

## SENATE BILL No. 94

By Senator Adkins

1-23

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AN ACT concerning governmental ethics; relating to gifts to legislators; amending K.S.A. 46-237 and 46-237a and repealing the existing sections.

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

Section 1. K.S.A. 46-237 is hereby amended to read as follows: 46-237. (a) 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 any (1) economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$40 or more in any calendar year or (2) hospitality in the form of recreation having an aggregate value of \$100 or more in any calendar year from any one person known to have a special interest, under circumstances where such person knows or should know that a major purpose of the donor is to influence such person in the performance of their official duties or prospective official duties.

(b) Except as provided by this section, no person with a special interest shall offer, pay, give or make any (1) economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$40 or more in any calendar year or (2) hospitality in the form of recreation having an aggregate value of \$100 or more in any calendar year to any state officer or employee, candidate for state office or state officer elect with a major purpose of influencing such officer or employee, candidate for state office or state officer elect in the performance of official duties or prospective official duties.

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

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

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

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

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

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

37 Sec. 2. K.S.A. 46-237a is hereby amended to read as follows: 46-  
38 237a. (a) The provisions of this section shall apply to:

- 39 (1) The governor;
- 40 (2) the lieutenant governor;
- 41 (3) the governor's spouse;
- 42 (4) all officers and employees of the ~~executive branch~~ *legislative and*  
43 *executive branches* of state government; and

1 (5) all members of boards, commissions and authorities of the ~~exec-~~  
2 ~~utive branch~~ *legislative and executive branches* of state government.

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

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

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

12 (3) anything of value received by the person on behalf of the state  
13 that inures to the benefit of the state or that becomes the property of the  
14 state; or

15 (4) contributions solicited on behalf of a nonprofit organization which  
16 is exempt from taxation under paragraph (3) of subsection (c) of section  
17 501 of the internal revenue code of 1986, as amended.

18 (c) No person subject to the provisions of this section shall solicit or  
19 accept free or special discount meals from a source outside of state gov-  
20 ernment, except:

21 (1) Meals, the provision of which is motivated by a personal or family  
22 relationship or provided at events that are widely attended. An occasion  
23 is "widely attended" when it is obvious to the person accepting the meal  
24 that the reason for providing the meal is not a pretext for exclusive or  
25 nearly exclusive access to the person;

26 (2) meals provided at public events in which the person is attending  
27 in an official capacity;

28 (3) meals provided to a person subject to this act when it is obvious  
29 such meals are not being provided because of the person's official posi-  
30 tion; and

31 (4) food such as soft drinks, coffee or snack foods not offered as part  
32 of a meal.

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

36 (1) When it is obvious to the person accepting the same that the free  
37 or special discount travel and related expenses are not being provided  
38 because of the person's official position; or

39 (2) when the person's presence at a meeting, seminar or event serves  
40 a legitimate state purpose or interest and the person's agency authorizes  
41 or would authorize payment for such travel and expenses.

42 (e) No person subject to the provisions of this section shall solicit or  
43 accept free or special discount tickets or access to entertainment or sport-

1 ing events or activities such as plays, concerts, games, golf, exclusive swim-  
2 ming, hunting or fishing or other recreational activities when the free or  
3 special discount tickets or access are provided because of the person's  
4 official position. The provisions of this subsection shall not apply to per-  
5 sons whose official position requires or obliges them to be present at such  
6 events or activities.

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

11 (2) Violations of the provisions of this section by any unclassified em-  
12 ployee shall subject such employee to discipline up to and including  
13 termination.

14 (3) In addition to the penalty prescribed under paragraphs (1) and  
15 (2), the commission may assess a civil fine, after proper notice and an  
16 opportunity to be heard, against any person for a violation of this section,  
17 in an amount not to exceed \$5,000 for the first violation, not to exceed  
18 \$10,000 for the second violation and not to exceed \$15,000 for the third  
19 violation and for each subsequent violation. All fines assessed and col-  
20 lected under this section shall be remitted to the state treasurer. Upon  
21 receipt thereof, the state treasurer shall deposit the entire amount in the  
22 state treasury and credit it to the governmental ethics fee fund established  
23 by K.S.A. 25-4119e, and amendments thereto.

24 Sec. 3. K.S.A. 46-237 and 46-237a are hereby repealed.

25 Sec. 4. This act shall take effect and be in force from and after its  
26 publication in the statute book.

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