

HOUSE BILL No. 2490

By Committee on Federal and State Affairs

2-12

AN ACT concerning state officers and employees; relating to governmental ethics; amending K.S.A. 46-225, 46-237, 46-237a, 46-269 and 46-271 and repealing the existing sections.

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

Section 1. K.S.A. 46-225 is hereby amended to read as follows: 46-225. (a) "Lobbying" means:

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

(2) *unless otherwise provided by law*, entertaining any state officer or employee or giving *to a state officer or employee* any gift, honorarium or payment ~~to a state officer or employee~~ *in having* an aggregate value of \$40 or more within any calendar year, if at any time during such year the person supplying the entertainment, gifts, honoraria or payments has a financial interest in any contract with, or action, proceeding or other matter before the state agency in which such state officer or employee serves, or if such person is the representative of a person having such a financial interest.

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

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

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

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

Sec. 2. K.S.A. 46-237 is hereby amended to read as follows: 46-237.

(a) *The provisions of this section shall be subject to the limitations provided by K.S.A. 46-237a, and amendments thereto.*

(b) Except as provided by this section, no state officer or employee, candidate for state office or state officer elect shall accept, or agree to accept *in any calendar year* any (1) economic opportunity, gift, loan,

1 gratuity, special discount, favor, hospitality *in the form of food or bever-*
2 *ages* or service having an aggregate value of \$40 or more ~~in any calendar~~
3 ~~year~~ or (2) hospitality in the form of recreation having an aggregate value
4 of \$100 or more ~~in any calendar year~~ from any one person known to have
5 a special interest, under circumstances where such person knows or
6 should know that a major purpose of the donor is to influence such person
7 in the performance of their official duties or prospective official duties.

8 ~~(b)~~ (c) Except as provided by this section, no person with a special
9 interest shall offer, pay, give or make *in any calendar year* any (1) eco-
10 nomic opportunity, gift, loan, gratuity, special discount, favor, hospitality
11 *in the form of food or beverages* or service having an aggregate value of
12 \$40 or more ~~in any calendar year~~ or (2) hospitality in the form of recre-
13 ation having an aggregate value of \$100 or more ~~in any calendar year~~ to
14 any state officer or employee, candidate for state office or state officer
15 elect with a major purpose of influencing such officer or employee, candi-
16 date for state office or state officer elect in the performance of official
17 duties or prospective official duties.

18 ~~(c)~~ (d) No person licensed, inspected or regulated by a state agency
19 shall offer, pay, give or make *in any calendar year* any (1) economic
20 opportunity, gift, loan, gratuity, special discount, favor, hospitality *in the*
21 *form of food or beverages* or service having an aggregate value of \$40 or
22 more ~~in any calendar year~~ or (2) *hospitality in the form of recreation*
23 *having an aggregate value of \$100* to such agency or any state officer or
24 employee, candidate for state office or state officer elect of that agency.

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

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

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

1 engagements.

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

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

24 Sec. 3. K.S.A. 46-237a is hereby amended to read as follows: 46-
25 237a. (a) The provisions of this section shall apply to:

26 ~~(1) The governor;~~

27 ~~—(2) the lieutenant governor;~~

28 ~~—(3) the governor's spouse;~~

29 ~~—(4) (1) All officers and employees of the executive branch of state
30 government; and~~

31 ~~—(5) (2) the governor's spouse; and~~

32 (3) all members of boards, commissions and authorities of the exec-
33 utive branch of state government.

34 (b) No person subject to the provisions of this section shall solicit or
35 accept any gift, economic opportunity, loan, gratuity, special discount or
36 service provided because of such person's official position, except:

37 (1) A gift having an aggregate value of less than \$40 given at a cere-
38 mony or public function where the person is accepting the gift in such
39 person's official capacity; or

40 (2) gifts from relatives or gifts from personal friends when it is ob-
41 vious to the person that the gift is not being given because of the person's
42 official position; or

43 (3) anything of value received by the person on behalf of the state

1 that inures to the benefit of the state or that becomes the property of the
2 state; or

3 (4) contributions solicited on behalf of a nonprofit organization which
4 is exempt from taxation under paragraph (3) of subsection (c) of section
5 501 of the internal revenue code of 1986, as amended.

6 (c) No person subject to the provisions of this section shall solicit or
7 accept free or special discount ~~meals~~ *food or beverages* from a source
8 outside of state government, except:

9 (1) ~~Meals~~ *Food or beverages*, the provision of which is motivated by
10 a personal or family relationship or provided at events that are widely
11 attended. An occasion is “widely attended” when it is obvious to the per-
12 son accepting the ~~meal~~ *food or beverage* that the reason for providing the
13 ~~meal~~ *food or beverage* is not a pretext for exclusive or nearly exclusive
14 access to the person;

15 (2) ~~meals~~ *food and beverages* provided at public events in which the
16 person is attending in an official capacity; *and*

17 (3) ~~meals~~ *food and beverages* provided to a person subject to this act
18 when it is obvious such ~~meals~~ *food and beverages* are not being provided
19 because of the person’s official position; ~~and~~

20 ~~—(4)—food such as soft drinks, coffee or snack foods not offered as part~~
21 ~~of a meal.~~

22 (d) No person subject to the provisions of this section shall solicit or
23 accept free or special discount travel or related expenses from a source
24 outside state government, except:

25 (1) When it is obvious to the person accepting the same that the free
26 or special discount travel and related expenses are not being provided
27 because of the person’s official position; or

28 (2) when the person’s presence at a meeting, seminar or event serves
29 a legitimate state purpose or interest and the person’s agency authorizes
30 or would authorize payment for such travel and expenses.

31 (e) No person subject to the provisions of this section shall solicit or
32 accept free or special discount tickets or access to entertainment or sport-
33 ing events or activities such as plays, concerts, games, golf, exclusive swim-
34 ming, hunting or fishing or other recreational activities when the free or
35 special discount tickets or access are provided because of the person’s
36 official position. The provisions of this subsection shall not apply to per-
37 sons whose official position requires or obliges them to be present at such
38 events or activities.

39 (f) (1) Violations of the provisions of this section by any classified
40 employee in the civil service of the state of Kansas shall be considered
41 personal conduct detrimental to the state service and shall be a basis for
42 suspension, demotion or dismissal, subject to applicable state law.

43 (2) Violations of the provisions of this section by any unclassified em-

1 ployee shall subject such employee to discipline up to and including
2 termination.

3 (3) In addition to the penalty prescribed under paragraphs (1) and
4 (2), the commission may assess a civil fine, after proper notice and an
5 opportunity to be heard, against any person for a violation of this section,
6 in an amount not to exceed \$5,000 for the first violation, not to exceed
7 \$10,000 for the second violation and not to exceed \$15,000 for the third
8 violation and for each subsequent violation. All fines assessed and col-
9 lected under this section shall be remitted to the state treasurer. Upon
10 receipt thereof, the state treasurer shall deposit the entire amount in the
11 state treasury and credit it to the governmental ethics fee fund established
12 by K.S.A. 25-4119e, and amendments thereto.

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

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

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

- 28 (1) Food and beverages provided as hospitality;
- 29 (2) entertainment, gifts, honoraria or payments;
- 30 (3) mass media communications;
- 31 (4) recreation provided as hospitality;
- 32 (5) communications for the purpose of influencing legislative or ex-
33 ecutive action; and
- 34 (6) all other reportable expenditures made in the performance of
35 services as a lobbyist.

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

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

1 (b), each lobbyist expending an aggregate amount of \$100 or more for
2 lobbying in any reporting period shall report any gift, entertainment or
3 hospitality provided to members of the legislature, members of the ju-
4 dicial branch of government and any employees of the legislature or ju-
5 dicial branch of government. Such report shall disclose the full name of
6 the legislator, member of the judicial branch and employee who received
7 such gift, entertainment or hospitality and the amount expended on such
8 gift, entertainment or hospitality.

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

11 (A) *Gifts having a value of \$10 or less;*

12 ~~(A) Meals~~ (B) *food or beverages*, the provision of which is motivated
13 by a personal or family relationship;

14 ~~(B) meals~~ (C) *food or beverages* provided at public events in which
15 the person is attending in an official capacity;

16 ~~(C) meals~~ (D) *food or beverages* provided to a person subject to this
17 section when it is obvious such ~~meals~~ *food or beverages* are not being
18 provided because of the person's official position;

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

21 (E) *food or beverages having a value of \$10 or less; and*

22 ~~(E)~~ (F) *entertainment or hospitality in the form of recreation, food*
23 *and beverages provided at an event to which the following have been*
24 *invited:*

25 (i) All members of the legislature or all members of either house of
26 the legislature; or

27 (ii) all members of a political party caucus of the legislature or all
28 members of a political party caucus of either house of the legislature.

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

33 (e) Whenever more than one lobbyist is employed by a single em-
34 ployer, the reports required by this section relating to such employer shall
35 be made by only one such lobbyist and that lobbyist shall be the lobbyist
36 who is most directly connected with the particular expenditure or gift,
37 honoraria or payment. No expenditure or gift, honoraria or payment re-
38 quired to be reported by this section shall be reported by more than one
39 lobbyist.

40 (f) All accounts, records and documents of the lobbyist which relate
41 to every expenditure reported or which should have been reported shall
42 be maintained and preserved by the lobbyist for a period of five years
43 from the date of the filing of such report or statement and may be in-

1 spected under conditions determined by the commission.

2 Sec. 5. K.S.A. 46-271 is hereby amended to read as follows: 46-271.
3 No lobbyist shall offer, pay, give or make *within a calendar year* (1) any
4 economic opportunity, ~~gift~~, loan, gratuity, special discount, favor, hospi-
5 tality; *in the form of food or beverages* or service having an aggregate
6 value of \$40 or ~~more in any calendar year~~ (2) *gift of hospitality in the*
7 *form of recreation having an aggregate value of \$100 or more* to any state
8 officer or employee or candidate for state office with a major purpose of
9 influencing such officer or employee in the performance of official duties
10 or prospective official duties. Hospitality in the form of recreation, food
11 and beverages are presumed not to be given to influence a state officer
12 or employee or candidate for state office in the performance of official
13 duties, except when a particular course of official action is to be followed
14 as a condition thereon.

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

20 Sec. 6. K.S.A. 46-225, 46-237, 46-237a, 46-269 and 46-271 are
21 hereby repealed.

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

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