

SENATE BILL No. 368

By Committee on Education

1-13

9 AN ACT concerning state officers and employees; relating to govern-
10 mental ethics; amending K.S.A. 46-237 and K.S.A. 2005 Supp. 46-237a
11 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 46-237 is hereby amended to read as follows: 46-
15 237. (a) Except as provided by this section, no state officer or employee,
16 candidate for state office or state officer elect shall accept, or agree to
17 accept any (1) economic opportunity, gift, loan, gratuity, special discount,
18 favor, hospitality or service having an aggregate value of \$40 or more in
19 any calendar year or (2) hospitality in the form of recreation having an
20 aggregate value of \$100 or more in any calendar year from any one person
21 known to have a special interest, under circumstances where such person
22 knows or should know that a major purpose of the donor is to influence
23 such person in the performance of their official duties or prospective
24 official duties.

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

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

39 (d) Hospitality in the form of food and beverages is presumed not to
40 be given to influence a state officer or employee, candidate for state office
41 or state officer elect in the performance of official duties or prospective
42 official duties, except when a particular course of official action is to be
43 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 the reimbursement
13 of state officers and employees for reasonable expenses incurred in at-
14 tending 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 (i) *The provisions of this section shall apply to any state officer or*
38 *employee not subject to K.S.A. 46-237a, and amendments thereto.*

39 Sec. 2. K.S.A. 2005 Supp. 46-237a is hereby amended to read as
40 follows: 46-237a. (a) (1) *Except as provided in paragraph (2), the provi-*
41 *sions of this section shall apply to:*

- 42 ~~(1)~~ (A) The governor;
43 ~~(2)~~ (B) the lieutenant governor;

- 1 ~~(3)~~ (C) the governor's spouse;
- 2 ~~(4)~~ (D) all officers and employees of the executive branch of state
3 government; and
- 4 ~~(5)~~ (E) all members of boards, commissions and authorities of the
5 executive branch of state government.
- 6 (2) *The provisions of this section shall not apply to the state board of*
7 *education or the members thereof.*
- 8 (b) No person subject to the provisions of this section shall solicit or
9 accept any gift, economic opportunity, loan, gratuity, special discount or
10 service provided because of such person's official position, except:
- 11 (1) A gift having an aggregate value of less than \$40 given at a cere-
12 mony or public function where the person is accepting the gift in such
13 person's official capacity; or
- 14 (2) gifts from relatives or gifts from personal friends when it is ob-
15 vious to the person that the gift is not being given because of the person's
16 official position; or
- 17 (3) anything of value received by the person on behalf of the state
18 that inures to the benefit of the state or that becomes the property of the
19 state; or
- 20 (4) contributions solicited on behalf of a nonprofit organization which
21 is exempt from taxation under paragraph (3) of subsection (c) of section
22 501 of the internal revenue code of 1986, as amended.
- 23 (c) No person subject to the provisions of this section shall solicit or
24 accept free or special discount meals from a source outside of state gov-
25 ernment, except:
- 26 (1) Meals, the provision of which is motivated by a personal or family
27 relationship or provided at events that are widely attended. An occasion
28 is "widely attended" when it is obvious to the person accepting the meal
29 that the reason for providing the meal is not a pretext for exclusive or
30 nearly exclusive access to the person;
- 31 (2) meals provided at public events in which the person is attending
32 in an official capacity;
- 33 (3) meals provided to a person subject to this act when it is obvious
34 such meals are not being provided because of the person's official posi-
35 tion; and
- 36 (4) food such as soft drinks, coffee or snack foods not offered as part
37 of a meal.
- 38 (d) No person subject to the provisions of this section shall solicit or
39 accept free or special discount travel or related expenses from a source
40 outside state government, except:
- 41 (1) When it is obvious to the person accepting the same that the free
42 or special discount travel and related expenses are not being provided
43 because of the person's official position; or

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

4 (e) No person subject to the provisions of this section shall solicit or
5 accept free or special discount tickets or access to entertainment or sport-
6 ing events or activities such as plays, concerts, games, golf, exclusive swim-
7 ming, hunting or fishing or other recreational activities when the free or
8 special discount tickets or access are provided because of the person's
9 official position. The provisions of this subsection shall not apply to per-
10 sons whose official position requires or obliges them to be present at such
11 events or activities.

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

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

19 (3) In addition to the penalty prescribed under paragraphs (1) and
20 (2), the commission may assess a civil fine, after proper notice and an
21 opportunity to be heard, against any person for a violation of this section,
22 in an amount not to exceed \$5,000 for the first violation, not to exceed
23 \$10,000 for the second violation and not to exceed \$15,000 for the third
24 violation and for each subsequent violation. All fines assessed and col-
25 lected under this section shall be remitted to the state treasurer in ac-
26 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.
27 Upon receipt of each such remittance, the state treasurer shall deposit
28 the entire amount in the state treasury to the credit of the governmental
29 ethics fee fund established by K.S.A. 25-4119e, and amendments thereto.

30 Sec. 3. K.S.A. 46-237 and K.S.A. 2005 Supp. 46-237a are hereby
31 repealed.

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