

SENATE Substitute for Substitute for HOUSE BILL No. 2060

AN ACT concerning the state governmental ethics law; relating to state officers and employees; providing for the treatment of the reimbursement for expenses incurred for travel and activities in attending conferences or events by certain specified nonprofit organizations and discounted or free access to entertainment, sporting events or other activities; 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 or to a member or member elect or employee of the judicial branch with a major purpose of influencing the member or member elect or employee of the judicial branch in the performance of official duties or prospective official duties pertaining to a judicial administrative matter, as defined in K.S.A. 46-225, and amendments thereto.

(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, or to influence a member or member elect or employee of the judicial branch in the performance of official duties or prospective official duties pertaining to a judicial administrative matter as defined in K.S.A. 46-225, and amendments thereto, except when a particular course of official action is to be followed as a condition thereon.

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

(1) Any contribution reported in compliance with the campaign finance act; or

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

(f) No state officer or employee shall accept any payment of honoraria for any speaking engagement except that a member of the state legislature or a part-time officer or employee of the executive branch of government shall be allowed to receive reimbursement in the preparation for and the making of a presentation at a speaking engagement in an amount fixed by the commission prior to the acceptance of the speaking engagement. Nothing in this section shall be construed to prohibit the reimbursement of state officers and employees

for reasonable expenses incurred in attending seminars, conferences and other speaking engagements.

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

(h) No legislator shall solicit any contribution to be made to any organization for the purpose of paying for travel, subsistence and other expenses incurred by such legislator or other members of the legislature in attending and participating in meetings, programs and activities of such organization or those conducted or sponsored by such organization, but nothing in this act or the act of which this act is amendatory shall be construed to prohibit any legislator from accepting reimbursement for actual expenses for travel, subsistence, hospitality, entertainment and other expenses incurred in attending and participating in meetings, programs and activities sponsored by the government of any foreign nation, or any organization organized under the laws of such foreign nation or any international organization or any ~~national~~; nonprofit, nonpartisan organization ~~established for the purpose of serving, informing, educating and strengthening state legislatures in all states of the nation~~ *that does not engage in lobbying in the state of Kansas*, when paid from funds of such organization and nothing shall be construed to limit or prohibit the expenditure of funds of and by any such organization for such purposes.

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

- (1) The governor;
- (2) the lieutenant governor;
- (3) the governor's spouse;
- (4) all officers and employees of the executive branch of state government; and
- (5) all members of boards, commissions and authorities of the executive branch of state government.

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

- (1) A gift having an aggregate value of less than \$40 given at a ceremony or public function where the person is accepting the gift in such person's official capacity;
- (2) gifts from relatives or gifts from personal friends when it is obvious to the person that the gift is not being given because of the person's official position;
- (3) anything of value received by the person on behalf of the state that inures to the benefit of the state or that becomes the property of the state; or
- (4) contributions solicited on behalf of a nonprofit organization ~~which~~ *that* is exempt from taxation under ~~paragraph (3) of subsection (e) of section 501(c)(3) of the internal revenue code of 1986, as amended.~~

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

- (1) Meals, the provision of which is motivated by a personal or family relationship or provided at events that are widely attended. An occasion is "widely attended" when it is obvious to the person accepting the meal that the reason for providing the meal is not a pretext for exclusive or nearly exclusive access to the person;
- (2) meals provided at public events in which the person is attending in an official capacity;
- (3) meals provided to a person subject to this act when it is obvious such meals are not being provided because of the person's official position;

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

(5) any meal, the value of which is \$40 or less, not provided by a lobbyist registered pursuant to K.S.A. 46-265, and amendments thereto;

(6) meals provided to a person when the person's presence at the event or meeting at which the meal is provided serves a legitimate state purpose or interest and the agency of which such person is an officer or employee authorizes such person's attendance at such event or meeting;

(7) meals provided to the governor's spouse and members of the governor's immediate family at the event or meeting at which the meal is provided serve a legitimate state purpose or interest; and

(8) any meal, if provided by a lobbyist registered pursuant to K.S.A. 46-265, and amendments thereto, and the lobbyist reports providing the meal as required pursuant to K.S.A. 46-269, and amendments thereto, except when a particular course of official action is to be followed as a condition of accepting the meal.

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

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

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

(e) (1) *Except as provided by paragraph (2)*, no person subject to the provisions of this section shall solicit or accept free or special discount tickets or access to entertainment or sporting events or activities such as plays, concerts, games, golf, exclusive swimming, hunting or fishing or other recreational activities ~~when the free or special discount tickets or access are provided because of the person's official position~~, *except:*

(A) *If it is obvious to the person accepting such free or special discount tickets or access that the free or special discount tickets or access are not being provided because of such person's official position; or*

(B) *if the person's presence at such event or activity serves a legitimate state purpose or interest and such person's agency authorizes or would authorize payment for such travel and expenses.*

(2) The provisions of ~~this subsection~~ *paragraph (1)* shall not apply to persons whose official position requires or obliges them to be present at such events or activities.

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

(2) Violations of the provisions of this section by any unclassified employee shall subject such employee to discipline up to and including termination.

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

(4) Receiving a meal provided by a lobbyist who is not registered pursuant to K.S.A. 46-265, and amendments thereto, or who fails to report providing the meal as required pursuant to K.S.A. 46-269, and

amendments thereto, or as required by subsection (c)(8), shall not be considered a violation of this section, unless the recipient knew the lobbyist was not registered or requested that the lobbyist not report the meal.

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

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.