

1 ***As Further Amended by Senate Committee***

2  
3 ***As Amended by Senate Committee***

4  
5 **[As Amended by House Committee of the Whole]**

6 *Session of 2001*

7  
8 **Substitute for HOUSE BILL No. 2489**

9  
10 By Committee on Ethics and Elections

11  
12 3-16

13  
14 AN ACT concerning state **governmental** officers and employees; con-  
15 cerning governmental ethics; **concerning campaign contributions**;  
16 amending K.S.A. **25-4157a**, 46-229, 46-237, 46-269 and 46-271 and  
17 repealing the existing sections; also repealing K.S.A. 46-237a, **as**  
18 **amended by section 151 of 2001 Senate Bill No. 15.**

19  
20 *Be it enacted by the Legislature of the State of Kansas:*

21 Section 1. K.S.A. 46-229 is hereby amended to read as follows: 46-

22 229. (a) "Substantial interest" means any of the following:

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

27 ~~(b)~~ (2) If an individual or an individual's spouse, either individually  
28 or collectively, has received during the preceding calendar year compen-  
29 sation which is or will be required to be included as taxable income on  
30 federal income tax returns of the individual and spouse in an aggregate  
31 amount of \$2,000 from any business or combination of businesses, the  
32 individual has a substantial interest in that business or combination of  
33 businesses.

34 ~~(c)~~ (3) If an individual or an individual's spouse, either individually  
35 or collectively, has received directly or indirectly in the preceding 12  
36 months, gifts or honoraria having an aggregate value of \$500 or more  
37 from any person, the individual has a substantial interest in that person.  
38 If a gift is received for which the value is unknown, the individual shall  
39 be deemed to have a substantial interest in the donor. A substantial in-  
40 terest does not exist under this subsection by reason of: ~~(1)~~ (A) A gift or  
41 bequest received as the result of the death of the donor; ~~(2)~~ (B) a gift  
42 from a spouse, parent, grandparent, sibling, aunt or uncle; or ~~(3)~~ (C)  
43 acting as a trustee of a trust for the benefit of another.

1 ~~(4)~~ (4) If an individual or an individual's spouse holds the position of  
2 officer, director, associate, partner or proprietor of any business, the in-  
3 dividual has a substantial interest in that business, irrespective of the  
4 amount of compensation received by the individual or individual's spouse.

5 ~~(5)~~ (5) If an individual or an individual's spouse receives compensa-  
6 tion which is a portion or percentage of each separate fee or commission  
7 paid to a business or combination of businesses, the individual has a sub-  
8 stantial interest in any client or customer who pays fees or commissions  
9 to the business or combination of businesses from which fees or com-  
10 missions the individual or the individual's spouse, either individually or  
11 collectively, received an aggregate of \$2,000 or more in the preceding  
12 calendar year.

13 ~~As used in this subsection, (b)~~ "Client or customer" means a business  
14 or combination of businesses.

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

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

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

35 (c) No person licensed, inspected or regulated by a state agency shall  
36 offer, pay, give or make any economic opportunity, gift, loan, gratuity,  
37 special discount, favor, hospitality or service having an aggregate value of  
38 \$40 or more in any calendar year to such agency or any state officer or  
39 employee, candidate for state office or state officer elect of that agency.

40 (d) Hospitality in the form of food and beverages is presumed not to  
41 be given to influence a state officer or employee, candidate for state office  
42 or state officer elect in the performance of official duties or prospective  
43 official duties, except when a particular course of official action is to be

1 followed as a condition thereon.

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

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

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

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

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

43 Sec. 3. K.S.A. 46-269 is hereby amended to read as follows: 46-269.

1 Each report required to be filed by K.S.A. 46-268, and amendments  
2 thereto, is a public record and shall be open to public inspection upon  
3 request. Such report shall disclose the following:

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

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

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

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

29 (c) (1) In addition to the information reported pursuant to subsection  
30 (b), each lobbyist expending an aggregate amount of \$100 or more for  
31 lobbying in any reporting period shall report any gift, entertainment or  
32 hospitality provided to ~~members of the legislature, members of the ju-  
33 dicial branch of government and any employees of the legislature or ju-  
34 dicial branch of government~~ *state officers and employees*. Such report  
35 shall disclose the full name of the ~~legislator, member of the judicial branch  
36 and state officer or~~ employee who received such gift, entertainment or  
37 hospitality and the amount expended on such gift, entertainment or  
38 hospitality.

39 (2) *Subject to the provisions of paragraph (4) of this subsection, no*  
40 ~~report~~ **itemization** shall be required ~~to be filed~~ pursuant to ~~this subsec-~~  
41 ~~tion (e)~~ **subsections (c) and (e)** for the following:

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

- 1 ~~—(B)—meals provided at public events in which the person is attending~~  
2 ~~in an official capacity;~~  
3 ~~—(C)—meals provided to a person subject to this section when it is ob-~~  
4 ~~vious such meals are not being provided because of the person’s official~~  
5 ~~position;~~  
6 ~~—(D)—food such as soft drinks, coffee or snack foods not offered as part~~  
7 ~~of a meal; and~~  
8 ~~—(E)—entertainment or hospitality in the form of recreation, food and~~  
9 ~~beverages provided at an event to which the following have been invited:~~  
10 ~~—(i) All members of the legislature or all members of either house of~~  
11 ~~the legislature; or~~  
12 ~~—(ii) all members of a political party caucus of the legislature or all~~  
13 ~~members of a political party caucus of either house of the legislature.~~  
14 *(A) Gifts having a value of \$15 or less;*  
15 *(B) food or beverage having a value of ~~\$15~~ **[\$25]** or less;*  
16 *(C) food or beverage, the provision of which is motivated by a per-*  
17 *sonal or family relationship;*  
18 *(D) food or beverage provided to a person subject to this section when*  
19 *it is obvious such food or beverage is not provided because of such person’s*  
20 *official position; and*  
21 *(E) entertainment or hospitality in the form of recreation, food or*  
22 *beverage provided at a public event.*  
23 *(3) When used in this paragraph and paragraph (2) of this subsection:*  
24 *(A) “Public event” means:*  
25 *(i) Any event to which the general public is invited or may attend;*  
26 *(ii) any event which is held for or by a membership organization;*  
27 *(iii) any event which is held by, or in connection with, any national*  
28 *nonprofit nonpartisan organization established for the purpose of serving,*  
29 *informing and educating state legislators or elected executive branch*  
30 *officers;*  
31 *(iv) any event to which all members of the legislature or all members*  
32 *of either house of the legislature are invited;*  
33 *(v) any event to which all members of a political party caucus of the*  
34 *legislature or all members of a political party caucus of either house of*  
35 *the legislature are invited; or*  
36 *(vi) to which all members of a bona fide legislative delegation are*  
37 *invited;*  
38 *(B) “in connection with” means any meeting or other event held by*  
39 *or for a person attending an event defined in paragraph (c)(3)(A)(iii);*  
40 *(C) “event” means, but is not limited to, a meeting or other gathering,*  
41 *meal, reception, party, sporting, civic or cultural activity;*  
42 *(D) “membership organization” means a group of persons composed*  
43 *of members having a common interest or purpose for organizing, includ-*

1 *ing, but not limited to, teacher associations, medical associations, labor*  
2 *organizations, trade associations, farm organizations, municipal associa-*  
3 *tions and veterans' organizations; and*

4 *(E) "bona fide legislative delegation" means, but is not limited to, the*  
5 *Johnson county legislative delegation, Sedgwick county legislative dele-*  
6 *gation or other county legislative delegation, the south central Kansas*  
7 *legislative delegation or other regional legislative delegation.*

8 *(4) On July 1, 2002, and on July 1 of each year thereafter, the value*  
9 *of gifts, entertainment and food or beverages requiring disclosure of in-*  
10 *dividual names of officers and employees under subsection (c)(1) shall be*  
11 *increased each year by an amount which equals the product of the amount*  
12 *allowed under subsection (e)(1) during the next preceding year multiplied*  
13 *by a fraction the numerator of which is the average consumer price index*  
14 *for all urban consumers published by the federal department of labor as*  
15 *of the close of the twelve-month period ending on August 31 of the first*  
16 *calendar year preceding the year in which the adjustment is made and*  
17 *the denominator of which is such index as of such period ending on august*  
18 *31 of the second calendar year preceding the year in which the adjustment*  
19 *is made.*

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

24 ***(e) In addition to any other report required to be filed pursuant***  
25 ***to K.S.A. 46-268 and amendments thereto, each lobbyist who has***  
26 ***more than one client participating in an event at which food and***  
27 ***beverages are served shall file a separate "summary report" in the***  
28 ***format designated by the governmental ethics commission at the***  
29 ***times designated in K.S.A. 46-268 and amendments thereto. Each***  
30 ***such lobbyist shall file one such report per reporting period and the***  
31 ***report shall be filed under the lobbyist's name. Such report shall***  
32 ***disclose the cost of all food and beverage provided at a single event***  
33 ***having a value in excess of ~~\$15~~ \$25 per person regardless of the***  
34 ***number of clients who paid for the food and beverage. This disclo-***  
35 ***sure shall include for each legislator, legislator elect, member of the***  
36 ***judicial branch of state government or employee of the legislative***  
37 ***or judicial branches of state government who accepts food and bev-***  
38 ***erage: (1) The name of the person accepting the food and beverage,***  
39 ***(2) the total amount spent including tax and gratuity and (3) the***  
40 ***date such food and beverage was provided.***

41 ~~*(e)*~~ ***(f)*** *Whenever more than one lobbyist is employed by a single*  
42 *employer, the reports required by this section relating to such employer*  
43 *shall be made by only one such lobbyist and that lobbyist shall be the*

1 lobbyist who is most directly connected with the particular expenditure  
2 or gift, honoraria or payment. No expenditure or gift, honoraria or pay-  
3 ment required to be reported by this section shall be reported by more  
4 than one lobbyist.

5 ~~(f)~~ **(g)** All accounts, records and documents of the lobbyist which  
6 relate to every expenditure reported or which should have been reported  
7 shall be maintained and preserved by the lobbyist for a period of five  
8 years from the date of the filing of such report or statement and may be  
9 inspected under conditions determined by the commission.

10 Sec. 4. K.S.A. 46-271 is hereby amended to read as follows: 46-271.

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

20 *(b) Except when a particular course of official action is to be followed*  
21 *as a condition thereon, the following are presumed not to be given to*  
22 *influence a state officer or employee or candidate for state office in the*  
23 *performance of official duties, except when a particular course of official*  
24 *action is to be followed as a condition thereon:*

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

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

31 *(1) Any contribution reported in compliance with the campaign fi-*  
32 *nance act as amended, or;* or

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

35 **Sec. 5. K.S.A. 25-4157a is hereby amended to read as follows:**

36 ***25-4157a.(a) No moneys received by any candidate or candidate***  
37 ***committee of any candidate as a contribution under this act shall***  
38 ***be used or be made available for the personal use of the candidate***  
39 ***and no such moneys shall be used by such candidate or the candi-***  
40 ***date committee of such candidate except for:***

41 ***(1) Legitimate campaign purposes;***

42 ***(2) expenses of holding political office, including those expenses***  
43 ***associated with the office holder's spouse appearing on behalf of, or in***

1 conjunction with, the office holder to promote the office holder's legislative  
2 or political agenda;

3 **(3) contributions to the party committees of the political party**  
4 **of which such candidate is a member;**

5 **(4) any membership dues or donations paid to a community**  
6 **service or civic organization in the name of the candidate or can-**  
7 **didate committee of any candidate;**

8 **(5) expenses incurred in the purchase of tickets to meals and**  
9 **special events sponsored by any organization the major purpose of**  
10 **which is to promote or facilitate the social, business, commercial or**  
11 **economic well being of the local community; or**

12 **(6) expenses incurred in the purchase and mailing of greeting**  
13 **cards to voters and constituents.**

14 **For the purpose of this subsection, expenditures for “personal**  
15 **use” shall include expenditures to defray normal living expenses for**  
16 **the candidate or the candidate's family and expenditures for the**  
17 **personal benefit of the candidate having no direct connection with**  
18 **or effect upon the campaign of the candidate or the holding of public**  
19 **office.**

20 **(b) No moneys received by any candidate or candidate com-**  
21 **mittee of any candidate as a contribution shall be used to pay in-**  
22 **terest or any other finance charges upon moneys loaned to the cam-**  
23 **paign by such candidate or the spouse of such candidate.**

24 **(c) No candidate or candidate committee shall accept from any**  
25 **other candidate or candidate committee for any candidate for local,**  
26 **state or national office, any moneys received by such candidate or**  
27 **candidate committee as a campaign contribution. The provisions of**  
28 **this subsection shall not be construed to prohibit a candidate or**  
29 **candidate committee from accepting moneys from another candi-**  
30 **date or candidate committee if such moneys constitute a reimburse-**  
31 **ment for one candidate's proportional share of the cost of any cam-**  
32 **paign activity participated in by both candidates involved. Such**  
33 **reimbursement shall not exceed an amount equal to the propor-**  
34 **tional share of the cost directly benefiting and attributable to the**  
35 **personal campaign of the candidate making such reimbursement.**

36 **(d) At the time of the termination of any campaign and prior to**  
37 **the filing of a termination report in accordance with K.S.A. 25-4157,**  
38 **and amendments thereto, all residual funds otherwise not obligated**  
39 **for the payment of expenses incurred in such campaign or the hold-**  
40 **ing of office shall be contributed to a charitable organization, as**  
41 **defined by the laws of the state, contributed to a party committee**  
42 **or returned as a refund in whole or in part to any contributor or**  
43 **contributors from whom received or paid into the general fund of**



1 ***the state.***

2 Sec. ~~5~~ **6.** K.S.A. **25-4157a**, 46-229, 46-237, 46-237a, ***as amended***  
3 ***by section 151 of 2001 Senate Bill No. 15***, 46-269, and 46-271 are  
4 hereby repealed.

5 Sec. ~~6~~ **7.** This act shall take effect and be in force from and after its  
6 publication in the Kansas register.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43