

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2314

By Committee on Elections

2-12

1 AN ACT concerning ethics; dealing with lobbyists and state officers and
2 employees; amending K.S.A. 46-237 and 46-269 and K.S.A. 2012
3 Supp. 46-237a and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 46-237 is hereby amended to read as follows: 46-
7 237. (a) Except as provided by this section, no state officer or employee,
8 candidate for state office or state officer elect shall accept, or agree to
9 accept any:

10 (1) Economic opportunity, gift, loan, gratuity, special discount, favor,
11 hospitality or service having an aggregate value of \$40 or more in any
12 calendar year; or

13 (2) hospitality in the form of recreation having an aggregate value of
14 ~~\$100~~ \$500 or more in any calendar year from any one person known to
15 have a special interest, under circumstances where such person knows or
16 should know that a major purpose of the donor is to influence such person
17 in the performance of their official duties or prospective official duties.
18 ~~The dollar limitation for hospitality in the form of recreation shall not~~
19 ~~apply to the spouse of a legislator or candidate for such office.~~

20 (b) Except as provided by this section, no person with a special
21 interest shall offer, pay, give or make any:

22 (1) Economic opportunity, gift, loan, gratuity, special discount, favor,
23 hospitality or service having an aggregate value of \$40 or more in any
24 calendar year. *Transportation provided in the state of Kansas by ground*
25 *conveyance shall not be considered a gift;* or

26 (2) hospitality in the form of recreation having an aggregate value of
27 ~~\$100~~ \$500 or more in any calendar year to any state officer or employee,
28 candidate for state office or state officer elect with a major purpose of
29 influencing such officer or employee, candidate for state office or state
30 officer elect in the performance of official duties or prospective official
31 duties. ~~The dollar limitation for hospitality in the form of recreation shall~~
32 ~~not apply to the spouse of a legislator or candidate for such office.~~

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

1 employee, candidate for state office or state officer elect of that agency.

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

7 (e) Except when a particular course of official action is to be followed
8 as a condition thereon, this section shall not apply to: (1) Any contribution
9 reported in compliance with the campaign finance act; or (2) a
10 commercially reasonable loan or other commercial transaction in the
11 ordinary course of business.

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

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

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

1 Sec. 2. K.S.A. 2012 Supp. 46-237a is hereby amended to read as
2 follows: 46-237a. (a) The provisions of this section shall apply to:

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

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

- 13 (1) A gift having an aggregate value of less than \$40 given at a
14 ceremony or public function where the person is accepting the gift in such
15 person's official capacity; or
- 16 (2) gifts from relatives or gifts from personal friends when it is
17 obvious to the person that the gift is not being given because of the
18 person's official position; or
- 19 (3) anything of value received by the person on behalf of the state
20 that inures to the benefit of the state or that becomes the property of the
21 state; or
- 22 (4) contributions solicited on behalf of a nonprofit organization which
23 is exempt from taxation under paragraph (3) of subsection (c) of section
24 501 of the internal revenue code of 1986, as amended.

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

- 28 (1) Meals, the provision of which is motivated by a personal or
29 family relationship or provided at events that are widely attended. An
30 occasion is "widely attended" when it is obvious to the person accepting
31 the meal that the reason for providing the meal is not a pretext for
32 exclusive or nearly exclusive access to the person;
- 33 (2) meals provided at public events in which the person is attending
34 in an official capacity;
- 35 (3) meals provided to a person subject to this act when it is obvious
36 such meals are not being provided because of the person's official position;
- 37 (4) food such as soft drinks, coffee or snack foods not offered as part
38 of a meal;
- 39 (5) any meal the value of which is ~~\$25~~ \$50 or less;
- 40 (6) meals provided to a person when the person's presence at the
41 event or meeting at which the meal is provided serves a legitimate state
42 purpose or interest and the agency of which such person is an officer or
43 employee authorizes such person's attendance at such event or meeting;

1 and

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

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

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

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

14 (e) No person subject to the provisions of this section shall solicit or
15 accept free or special discount tickets or access to entertainment or
16 sporting events or activities such as plays, concerts, games, golf, exclusive
17 swimming, hunting or fishing or other recreational activities when the free
18 or special discount tickets or access are provided because of the person's
19 official position. The provisions of this subsection shall not apply to
20 persons whose official position requires or obliges them to be present at
21 such events or activities.

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

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

29 (3) In addition to the penalty prescribed under paragraphs (1) and (2),
30 the commission may assess a civil fine, after proper notice and an
31 opportunity to be heard, against any person for a violation of this section,
32 in an amount not to exceed \$5,000 for the first violation, not to exceed
33 \$10,000 for the second violation and not to exceed \$15,000 for the third
34 violation and for each subsequent violation. All fines assessed and
35 collected under this section shall be remitted to the state treasurer in
36 accordance with the provisions of K.S.A. 75-4215, and amendments
37 thereto. Upon receipt of each such remittance, the state treasurer shall
38 deposit the entire amount in the state treasury to the credit of the
39 governmental ethics fee fund established by K.S.A. 25-4119e, and
40 amendments thereto.

41 Sec. 3. K.S.A. 46-269 is hereby amended to read as follows: 46-269.
42 Each report required to be filed by K.S.A. 46-268, and amendments
43 thereto, is a public record and shall be open to public inspection upon

1 request. Such report shall disclose the following:

2 (a) The full name and address of each person who has paid
3 compensation for lobbying to the lobbyist or has paid for expenses of
4 lobbying by the lobbyist during the period reported.

5 (b) The aggregate amount or value of all expenditures made, except
6 for expenses of general office overhead, by the lobbyist or by the lobbyist's
7 employer for or in direct relation to lobbying during the reporting period,
8 if such expenditures exceed \$100. Individual expenditures of less than ~~\$2~~
9 ~~\$15~~ \$5 shall not be required to be reported under this subsection. Every
10 lobbyist shall keep detailed accounts of all expenditures required to be
11 reported pursuant to K.S.A. 46-268, and amendments thereto. Such
12 expenditures shall be reported according to the following categories of
13 expenditures:

14 (1) Food and beverages provided as hospitality;

15 (2) entertainment, gifts, honoraria or payments;

16 (3) mass media communications;

17 (4) recreation provided as hospitality;

18 (5) communications for the purpose of influencing legislative or
19 executive action; and

20 (6) all other reportable expenditures made in the performance of
21 services as a lobbyist.

22 With regard to expenditures for entertainment or hospitality which is
23 primarily recreation, food and beverages, only amounts expended on a
24 state officer or employee or on such officer or employee's spouse shall be
25 considered to be for or in direct relation to lobbying. Notwithstanding the
26 requirements of this subsection and subsection (d), no lobbyist shall be
27 responsible to report any expenditure by the lobbyist's employer of which
28 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 judicial
33 branch of government and any employees of the legislature or judicial
34 branch of government. Such report shall disclose the full name of the
35 legislator, member of the judicial branch and employee who received such
36 gift, entertainment or hospitality and the amount expended on such gift,
37 entertainment or hospitality.

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

40 (A) Meals, the provision of which is motivated by a personal or
41 family relationship;

42 (B) meals provided at public events in which the person is attending
43 in an official capacity;

1 (C) meals provided to a person subject to this section when it is
2 obvious such meals are not being provided because of the person's official
3 position;

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

6 (E) entertainment or hospitality in the form of recreation, food and
7 beverages provided at an event to which the following have been invited:

8 (i) All members of the legislature or all members of either house of
9 the legislature; or

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

12 (d) Except as provided by subsection (c), whenever an individual
13 lobbyist contributes to a single special event, such lobbyist shall report
14 only the aggregate amount or value of the expenditure contributed by such
15 lobbyist.

16 (e) Whenever more than one lobbyist is employed by a single
17 employer, the reports required by this section relating to such employer
18 shall be made by only one such lobbyist and that lobbyist shall be the
19 lobbyist who is most directly connected with the particular expenditure or
20 gift, honoraria or payment. No expenditure or gift, honoraria or payment
21 required to be reported by this section shall be reported by more than one
22 lobbyist.

23 (f) All accounts, records and documents of the lobbyist which relate
24 to every expenditure reported or which should have been reported shall be
25 maintained and preserved by the lobbyist for a period of five years from
26 the date of the filing of such report or statement and may be inspected
27 under conditions determined by the commission.

28 Sec. 4. K.S.A. 46-237 and 46-269 and K.S.A. 2012 Supp. 46-237a
29 are hereby repealed.

30 Sec. 5. This act shall take effect and be in force from and after its
31 publication in the statute book.