made and backroom deals hashed out over dinners, where Choy would occasionally flash a list of his contacts with direct lines to politicians and public officials.

It also helped that he invited Hawaii officials and friends to soirees in Las Vegas, where the guests would be treated to stacks of gambling chips, food and drinks at Choy's private suite in the Mirage hotel and casino.

Choy admitted to prosecutors that he received no-bid contracts in Maui facilitated through bribery payments for at least six years. County governments in Hawaii rely on a finance director as the only review for contracts recommended by department heads, including sole-source purchases. That made it easy for Stewart Stant, the former head of the Maui County Environmental Management Department, to steer nearly \$20 million in no-bid contracts to H2O Process Systems.

Choy bribed Stant — who was sentenced to 10 years in prison — with cash and perks totaling more than \$2 million over six years.

The information justifying the sole-source requests should have been checked by department officials, who are typically required to collect data on what other municipalities have paid for similar items and to rigorously vet any sole-source purchase. That job would have fallen to Wilfredo Savella, a maintenance supervisor who received more than \$40,000 from Choy. He pleaded guilty in December 2022 to taking cash bribes and first-class trips to Las Vegas in exchange for helping direct wastewater contracts to Choy's business. Savella is serving a 16-month prison sentence.

When Stant pleaded guilty last year, he admitted receiving more than \$1.3 million in direct payments from Choy between 2012 and 2018, in addition to hundreds of thousands of dollars worth of goods and services, including Las Vegas gambling chips, according to court records. Stant did not report any of it on annual financial disclosure forms required by the Maui County Board of Ethics.

The bribery scheme involving Choy and Stant did not come to light until 2018, when several county wastewater employees raised concerns over procurement practices involving Stant. They took their concerns to Elle Cochran, who at the time was a Maui council member. Cochran's staff met privately with wastewater employees to collect information about payments to H2O Process Systems and eventually turned what they had gathered over to the FBI.

Their tip eventually led to the arrests of Choy and Stant. Choy agreed to cooperate in an ongoing investigation into public corruption and was not charged in other bribery cases involving two state lawmakers.

His cooperation led the lawmakers — former state Sen. J. Kalani English and former state Rep. Ty Cullen — to plead guilty in February 2022 to bribery-related charges from their time in office. English was sentenced to more than three years in prison and Cullen was sentenced to two years.

Little has changed in Maui County's system of accountability since the scandal broke, and there appears to be little will to change, even as the island's attention focuses on rebuilding in the aftermath of the fires.

The Ethics Reporter

NOVEMBER
2023

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Does the Commission publish an annual report?

Answer on page 4

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General Assembly Members' required training

The Commission will present Current Issues training on **Wednesday, January 3, 2024**, to all members of the General Assembly. The training will be held in Room 154 of the Capitol Annex, from 9 a.m. to 11 a.m. More information will be sent to General Assembly members next month. The Legislative Ethics Code requires all General Assembly members to attend this 2 hour ethics session.

We look forward to seeing all members at the training!

Anaheim officials to publicly post online who they meet with

CALIFORNIA—Voice of OC—by Hozam Elattar— November 14, 2023

Anaheim City Council members and City Manager Jim Vanderpool will have to publicly post online who they're meeting with next year as part of new policy in the wake of one of the largest corruption scandals in Orange County history.

Last Tuesday, city council members voted unanimously to implement a policy that will require them to proactively post their calendar online listing meetings with lobbyists, developers, union representatives as well as residents starting in January 2024.

During the Nov. 7 meeting, Mayor Ashleigh Aitken said the policy will be a helpful tool to create transparency and accountability.

"This isn't meant to be a gotcha circumstance for the city manager's office or council colleagues," she said. "Developing a formal and automated system where we're all reporting in the same way and fashion just removes any type of accusations of malfeasance."

Disclosure exceptions will be made for internal staff meetings including with retained consultants and vendors, meetings on personnel issues as well as with residents who fear retaliation if their meeting goes public. The policy comes after FBI agents in sworn affidavits last year and independent investigators, with decades of law enforcement experience,

in a 353-page report concluded the same thing: Anaheim City Hall is essentially controlled by Disneyland resort interests and lobbyists.

Federal agents also say pay-to-play politics were involved in the now canned Angel Stadium land alleging former Mayor Harry Sidhu tried to get a \$1 million in campaign support from the ball club to ram the deal through.

Sidhu pleaded guilty to public corruption charges in September.

The Fall of Reform

The new calendar policy is among a host of reform proposals Anaheim City Council members are expected to tackle this fall in the wake of corruption.

For Disneyland resort-backed City Council members like Natalie Meeks and Jose Diaz, the calendar policy was one of the best reforms they could enact as opposed to other reform policies like a tighter lobbyist registration policy.

"This is transparency," Diaz said during the Nov. 7 meeting. "Other stuff out there that is so complicated that you need an army of lawyers to interpret what it says that's not transparency."

Meeks said the calendar policy makes lobbyist disclosures redundant.

"I want to do the calendar, and make it simple and make it clear and make it com-

prehensive. And all the other complex stuff, I think, is redundant and potentially conflicting," she said. Other cities in Orange County like Irvine and Orange are looking at tightening lobbyist regulations and providing great transparency on who influences city hall after independent investigators released a 353-page corruption report at the end of July.

The report paints a picture of loose oversight on lobbyists, developer favoritism, influence peddling by Disneyland Resort interests through the Anaheim Chamber of Commerce and a disregard for California's open meeting and public record laws.

Will The Calendars Work?

One city official has already been posting their calendar online: Mayor Aitken.

It's something she highlighted in State of the City in May – about a year since the FBI affidavits surfaced.

However, the mayor's calendar didn't list any meetings with Angel President John Carpino despite public record requests by the Voice of OC and the Anaheim Investigator blog that show text messages between the two planning meetings this year.

When asked earlier this year if she reported a planned meeting with Carpino on her public calendar, Aitken said the meeting was disclosed in a public records request.

"My experience in the executive, legislative, and judicial branches of government and my position on the Supreme Court all point to this conclusion: an informed, reasoned effort by one citizen can have dramatic impact on how someone, like a legislator, will vote and act. When I was in the legislature, one person, sometimes with a direct interest in the matter, sometimes without one, would on occasion persuade me by the facts, by the clarity of the explanation and by the reasoning, to do something which I never would otherwise have done. I have been at caucuses when a group of legislators was trying to decide what to do, and, time and time again, my fellow legislators would refer to the logic or fairness of what some plain, unknown citizen has said."

-U.S. Supreme Court Justice Sandra Day O'Connor

1982

The Ethics Reporter

DECEMBER
2023

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General Assembly Members' annual required training to feature expert on civility and ethical decision-making

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This year, we are pleased to welcome Dr. Thomas Little, Director for Curriculum Development and Research for the State Legislative Leaders Foundation. He works with the National Institute for Civil Discourse/Next Generation on civility and ethics training for state legislative leaders.

We look forward to seeing all members at the training!

Important reminder for owners, heads of organizations & employees

Even if contract lobbyists are hired by an organization to lobby, if owners, heads of organizations, or other representatives of a lobbying employer, such as employees who are directed or required to contact legislators about legislative matters, are compensated and directly communicate with members of the General Assembly on legislation, as defined in the Ethics Code, in their position with that employer, then they should register as a legislative agent, if only for the day that they communicate with legislator(s). Persons who are not compensated do not have to register.

"Lobbying" means directly communicating with legislators, the Governor's Office, a cabinet secretary, or their staff members, regarding proposed or pending legislation, per KRS 6.611(27)(a). If you have a question as to whether something constitutes "lobbying" such that registration is required, **check with us first** before that person communicates so that we may advise you whether you need to register. Failure to register as a lobbyist or employer may incur fines or a bar to lobby, and, if intentional, is a Class D felony.

Also remember that legislative agents cannot contribute to legislative candidates or legislators, nor may they hold fundraisers or otherwise solicit or control contributions for legislative candidates or legislators.

Lawmaker Sun goes before ethics committee for intimidation, alleged death threat

ARIZONA—*Arizona Mirror*—by Gloria Rebecca Gomez— December 19, 2023

A public school superintendent, a trio of Tolleson city officials and a social worker are accusing a freshman state lawmaker of using her position to intimidate and harass them, in one case, even going so far as making a death threat, but she maintains that the allegations are false and overblown. Now, it's up to a legislative ethics committee to decide her future in the Arizona House of Representatives.

The House Ethics Committee considered a bevy of allegations made against Rep. Leezah Sun — a political newcomer elected last year who represents Phoenix — and whether her behavior meets the legislature's threshold for disorderly conduct of one of its members. The complaint against Sun was launched by House leaders of her own party following news of a restraining order that three Tolleson city employees filed against Sun. Coupled with a report interfering with a child custody arrangement, leadership said her behavior constituted "a pattern of behavior that not only reflects poorly on Rep. Sun but also on the House as an institution."

The investigation will ultimately result in a recommended course of action for the House to vote on as a whole, in January. The committee may recommend a censure, an expulsion or no action. While censure only requires a simple majority, expelling a member requires 2/3 of the chamber's 60 lawmakers to agree.

Profanity and death threats

Three Tolleson city employees testified that Sun's behavior made them feel unsafe. In May, Sun met with City Manager Reyes Medrano, lobbyist Pilar Sinawi and Government Affairs Support Specialist Alicia Guzman. The group's discussion about a recent funding repeal for a Tolleson off-ramp grew heated. During the meeting, Sun repeatedly used profanity despite being asked not to and became visibly agitated. When she got particularly heated, Sun rummaged through her purse, which made Medrano worry she was searching for a weapon. "When she was leering at me, she kept both hands in her purse, which prompted me to think: 'What's next'? I felt like she was going to attack me," Medrano said. Guzman said she feared Sun would hurt Medrano. "The aggressive posturing, the profanity, the intense staring...I felt like we were dealing with someone who was unstable, someone

who was capable of acting out aggressively in unexpected ways." Sun was escorted out of the building, while she continued to lob profanities at Medrano.

Her hostility toward Tolleson city employees didn't end there. In August, she attended a conference in Tucson, where she reportedly said that if Sinawi, who wasn't in attendance, was there she would "b--slap" her and throw her off a balcony to "kill her." Liz Goodman, an attendee who heard the comment, notified Sinawi of it. The lobbyist told lawmakers on Tuesday that hearing about that threat left her with a persistent debilitating fear for her life.

After Sun sent a follow request to Sinawi's husband and Medrano's 18-year-old daughter on Instagram, the three Tolleson employees filed a restraining order against her, prohibiting the representative from initiating further contact. "I can testify that Rep. Sun's behavior has been threatening and abusive," Medrano said. "In her interactions with me and the employees, she is acting far more like a street thug than a state representative." Sun's attorney, Garrick McFadden, pushed back on the claim that Sun made the trio fear for their safety.

Job security threats

After reading about the ethics complaint against Sun, Littleton Elementary School Superintendent Roger Freeman wrote to the committee with a complaint of his own.

In December, Freeman met with Sun, at her request, to discuss potential legislative issues. Instead, the meeting was quickly derailed by Sun's angry criticism of the district's president, who had made disparaging remarks about a new board member who previously worked on Sun's campaign. When Freeman's repeated suggestions to mediate the disagreement failed, Sun brought up SB1487 investigations, which empower lawmakers to request an investigation from the Arizona Attorney General. "She told me it's the law that lets her have anybody investigated and she could, in her words, 'Have you investigated'," Freeman said. The law doesn't apply to schools. Despite being a superintendent for 18 years, and interacting with lawmakers, including dealing with contentious debates, he said his meeting with Sun was incredibly unusual and left him feeling intimidated.

Custody arrangement interference

Also testifying against Sun was social worker Kristyn Alcott, who works as a forensic

supervisor. Her work includes overseeing custody arrangement transfers. In June, during a custody transfer, Sun arrived despite not being related to either party involved, and repeatedly name-dropped Attorney General Kris Mayes in an attempt to influence the outcome. Alcott said Sun emphasized her position as a state representative, donning a sticker with her title on it and correcting Alcott when she called her by her first name.

While an audio file was provided to the panel, Alcott told the lawmakers it had been edited, and it was during a pause in the audio that Sun mentioned the attorney general. "It was during that lapse in time, that the Attorney General's name was invoked, that I was told I'm being investigated," Alcott said. "We know all about you, I am well aware of your track record?...I was being stared at in an intimidating manner to attempt to influence how I was to move the process forward."

Alcott testified that while the children were initially hesitant to leave their mother's vehicle to spend time with their father, Sun's presence and repeated questioning of the process made them uncooperative. When Alcott had decided to let the families go instead of stressing the children further, Sun tapped on her car window and told her she would report to Mayes that due process had been served. "Her behavior was inappropriate. It's concerning that she was there at all, no matter the length of time...it was not an appropriate position for an elected member of our legislature to be there and undermining the duties of our superior court."

Sun's response: denials and downplays

In a rebuttal, McFadden argued that Sun's behavior and statements don't rise to the level of disorderly conduct and don't warrant punishment, said she never made comments about pushing Sinawi off a balcony, but if she did it was meant as a lighthearted joke, and Sun's right to express herself as she wishes is protected by the First Amendment of the United States Constitution. Sun reiterated those points denying she ever mentioned the attorney general or that she threatened to kill Tolleson lobbyist Pilar Sinawi. While Sun acknowledged that she could not prove they were lying, she continued to doubt their version of events. "Lying' I cannot prove with evidence, but what has been submitted is inaccurate and that is what I adamantly, vehemently oppose," she said.

The Ethics Reporter

JANUARY 2024

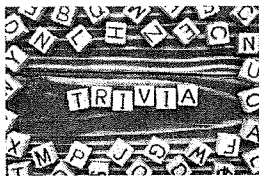
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May a lobbyist give a campaign contribution to a legislator or legislative candidate, or a caucus campaign committee?

Answer on page 4

Lobbying spending hits all-time high in 2023

Continuing the trend of increasing lobbying spending in Kentucky, 2023 marked the highest point since lobbying interests have been required to disclose expenditures, reaching \$25,500,513. In a year that featured a short 30-day session, spending by 844 lobbying employers totaled \$24,871,808, while 687 legislative agents spent \$628,705. This total bested last year's previous spending record by \$481,430, which was for the 60-day legislative session.

Employers spent a record \$1.074 million on advertising relating to legislation during the 2023 legislative session, and lobbyists and their employers spent a record \$465,508 on receptions, meals and events for legislators and legislative staff throughout 2023.

In Kentucky, the top 5 lobbying spenders for 2023 were: **KY Merchants and Amusement Coalition, Inc.** (\$483,324.26); **KY Chamber of Commerce** (\$444,030.76); **Kentuckians Against Illegal Gambling, Inc.** (\$348,763.78); **KY Hospital Association** (\$265,093.69); and **American Civil Liberties Union of KY (ACLU)** (\$192,084.67).

The rest of the top 10 includes: **Altria Client Services LLC** (\$191,597.77); **KY Medical Association** (\$169,420.04); **KY Retail Federation, Inc.** (\$168,985.73); **KY Distillers' Assn.** (\$168,281.50); and **LG&E and KU Energy LLC** (\$164,407.78).

The remainder of the top 20 are: **HCA Healthcare, Inc.** (\$142,400.00); **KY Assn. of Counties** (\$140,782.36); **KY League of Cities, Inc.** (\$139,553.36); **Churchill Downs Incorporated** (\$128,090.07); **Humana Inc.** (\$123,635.57); **Elevance Health and Affiliates DBA Anthem, Inc.** (\$122,693.64); **LifePoint Health** (\$118,480.60); **East KY Power Cooperative Inc.** (\$118,242.44); **Duke Energy** (\$115,819.30); and **Greater Louisville, Inc.** (\$113,427.57).

Increasing lobbying spending mirrored increasing state lobbying spending reported in the rest of the country. Opensecrets.org recently reported that 2023 state and federal lobbying spending, combined, totaled over \$4.2 billion, with that number expected to rise as year-end reports continue to come in for many states. Federal lobbying spending declined in response to gridlock and divided government.

Financial disclosures for General Assembly members, candidates, and major management personnel due February 15, 2024

The Legislative Ethics Code requires that legislators, candidates and major management personnel of the Legislative Branch file financial disclosures with the Ethics Commission by **February 15, 2024**. The content of the disclosures is found in KRS 6.787. The filed disclosures are a matter of public record. Legislators' and candidates' disclosures are posted on the Commission's website. Commission staff sent an email with the forms required to legislators and staff in January. Former legislators are also required to file their disclosures upon leaving office.

Former Shelbyville Rep. Eberhart agrees to plead guilty to felony charge

INDIANA—*Indiana Capital Chronicle*-by Whitney Downard— November 10, 2023

Former Shelbyville Rep. Sean Eberhart has signed paperwork to plead guilty to a federal felony charge related to his conduct as a lawmaker, specifically related to Spectacle Entertainment's bid to relocate two casinos from Lake Michigan to "other areas beneficial to Spectacle."

In a Friday morning release, the U.S. Attorney's Office of the Southern District of Indiana said he had conspired "with others to solicit and receive the promise of future, lucrative employment with a gaming company in exchange for his support of legislation beneficial to the gaming company."

An unidentified owner at Spectacle offered Eberhart future employment at Spectacle with a salary of \$350,000 in exchange for his support of the legislation allowing the company to build casinos in Terre Haute and Gary — which he accepted. The transfer fee for such a move included in the legislation was reduced from \$100 million to \$20 million and included beneficial tax incentives for Spectacle.

A plea agreement in the case was filed Thursday evening.

The plea to conspiracy to commit honest services fraud can include accepting bribes or kickbacks related to one's public service and includes a maximum punishment of five years imprisonment, a \$250,000 fine and three years of supervised release.

The parties didn't agree to a sentence in the documents but the government signaled

it would recommend a sentence on the lower range based on information presently known.

Restitution in the case is \$60,000 — the legislative salary for Eberhart — alongside a \$100 fee for a mandatory special assessment. Evidence of Eberhart's involvement, according to the document, includes: texts, recorded calls, scans of documents, "covert recordings of conversations" and video from legislative proceedings.

With an offense level of 21 — slightly reduced due to his "acceptance of responsibility" — Eberhart could serve between 37 and 46 months, according to the 2016 sentencing guidelines.

No others have publicly been charged but a conspiracy case could include other defendants. The relevant legislation came through the Public Policy committee — of which Eberhart was a member.

Eberhart left the General Assembly last year after 16 years in the legislature where he played a key role in casino legislation benefiting the racino in Shelbyville, now called Horseshoe Indianapolis.

A rough road for Terre Haute casino

The legislation advanced by Eberhart and his colleagues passed, allowing Spectacle to move forward on casinos in Terre Haute and Gary — though progress in western Indiana has been difficult.

The Indiana Gaming Commission initiated its own probe into Spectacle in January 2020 shortly after it broke ground on a \$300 mil-

lion casino in Gary. Two former executives — co-founder and CEO Rod Ratcliff and Vice President John Keeler — were both forced out of the company during the investigative fallout.

The gaming commission fined Spectacle \$10,000 each day it delayed to split from Ratcliff for a total of \$53,000 after learning he failed to disclose the transfer of company shares and for not disclosing a horse racing wagering account in his name with employee deposits of \$900,000, as detailed by *Casino.org*.

Keeler was sentenced to two months for his role in a "straw donor" scheme with former lawmaker Sen. Brent Waltz.

In 2019, Spectacle partnered with Hard Rock International in an application to the gaming commission for the Vigo County casino but a federal investigation into Ratcliff's former company, Centaur Gaming, and its involvement in Waltz's failed Congressional campaign derailed its progress.

As detailed by the Terre Haute Tribune Star, local businessman Greg Gibson co-founded Spectacle in 2018 with Ratcliff but following the federal charges Gibson pivoted to Lucy Luck Gaming and made another attempt in 2021 — which the gaming commission rejected due to its inability to secure fully vetted financing.

The latest casino plan, the Terre Haute Casino Resort, is overseen by Churchill Downs and slated to open in March 2024.

State Rep. Luxenberg charged with DUI

CONNECTICUT—*Connecticut Mirror*-by Stephen Busemeyer— November 17, 2023

State Rep. Geoff Luxenberg was charged with driving under the influence on Thursday, according to statements from him and House leadership. No one was injured, he said. "Last night, I was charged with operating a motor vehicle while under the influence," Luxenberg said in a statement Friday afternoon. "Thankfully, no one was injured and there was no accident.

"I am taking this matter extremely seriously and I feel it important to address the issue immediately. I am seeking personal counseling and treatment at this time to assist me in my desire to prevent something

like this from happening in the future," the statement reads. "I am truly sorry for my actions and apologize to everyone that I have let down." Luxenberg's statement contained no additional details about the arrest.

House Speaker Matt Ritter and Majority Leader Jason Rojas issued a joint statement Friday. "Hearing of Rep. Luxenberg's DUI arrest is disappointing and we hope he learns from this serious lapse in judgment," it reads. "Geoff has indicated that he is taking steps to ensure this never happens again and we support and encourage him in that decision. We are removing Rep. Luxenberg from all committee

and leadership assignments until further notice."

Earlier this year, Rep. Robin Comey was charged with driving under the influence after flipping her car on Capitol Avenue in Hartford. She was relieved of her legislative assignments.

In January, Rep. Quentin Williams died in a crash involving a wrong-way driver on Route 9 in Cromwell. His blood alcohol level was about twice the legal limit, police said.

The Ethics Reporter

FEBRUARY 2024

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Did you know?



The next filing date for employers' and lobbyists' spending disclosures is **Friday, March 15, 2024.**

The easiest and quickest way to file is to visit the Commission's website <http://klec.ky.gov> and click "file forms online."



How much was spent in lobbying the first full year after passage of the Ethics Code?

Answer on page 4

January 2024's lobbying spending sets record

Kentucky lobbying spending for January, 2024 hit an all-time high of \$2,986,769 for the first month of a session. The previous record for the first month of a legislative session was \$2.66 million, set last year.

Also, a record 891 lobbying businesses and organizations registered to lobby in Kentucky, spending \$2.89 million. 718 lobbyists were paid \$2.672 million in compensation, and also reported \$92,091 in expenses.

The top lobbying spender for January was **Kentucky Chamber of Commerce**, which spent \$51,414, the majority of this amount on lobbyist compensation. The **Chamber** reported lobbying on SB 15, SB 66, SB 42, SB 50, SB 203, HB 7, HB 15, HB 55, HB 120, HB 122, HB 128, HB 136, HB 154, HB 179, HB 195, HB 196, HB 209, HB 210, HB 237, HB 288, HB 297, and HCR 38. The **Chamber** held an Artificial Intelligence Summit to which all legislators were invited, in conjunction with **Deloitte Consulting**, another registered lobbying employer, and also held a reception for General Assembly members.

The second highest spender, **American Civil Liberties Union of KY (ACLU)**, spent \$29,469, mostly on lobbyist compensation, and reported lobbying on HB 5, HB 6, HB 9, HB 10, HB 96, HB 179, SB 34, and SB 99.

Save the Children Action Network spent \$28,472 to come in third in spending, \$20,000 of which was spent on digital ads and a mobile billboard in Frankfort and the Louisville Courier-Journal, in support of child care investments in the budget. Legislation lobbied includes SB 40 and HB 189 - KY Proud School Match Act, Budget - Child Care Assistance

Program and workforce investments, and SB 34 - Advancing Lives for Pregnancy and Healthy Alternatives Act.

Greater Louisville, Inc. spent \$27,800 to lobby, all of which was for lobbyist compensation. They reported lobbying on HB1, HB6, HB9, HB136, HB179, HB388, SB50, and SB93; as well as priorities and issues related to business interests, economic development incentives, education, environment and energy, local tax reform, state budget, talent attraction, and workforce participation.

Rounding out the top 5 was **Frankfort Plant Board**, at \$27,605, which reported \$10,230 of that amount on advertising in the Franklin County/Frankfort Plant Board service area against proposed legislation on the sale of the Board's telecommunications assets.

The rest of the top 10 were: **KY Hospital Association** (\$19,744); **East KY Power Cooperative, Inc.** (\$24,187); **KY Justice Association** (\$22,911); **KY Retail Federation, Inc.** (\$22,095); and **KY League of Cities, Inc.** (\$21,585).

Rounding out the top 20 are: **LG&E and KU Energy LLC** (\$20,843); **KY Primary Care Association** (\$19,972); **Altria Client Services LLC** (\$19,598); **Elevance Health and Affiliates DBA Anthem, Inc.** (\$19,000); **KY Medical Association** (\$18,829); **KY Association of Electrical Cooperatives, Inc.** (\$18,075); **KY Education Association** (\$17,633); **Duke Energy** (\$16,010); **KY Bankers Association** (\$15,234); and **Coalition for the Homeless** (\$15,065).

New and terminated lobbying employers

Several newly registered lobbying employers are: **Advanced Medical Technology Assn. (AdvaMed)**; **ALEC Action**; **American Fuel & Petrochemical Manufacturers**; **AshBritt**; **Barry Goldwater Institute for Public Policy Research**; **Bellewood & Brooklawn**; **Biotechnology Innovation Organization (BIO)**; **Brick Industry Assn. (The)**; **Catholic Action Center**; **Centegix**; **Citizens for Bourbon County**; **City of Covington, KY**; **City of Madisonville, KY**; **Codell Construction**; **Council of State Governments (CSG)**; **Crown Castle**; **Curaleaf**; **Enervenue**; **Franklin County**; **Giffords**; **Heaven Hill Distilleries**; **Institute for Justice**; **Jackson Crossing LLC**; **KY Ambulance Providers Assn.**; **KY Public Library Association**; **Louisville Downtown Partnership**; **Netsmart**; **Pacific Legal Foundation**; **Prominent Technologies, LLC**; **RapidDeploy**; **Schmidt Associates**; **Sound Money Defense League**; **Travelers Indemnity Company**; **Unbridled Films, LLC**; **United Way of the Bluegrass**; **University of Pikeville**; **Veterans Guardian VA Claim Consulting LLC**; **ViiNetwork, Inc.**; **Vitronic Machine Vision, Ltd.**; **West KY Regional Riverport Authority**; **Western KY Botanical Garden**; and **Workday, Inc.** No employers recently terminated.

Lobbyists spent tens of thousands of dollars wining, dining lawmakers

NEW MEXICO— *Santa Fe New Mexican*— by Daniel J. Chacón—February 20, 2024

From ski passes to savory dishes at some of Santa Fe's ritziest restaurants, lobbyists spent big bucks wining, dining and entertaining lawmakers during the 30-day session.

Of course, what lobbyists were really buying was influence.

How much did it cost them?

Close to \$150,000, according to lobbyist expenditure reports filed with the Secretary of State's Office.

The spending, though, is almost certainly much higher.

Not only does the Secretary of State's Office rely on voluntary compliance, but lobbyists are only required to report single expenditures of \$500 or more during a legislative session.

"All other expenditures that occurred between 1/1/24 through 5/6/24 will be reflected on a report that is due on May 8th," Alex Curtas, a spokesman for the Secretary of State's Office, wrote in an email.

The level of reporting during the session varies by lobbyist.

Two of the state's more prominent lobbyists, J.D. Bullington and Marco Gonzales, both reported spending thousands of dollars on a single meal at the Bull Ring.

Bullington listed the names of the lawmakers who were his guests: Sens. Joe Cervantes and Carrie Hamblen of Las Cruces and Siah Correa Hemphill of Silver City, and Rep. Raymundo Lara of Chamberino.

Bullington also reported picking up the tab for Lara's spouse and six unnamed "non legislator guests." He separated the cost of the drinks — \$743.49 — and the cost of the meal — \$1,354.82 — for a total bill of nearly \$2,100.

Gonzales, on the other hand, didn't disclose any names or number of guests. He only reported the beneficiaries as "House and Senate members" and the total cost of \$3,388.

The form to report expenditures includes a box for lobbyists to disclose the purpose of the expenditure. Gonzales listed the purpose as "good will" and Bullington listed it as a dinner and beverage purchase.

Sen. Jeff Steinborn who has long pushed

for more transparency in lobbying activities in New Mexico, said the lack of disclosure "leaves a lot to be desired because of how it translates" into influence and policymaking.

"You never really know who was involved in any given piece of legislation, either passing it or defeating it, and that's just something that I think we ... deserve a lot better as citizens of the state," he said.

Steinborn said he continues to be discouraged New Mexico "chooses to put lobbyists and secrecy" ahead of the public interest.

"I had an easier time banning the storage of high-level nuclear waste in New Mexico than increasing transparency of lobbyists," he said. "Obviously, they're quite the formidable foe in the Roundhouse. There's a system that legislators are reluctant to let go of. It's such a weak link in our government functioning."

Inadequate reporting of lobbyist expenditures has been a big concern of Common Cause New Mexico for years, former state Sen. Dede Feldman, a good-government advocate and Common Cause member, wrote in an email.

"Common Cause has long believed that the more sunshine on lobbyist activities, the more the public will trust that its business is not done behind closed doors that exclude ordinary citizens," she wrote. "Ordinary citizens don't typically wine and dine legislators, hang out at their offices, or contribute ... to their campaigns. But they deserve equal input — and they are not getting it."

Feldman noted multiple deficiencies in existing law and said compliance is spotty. "Lobbyists are allowed to group expenditures of less than \$100 and just say whether they are for meals, entertainment or other. Expenditures over \$100 must just describe each expenditure as to whether it is for meals or beverages, entertainment, or other," she wrote. "Special events funded by lobbyists for all members of the Legislature (such as the 100th Bill Party) or committees do not have to mention the specific members who benefitted."

All the reporting reveals is how much is being spent, not to what end, Feldman

wrote.

"Nowhere is it required to say who was entertained, fed and watered, and for what purpose," she wrote. "This is something the public deserves to know. Pro or con."

Lawrence Horan, whose clients include Ski New Mexico and the New Mexico Oil and Gas Association, reported almost \$31,200 in expenditures, more than any other lobbyist.

The lion's share, \$28,000, was for ski passes for members of the Legislature, though the report doesn't specifically list the expenditure as ski passes. Rather, Horan listed the expenditure as "other" and the purpose as an "educational opportunity for legislators to understand and experience the NM Ski Industry."

Scott Scanland reported the second-highest single expenditure: a \$16,388 dinner sponsored by Comcast at Restaurant Martin. The report doesn't disclose who attended the dinner but notes the entire Legislature was invited.

Scanland represents dozens of clients, from cities, counties and schools to a cannabis company and the New Mexico Propane Gas Association. Scanland, whose wife is Rep. Doreen Gallegos, is among a handful of lobbyists married to a lawmaker.

The third-highest single expenditure — \$15,232 — was listed as a UNM Alumni Association Legislator Appreciation Reception at La Fonda on the Plaza.

Other high-dollar expenditures include a New Mexico Mining Association legislative reception and dinner at the Inn and Spa at Loretto, nearly \$13,000, and almost \$23,000 for a series of email alerts on behalf of the National Rifle Association regarding gun control bills and a Second Amendment rally.

"You don't have to think about doing the right thing. If you're for the right thing, you do it without thinking."

-Maya Angelou, "I Know Why the Caged Bird Sings."

The Ethics Reporter

MARCH 2024

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Did you know?

2024's lobbying spending sets 2 month record



The next filing date for employers' and lobbyists' spending disclosures is **Monday, April 15, 2024.**

The easiest and quickest way to file is to visit the Commission's website <http://klec.ky.gov> and click "file forms online."



*Where can I find formal Commission advisory opinions?
Answer on page 4*

Kentucky lobbying spending for the first two months of 2024 hit an all-time high of \$6,311,843. The previous record for the same period was \$5.987 million, set last year. By comparison, the total for all lobbying expenditures for the first year they were required to be reported was \$6,466,058 for all of 1994.

Also, a record 922 lobbying businesses and organizations registered to lobby in Kentucky, spending \$6.128 million. 743 lobbyists were paid \$5.480 million in compensation, and also reported \$183,542 in expenses.

The top lobbying spender for January and February was **Kentucky Chamber of Commerce** at \$105,310, the majority of this amount on lobbyist compensation. In February, the **Chamber** held its annual dinner in Lexington and spent, along with 33 sponsoring lobbying groups, \$7,347 for the event. It was the fourth-highest amount expended on receptions, meals, or events to which legislators or legislative staff were invited during February.

American Civil Liberties Union of KY (ACLU) was the second-highest spender, at \$95,932, mostly on lobbyist compensation. **ACLU** also spent the second-highest amount on advertising, \$29,860, for traditional and digital billboards, as well as mobile digital, radio, and social media ads on HB 5, an omnibus crime bill.

Kentuckians for the Commonwealth, came in third at \$58,231. **Greater Louisville, Inc.**, in fourth place, spent \$55,800 to lobby, all of which was for lobbyist compensation. **Kentucky Hospital Association** finished out the top 5, spending \$55,326.

The rest of the top 10 were: **Pharmaceutical Care Management Assn. (PCMA)** (\$51,694), which spent the most on advertising, \$35,600, regarding SB 188, a bill about pharmacy benefit managers; **KY Justice As-**

sociation (\$50,007); **KY League of Cities** (\$49,644); **Frankfort Plant Board** (\$49,415); **East KY Power Cooperative** (\$45,891); and **KY Retail Federation** (\$44,707).

The remainder of the top 20 were: **LG&E and KU Energy** (\$41,353); **Altria Client Services** (\$40,296); **Elevance Health and Affiliates DBA Anthem** (\$39,646); **KY Medical Association** (\$37,394); **KY Assn. of Electric Cooperatives** (\$37,051); **Save the Children Action Network** (\$36,148); **KY Primary Care Association** (\$34,694); **KY Education Association** (\$32,597); and **Duke Energy** (\$31,642).

Several lobbying interests held receptions for legislators and staff in February. The most costly was a reception hosted by **Sazerac** and lobbyist Patrick Jennings at Buffalo Trace Distillery in Frankfort, for legislators, which cost \$14,301. **KY Coal Association** and **KY Oil and Gas Association** hosted a \$12,801 reception at the Foundry in Frankfort for legislators and legislative staff. In third place, four railroad companies-**CSX, R.J. Corman, Norfolk Southern, and Paducah & Louisville Railway**-hosted a reception on rail cars in Frankfort that cost \$9,936. Rounding out the top five for reception, meals and event costs was an "Orders of the Day: Cigar Rolling & Bourbon Pouring" event at the **Kentucky Justice Association** headquarters, sponsored by that group and the **Kentucky Distillers' Association**, that cost \$6,776.

The rest of the top 5 in advertising spending this reporting period were **Family Foundation** (\$8,595), **Americans for Prosperity** (\$8,000), and **KY Center for Economic Policy** (\$6,977).

Important reminder about legislative mailings

The Ethics Commission, in 2001, provided guidance for legislative mailings sent at public expense, so legislators and staff do not run afoul of the Ethics Code provisions against using public funds and facilities for partisan political campaign purposes. While each mailing would be judged on its own merits, under the guidelines' parameters for content, scope, and timing, legislators and staff sending out mailings should generally avoid sending them *within 60 days prior to an election*, which would be **March 22, 2024.**

The mailings should also take care to provide factual information and avoid campaign related content or overtly partisan rhetoric, and the mailing itself should generally be to constituents or others who've contacted the legislator.

Questions about particular proposed mailings should be addressed to the Ethics Commission staff, so that we can provide guidance. A copy of the guidelines are available on the Commission's website.

In the Kansas House, when lobbyists ask for new laws, their names go on the bills

KANSAS— Associated Press — by John Hanna—March 26, 2024

For years, pinning down the source of a bill in the Kansas Legislature could be a chore for lawmakers' constituents. Committees sponsor almost 85% of the proposals, so finding the group or lobbyist responsible could require questioning multiple lawmakers or, in recent years, reviewing YouTube videos of meetings.

But this year, the Kansas House is making it a little easier for the state's residents to find out who wants what from its members. Besides a number and official sponsor, each bill now lists who asked for it, be it a lawmaker at someone else's request or an individual lobbyist for a specific client. The change started in January.

It's an unusual move for any state legislature. While at least a handful of states require lobbyists to list specific bills of interest to them in reports open for public inspection, the Council of State Governments knows of no other state legislative chamber that's actually listing lobbyists and groups on its bills — not even the Kansas Senate.

"I'm thrilled to see it," said Heather Ferguson, a Kansan who is director of operations for the government transparency group Common Cause. "It helps to rebuild some of the trust with the public in their elected officials and in their institutions and in the legislative process in general."

In Kansas, House Bill 2527, which would rewrite laws on how the state sets electric rates, was requested by a lobbyist for Evergy, the state's largest electricity company. A Kansas Farm Bureau lobbyist proposed HB 2691, which would require utilities seeking to use eminent domain to obtain an entire tract of private land for transmission lines and other projects to pay the owners 50% more than fair market value.

In some offices and hallways under the Kansas Statehouse's copper dome, the response to the new practice has been less enthusiastic than Ferguson's reaction, though lobbyists won't publicly criticize it. Eric Stafford, who lobbies for the Kansas Chamber of Commerce, said he doesn't care, "as long as it's consistent."

Because the extra disclosure is spelled out in the House Rules — it's No. 7.01 — the Kansas Senate isn't required to follow it.

In fact, Senate President Ty Masterson said he hadn't really thought about the idea, "but it doesn't scare me." However, he also asserted that when it comes to who is behind a bill, "People tend to know that anyway."

At least seven states — Colorado, Delaware, Maine, Massachusetts, New York, Ohio and Utah — have disclosure rules requiring lobbyists to provide information about specific measures their clients are watching, according to Common Cause. Kansas requires lobbyists to file reports on their spending six times a year, but they don't have to list individual measures.

In 2015, a California businessman who was later a nominee for governor, John Cox, proposed a ballot initiative to require the state's elected officials to wear stickers or badges "displaying the names of their 10 highest campaign contributors" during public legislative meetings. The drive to get it on the ballot failed.

Some members like the House's greater transparency and appear willing to go even further with it.

For example, Rep. Stephanie Sawyer Clayton responded with "bring it on" when she learned of the 2015 initiative in California, though, she said, lawmakers might end up looking like servers at TGI Fridays restaurants.

"I will wear those pieces of flair all day because most of my top donors are awesome groups and even awesomer people," she said. "I'd gladly do that."

The Kansas House actually changed its rules to require more information on its bills in 2021, but House leaders and staff said it took the Legislature's technology staff three years to work out the details. The House Rules Committee member who pushed for the change, state Rep. Boog Highberger, considers it a meaningful — but small — step toward improving government transparency.

Rep. Adam Thomas said that increased transparency is good, and lawmakers can expect plenty of questions if their name is attached to a bill, whether or not an interest group also is listed.

"Now we've got to really know what a bill does and what it means and the implications of it," Thomas said. The change was adopted without discussion, and the rules had broad, bipartisan support.

In many states, most measures are sponsored by individual lawmakers, and that was the traditional practice for the Kansas Legislature. Fifty years ago, nearly 70% of bills and resolutions in Kansas were sponsored by individual lawmakers. This year, the figure was a little more than 15%, after decades of committees sponsoring an increasing percentage of bills.

Allowing such so-called "anonymous" bills was among the practices that led The Kansas City Star to declare in a 2017 series on Kansas state government that the process of passing laws in its Legislature was "among the least transparent in the country." Critics still say the public often has trouble finding out the status of bills on major issues until it is too late to stop them from passing.

But David Adkins, a former Kansas legislator who is now executive director and CEO of the Council of State Governments, said lawmakers may have moved to having committees sponsoring bills because it seemed to give them the same kind of credibility as a large, bipartisan group of individual sponsors. It might have been a way to help them cull bills more easily during their annual 90-day session.

And, he said, listing the group or lobbyist who requested a bill might serve the same purpose, allowing lawmakers to decide how to vote without reading the text.

"At the top of the funnel, time is your worst enemy," said Adkins, who served in the Legislature from 1993 through 2004.

But Adkins also worried that the House's practice, meant to restore trust, could lead the public to view legislating as "transactional."

"In some ways, one might argue it makes legislation resemble a NASCAR vehicle, with prominent sponsorship stickers placed on a car," he said.

The Ethics Reporter

APRIL 2024

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Did you know?



The next filing deadline for employers' and lobbyists' spending disclosures is **Wednesday, May 15, 2024.**

The easiest and quickest way to file is to visit the Commission's website <http://klec.ky.gov> and click "file forms online."

Due to a data loss in our system, if forms were filed online after March 18, for the April 15 filing deadline, those will need to be refiled with our office. Filers have until April 30th to refile. Please check with us if you have any questions, or see the notice on our website.

Legislative Ethics Code changes to go into effect July 15, 2024

The 2024 General Assembly passed House Bill 517, which made several changes to the Code of Legislative Ethics. The law will go into effect July 15, 2024. HB 517 amends the Code in the following ways:

Formal Advisory opinions - KRS 6.681(2) will require the Commission provide a draft of its proposed response to an advisory opinion request, or notice of intention to not issue an advisory opinion, to the requester and each Commissioner not less than five (5) days prior to the meeting in which the Commission will consider the request and opinion. In addition, the requester may personally appear before the Commission in closed session, with or without counsel, and provide comment on the proposed response prior to the Commission's vote.

Complaint procedure – Preliminary investigations – KRS 6.686(1)(d) will require the Commission to make a "reason to believe" finding by the affirmative vote of at least five (5) members of the Commission prior to initiating a preliminary inquiry into an alleged violation of the Code. The reason to believe finding shall be made at the Commission's next regularly scheduled meeting or at a teleconference meeting called by the chair after the Respondent has filed a response or the time period for filing a response has expired.

Definitions – lobbying - KRS 6.611(27) will specifically exempt from the definition of "lobbying" the action of a natural person whose official responsibilities do not include lobbying, who is not compensated specifically for the purpose of lobbying, who is an officer, manager, or other employee with specialized knowledge of a business or other organization or group acting in concert which has a direct interest in legislation, and who participates in meetings or conversations while accompanying a legislative agent engaged by the employer or organization to lobby on the particular issue.

Restrictions on legislators' representation of clients before state agencies - KRS 6.744(5) will allow a legislator to represent clients in ministerial functions relating to licensing and permitting, and in adversarial matters related to a previously-issued license or permit.

A copy of the bill is available on the Legislative Research Commission website at:
<https://apps.legislature.ky.gov/record/24rs/hb517.html>

The Commission will update its educational and informational materials in response to the new law. If you have any questions, please feel free to contact us.

Record spending in the first 3 months of a legislative session

Kentucky lobbying spending for the first three months of 2024 hit an record of \$9.719 million. The previous record for the same period was \$9.343 million, set last year. 933 businesses and organizations registered to lobby in Kentucky, spending \$9.427 million. 727 lobbyists were paid \$8.289 million in compensation, and also reported \$291,942 in expenses.

The top 20 spenders for the first three months of the year were: KY Chamber of Commerce (\$151,010.08); American Civil Liberties Union of KY (ACLU) (\$139,599.32); KY Assn. of Electric Cooperatives, Inc. (\$118,885.32); LG&E and KU Energy LLC (\$106,117.63); Pharmaceutical Care Management Assn. (PCMA) (\$94,693.64); Duke Energy (\$86,576.89); KY Hospital Association (\$85,834.66); KY League of Cities, Inc. (\$85,109.44); Greater Louisville, Inc. (\$82,100.00); East KY Power Cooperative Inc. (\$79,507.60); Kentuckians for the Commonwealth (\$76,430.84); Altria Client Services LLC (\$73,309.20); Frankfort Plant Board (\$68,595.00); KY Justice Association (\$64,305.24); KY Retail Federation, Inc. (\$64,127.66); KY Education Association (\$63,043.91); Americans for Prosperity (\$60,698.18); Elevance Health and Affiliates DBA Anthem, Inc. (\$59,946.38); KY Medical Association (\$54,050.85); and KY Primary Care Association (\$49,416.00).

Audit says Arkansas governor's office potentially violated laws with \$19,000 lectern purchase

ARKANSAS— Associated Press — by Andrew DeMillo—April 15, 2024

Arkansas Gov. Sarah Huckabee Sanders' office potentially violated state laws on purchasing, state property and government records when it purchased a \$19,000 lectern for the governor that's prompted nationwide attention, an audit requested by lawmakers said Monday.

Legislative auditors referred the findings in the long-awaited audit of the lectern to local prosecutors and the attorney general, and lawmakers planned to hold a hearing Tuesday on the report. The report cited several potential legal violations, including paying for the lectern before it was delivered and the handling of records regarding the purchase.

Sanders' office, which has dismissed questions about the lectern, called the audit's findings "deeply flawed" and a "waste of taxpayer resources and time." "No laws were broken," her office said in a response filed with the report. "No fraud was committed."

Arkansas lawmakers last year approved the request to review the purchase of the lectern, which had been the focus of nationwide scrutiny, including over its cost. The blue and wood paneled lectern was bought in June with a state credit card for \$19,029.25 from an events company in Virginia. Sanders' state party reimbursed the state for the purchase on Sept. 14, and Sanders' office has called the use of the state credit card an accounting error. Sanders' office said it received the lectern in August.

The item has not been seen at Sanders' public events. Sanders posted a video on the social platform X featuring the lectern and the words "Come and Take It" shortly after the audit's release late Monday afternoon.

Prosecutor Will Jones' office said it had received the audit and would review it. Auditors said in the report they were unable to determine whether the lectern's cost was reasonable. The report said the three out-of-state vendors involved in its purchase did not respond to numerous requests by auditors.

Sanders' office and auditors disputed whether the governor and other constitutional officers are subject to the purchasing and property rules she's accused of violating. The audit said the governor's office did not follow the steps laid out in state law for

agencies to dispose of state property. "(Arkansas legislative audit) maintains that the podium and road case remain state property," the audit said. Sanders' office said in its response that the laws on purchasing and property cited only apply to state agencies, not constitutional officers. A nonbinding legal opinion issued by Attorney General Tim Griffin requested by Sanders made the same argument.

"I am perplexed to see that a significant portion of Legislative Audit's analysis rests on the mistaken conclusion that the governor's office is a 'state agency' for the purposes of certain statutes," Griffin said. The lectern's purchase emerged last year just as Sanders was urging lawmakers to broadly limit the public's access to records about her administration. Sanders ultimately signed a measure blocking release of her travel and security records after broader exemptions faced backlash from media groups and some conservatives.

The purchase was initially uncovered by Matt Campbell, a lawyer and blogger who has a long history of open records requests that have uncovered questionable spending and other misdeeds by elected officials.

The audit said Sanders' office potentially illegally tampered with public records when the words "to be reimbursed" were added to the original invoice for the lectern only after the state party paid for it in September. Sanders' office disputed that finding, calling handwritten notes on invoices "a common bookkeeping practice."

The audit also said the office potentially violated the law when a shipping document related to the lectern was shredded by a member of Sanders' staff. Sanders' office said the "bill of lading" was inadvertently misplaced and that a replacement was provided to auditors when that was discovered.

The lectern was purchased from Beckett Events LLC, a Virginia-based company run by political consultant and lobbyist Virginia Beckett. According to a breakdown from Beckett Events that was included in the audit, the total cost included \$11,575 for the lectern, \$2,500 for a "consulting fee," and \$2,200 for the road case. The cost also included shipping, delivery and a credit card

processing fee. Similar models are listed online for \$7,500 or less. Sanders has said the one purchased by the state had additional features that contributed to its cost, including a custom height. The audit said the lectern included a light but not a microphone or any electronic components. Auditors saw and measured the lectern at the state party headquarters, the report said.

House Minority Leader Tippi McCullough, who sits on the audit committee, said she wants more answers from the governor's office on the findings. "We need to get to the bottom of it, and we need to make sure that people are held accountable and things are right going forward," McCullough said.

Senate President Bart Hester said he wasn't concerned about the audit's findings, and said the legislative audit was wrong in applying the purchasing and property laws to the governor's office. Hester said "there could have been a cleaner process" on handling records. "More importantly, it shows there wasn't some bombshell," Hester said.

The report had drawn unusually intense attention to the Division of Legislative Audit, which issues more than 1,000 audits of state and local government each year. Hours before the report was released, lawmakers on the audit committee were allowed to view it in a room at the Capitol but could not take notes or copies of it. Hours before the report was released, lawmakers on the audit committee were allowed to view it in a room at the Capitol but could not take notes or copies of it. Sen. Jimmy Hickey, who had sought the audit, declined to comment. The audit is the first of two that Hickey requested that lawmakers approved last year. The audit committee also approved another audit looking at the travel and security records that Sanders retroactively shielded from public release under the changes to the state's open records law.

The Ethics Reporter

MAY 2024

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*When did
Kentucky first
enact a lobbying
law?*

Answer on page 4

Lobbying spending sets record for a legislative session

Kentucky lobbying spending for the first four months of 2024 hit an all-time record of \$12,421,079. This reflected intense interest on various bills and the passage of budget measures during the 2024 Regular Session. The previous record for the same time frame was \$11.4 million, set last year.

909 businesses and organizations registered to lobby in Kentucky, spending \$12.056 million. 707 legislative agents were paid \$10.8 million in compensation, which was the majority of the employers' spending, and lobbyists also reported \$365,218 in expenses.

The top 5 organizations in total spending for this time period were: **KY Chamber of Commerce** (\$201,292); **American Civil Liberties Union of KY (ACLU)** (\$150,726); **KY Assn. of Electric Cooperatives, Inc.** (\$129,417); **LG&E and KU Energy LLC** (\$123,428); and **KY League of Cities, Inc.** (\$109,113).

Rounding out the top 10 were: **KY Hospital Association** (\$105,491); **Greater Louisville, Inc.** (\$104,900); **Pharmaceutical Care Management Assn. (PCMA)** (\$102,694); **Duke Energy** (\$100,577); and **Altria Client Services LLC** (\$99,920).

The rest of the top 20 included: **East KY Power Cooperative Inc.** (\$85,634); **Frankfort Plant Board** (\$81,033); **Kentuckians for the Commonwealth** (\$79,318); **Elevance Health and Affiliates DBA Anthem, Inc.** (\$78,946); **KY Retail Federation, Inc.** (\$77,901); **KY Justice Association** (\$67,142); **KY Education Association** (\$65,182); **KY Primary Care Association** (\$64,138); **Americans for Prosperity** (\$62,788); and **KY Medical Association** (\$62,440).

During this period, registered lobbying employers with the top 5 highest total amounts spent on legislative receptions, meals and events were: **Kentucky State Police Professional Association** (\$9,355); **Revolutionary Racing** (\$8,198); **National Utility Contractor Association of KY** (\$8,170); **Opticians Association of KY** (\$8,145); and, tied for 5th, **KY Oil & Gas Association** and **KY Coal Association** (\$6,400 each).

During March and April, 2024, several lobbying organizations held receptions, meals, and events to which legislators and legislative staff were invited. The top 5 expenses on individual events during this period were:

- \$8,170 by **National Utility Contractor Association of KY**, for a March 12 breakfast for legislators and staff in the Capitol Annex.
- \$8,145 by **Opticians Association of KY**, for a March 7 lunch for legislators and staff in the Capitol Annex.
- \$7,648 by **Revolutionary Racing**, for a March 4th reception at Vallozzi's in Versailles, KY, to which the members of the Mountain Caucus, Interim Joint Committee on Licensing and Occupations, and Legislative Research Commission were invited.
- \$5,454 by **Teach for America Appalachia**, for a March 6 breakfast for legislators and staff in the Capitol Annex.
- \$4,569 by **KY Travel Industry Association**, for a March 6 luncheon for legislators in the Capitol Annex.

Lobbying organizations are also required to report spending on advertising that appears during a legislative session, which supports or opposes legislation. This session, organizations registered to lobby spent \$431,963 on such advertising. The top 5 in spending on advertising during the 2024 session are:

- **KY Assn. of Electric Cooperatives** (\$73,599) - "Veto activation" and "campaign to support efforts to protect reliable affordable power in Kentucky", directed at Electric Cooperative Members, re: SB 349.
- **Pharmaceutical Care Management Assn. (PCMA)** (\$70,600) - "Statewide digital ads and phone calls to specific districts", directed statewide, re: SB 188.
- **LGE & KU Energy LLC** (\$40,100) - "Public education on industry issues opposing energy policy and digital media", directed statewide, re: Energy policies and SB 349.
- **Duke Energy** (\$40,100) - "Social media ads/Digital targeting", directed statewide, re: Energy policies and SB 349.
- **American Civil Liberties Union of KY (ACLU)** (\$31,818) - "Social media ads", "Billboards traditional & digital, mobile digital ads", and "Facebook ads against HB 5", directed statewide and to ACLU KY supporters, re: HB 5.

‘Mom’ legislators see their numbers, influence grow but barriers to elected office remain

STATES NEWSROOM— Louisiana Illuminator — May 12, 2024

For the second time while serving in the Nevada Legislature, Senate Majority Leader Nicole Cannizzaro gave birth last year. And again, she publicly pledged to continue full participation in her duties.

As the nation’s groundbreaker when it comes to working moms in a state capital, Nevada made history in 2019 as the only female-majority legislative body in the U.S. Still, legislators like Cannizzaro acknowledge uncertainty before deciding to grow their families while serving.

“What does that look like? What does it mean to be in this building and pregnant? What does it mean if I have a 1½-year-old and have to leave a meeting to pick him up at daycare? Does that make me less able to fulfill my duties? There were questions that I had as I announced my first and second pregnancy,” Cannizzaro told the Current.

The number of women serving in state legislatures has more than quintupled since 1971, according to the Center for American Women and Politics at Rutgers University (CAWP). Nearly 33% of the 7,386 state legislative seats are occupied by 2,432 women, the center reported. Vote Mama Foundation estimates 23% of lawmakers are moms.

“Things within the political ecosystem have changed to be more open to women,” said Kelly Dittmar, director of research at CAWP. “Having more women also begets more women.” There are visible signs of progress at statehouses across the country as the number of mom lawmakers grow. In Georgia, where women state representatives did not have a bathroom near the House chamber until the 1970s, there is now a lactation pod on the first floor of the Capitol. And a freshman Republican lawmaker has brought her baby to the floor daily, but more notably, the baby was given an official House name tag — labeling him the “baby of the House” — so he would have floor privileges. Just two decades ago, such a move was frowned on by House leadership.

Still, moms are struggling to get elected and remain in office. Beyond child care, there are myriad impediments. It takes money and an organized campaign infrastructure. As candidates, they are confronted with gender stereotypes that they often consider in executing their campaign strategy. And the time away from young children can be daunting.

Having run for office herself, Grechen Shirley

said she sees why moms, especially moms of small children, are often missing from elected office. She is the founder of Vote Mama, a political organization that seeks to increase the number of moms in office. She ran for Congress in 2018 in New York’s 2nd Congressional District while wrangling her 1- and 3-year-old children on the campaign trail.

When it comes to fundraising, men dominate. A 2021 OpenSecrets report found white men candidates led the money race, though white women candidates maintained a significant advantage over women of color, raising three times as much as Black women in open-seat primaries. Women donors give less money overall than men, comprising around one-third of money contributed to state general office and legislative races nationwide from 2019 to 2022, according to a 2023 report by CAWP. At the individual state level, financial support from women donors ranged from 14% of donations in Nebraska state races, to 46% of contributions in Colorado.

Data from Pew Research Center shows 85% of women will give birth and become mothers by the time they’re 45 years old. Vote Mama Foundation found that in 2022, 23% of state legislators were moms, and 5% had children under the age of 18, and on Capitol Hill, 37 of 541 lawmakers in 2022 were moms with children under 18, equal to 6.8% of the 118th Congress. Shirley pressed the Federal Election Commission to rule in her favor to allow use of campaign funds to cover the cost of her child care so she could run in 2018. And since then, at the federal level, parents started using funds similarly. Between 2018 and 2022, 68 federal candidates spent \$717,706 in campaign funds on child care. About half those funds were spent by women. Shirley says efforts to help moms run for office also help dads. “This is a complete game changer and it will help diversify both parties,” Shirley said.

At the state level, 70% of campaign funds spent on child care between 2018 and 2022 were spent by candidates of color. Thirty-one states authorize candidates to use campaign funds for child care, but in at least six of them, the option had never been touched.

A bipartisan pair of moms pushed for the change in Georgia. Georgia state Rep. Beth

Camp said it was odd that federal candidates could use campaign funds for child care expenses but state candidates could not. She hopes the change will encourage more parents with young children to run for office. “It is not a partisan issue. It is a nonpartisan issue because it impacts everyone,” said Camp, whose children are now adults. Camp said she was surprised when she heard negative feedback from some colleagues who questioned why the change was needed when candidates had not used campaign funds for child care in the past. “We probably would have had more parents — not going to say women or men but more parents — enter into elected office if they’d had the opportunity.”

Rhode Island passed a law in 2021 letting state and local candidates spend campaign funds on child care. It has yet to be used by any candidate with child care burdens, man or woman. Ohio has not authorized political candidates to use campaign funds for child care. And in Indiana, Ragen Hatcher, a representative from Gary, noted that childcare access and expenses continued to pose challenges even after she was elected.

From scheduling breast pumping, dropping kids off at school, securing child care and performing the full spectrum of duties expected of women as primary caretakers for their children, campaigning as a mom is a challenge and that’s before a person faces all the hurdles of serving in office as a mom, Shirley said. And no one questions why dads run for office because having kids is viewed as an asset for men in elections, and they’re good dads for taking a picture with their kids, she said.

Increased representation of moms in office doesn’t mean the behind-the-scenes burdens have lessened, said Jennifer Lawless, the Leone Reaves and George W. Spicer Professor of Politics at the University of Virginia and chair of its politics department. Some moms wait until their children are older or out of the house before running for office, but Dittmar said she thinks that’s changing.

It’s those life experiences that drive moms into running for office. Without people in positions of power who have experienced the challenges of raising children, things like child care aren’t prioritized issues, Shirley said.

Lawless didn’t think achieving parity between mothers in the population and in elected office was necessary, though. More important to Lawless was working toward equal representation of women in political office and campaigns, regardless of their family status.

“Right now if we continue at the rate we are currently electing women in Congress, it won’t be until 2108 that we reach parity for women,” she said.

The Ethics Reporter

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Legislative Ethics Code applies at conferences

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May a former legislator be a legislative agent (lobbyist)?
Answer on page 4

June heralds warm weather, vacations, and conferences of many organizations. Kentucky's Code of Legislative Ethics applies to legislators who attend summer, fall, and winter legislative conferences, in conjunction with their legislative service, and those employers of lobbyists and lobbyists who sponsor events in conjunction with those conferences.

Legislators interested in traveling to an out-of-state meeting or conference must obtain prior approval for that travel from the presiding officer of the chamber in which they serve.

Kentucky lobbyists and their employers are required to report the value of food, beverages, and other expenses contributed to events to which approved groups of Kentucky legislators are invited.

Lobbyists and employers are also required to report other expenses incurred in conjunction with the meetings, if the expenses are directly associated with the employer's or lobbyist's lobbying activities.

Lobbyists and employers are prohibited from paying for food and beverages for individual legislators, and lobbyists and employers cannot furnish or pay for out-of-state lodging or transportation, or anything of value,

such as conference registration.

Legislative conferences for the upcoming year include:

- Southern Legislative Conference-July 21-25, The Greenbriar, West Virginia;
- American Legislative Exchange Council-July 24-26, Denver, Colorado;
- National Conference of State Legislatures-August 5-7, Louisville, Kentucky; and
- Council of State Governments-December 4-7, New Orleans, Louisiana.

Legislators, lobbyists, and employers are encouraged to contact the Ethics Commission if they have any questions about the application of the Ethics Code to such events.



New and terminated lobbying employers

Three organizations recently registered to lobby legislators in Kentucky: **Augmented Intelligence Technologies, Inc.**; **Herschend Entertainment Company, LLC**; and **Independent Electrical Contractors Bluegrass Chapter**

The following organizations terminated lobbying recently: **Allegis, Redwood, Maxim, Public Affairs, LLC**; **FFF Enterprises, Inc.**; and **Free Speech Coalition.**

"The spirit of liberty is the spirit which is not too sure it is right; the spirit of liberty is the spirit which seeks to understand the mind of other men and women; the spirit of liberty is the spirit which weighs their interests alongside its own without bias."

-Judge Learned Hand

Capitol's alcohol culture under scrutiny in Sen. Faith Winter's ethics investigation

COLORADO—*Colorado Politics*—by Marissa Ventrelli—June 28, 2024

Friends and colleagues of Sen. Faith Winter argued that a culture that normalizes alcoholism at the state Capitol is a contributing factor to the legislator's behavior at a Northglenn City Council meeting in April, which is now the subject of an ethics complaint.

In their letter to the ethics panel, which they wrote in support of Winter, they described this drinking culture as pervasive. One supporter suggested that the ethics probe against Winter is "selective enforcement."

It's not immediately clear what intervention, if any, was made by Winter's supporters and friends to get her help.

The Northglenn City Council had alleged that Winter failed to uphold her official duties as a lawmaker when she attended the April meeting while appearing intoxicated. The Senate Committee on Ethics last week decided to pursue an investigation into whether Winter violated her chamber's ethical rules.

Video of the meeting showed Winter slurring her words, and several attendees said her eyes appeared "glassy." They also said they could smell alcohol on her breath.

Footage obtained by 9News shows Winter parking her car in a fire zone before entering the meeting. Additionally, body camera footage captured from a Northglenn police officer showed the cop advising Winter not to drive home — to which she agreed.

In that interaction, Police Chief James May said he wanted Winter to call somebody to pick her up.

"The last thing I want to do is you drive off and you hurt somebody," the chief said.

"Sure," Winter said.

The chief said he won't ask the legislator to take a breathalyzer test.

"I'm worried about you right now," he said.

In a letter to the Senate Committee on Ethics, Winter said she had "a drink" before walking in to the meeting because she "expected it to be emotionally charged."

Members of the Senate's ethics panel, which is looking into the complaint from the city council, expressed skepticism she only consumed one drink.

Winter's substance use disorder was known to many of her colleagues in the Colorado legislature even before she sought treatment following the council meeting.

The ethics committee is grappling with whether this prior knowledge should influence the decision on whether Winter committed an ethical violation, given the complaint pertained to a single incident.

In their letters to the ethics panel in support of Winter, several of her colleagues referenced a certain kind of "culture" within the Capitol halls.

"The prevailing culture at the Capitol, where alcohol consumption is normalized, underscores the need for a more extensive dialogue and a holistic strategy to tackle the root causes," wrote Heidi Henkel, a Broomfield councilmember.

"It's crucial that we cultivate an atmosphere where the welfare of our legislators takes precedence, and robust support mechanisms are established to tackle substance use and mental health issues head-on."

Kira Mazzola, a former staff member for the House Majority Caucus and constituent of Winter's, said she had personally witnessed the widespread consumption of alcohol during her time at the Capitol.

"This committee must weigh the culture of consumption and the implications of this kind of selective enforcement among your elected peers when evaluating the worthiness of this complaint," she wrote.

Public discussions around alcohol's negative effects have been relatively rare at the state Capitol.

Several former and current lawmakers' struggles with alcohol have perennially

emerged in public view, including former House Minority Leader Mike Lynch's DUI arrest in 2022, which came to light early in the 2024 legislative session.

Also in 2022, former Rep. Matt Gray, who is Winter's fiancé, was arrested on suspicion of a DUI while at his children's elementary school. Grey maintained that he was not intoxicated, but that his symptoms of anxiety and depression "are such that too many people are worried when they're around me."

"Tomorrow my fiancée will experience a protracted hearing about one of the worst days of her life after apologizing many times," Gray tweeted the day before the ethics panel's second committee hearing on June 20. "You'd be terrified if it was you. But you'll watch with glee as it happens to someone else. Congrats to Northglenn and Colorado taxpayers."

Winter has until June 27 to decide if she wants an evidentiary hearing to be held by the Ethics Committee. If she chooses to make that request, the panel has tentatively scheduled the hearing for July 8. If Winter does not request an evidentiary hearing, the panel opted to allow her to make a formal statement should she chose to do so.