

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~~ **{ \$250 }** or more in any calendar year from any one person
15 known to have a special interest, under circumstances where such person
16 knows or should know that a major purpose of the donor is to influence
17 such person in the performance of their official duties or prospective
18 official duties. ~~The dollar limitation for hospitality in the form of~~
19 ~~recreation shall not apply to the spouse of a legislator or candidate for~~
20 ~~such office.~~

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

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

27 (2) hospitality in the form of recreation having an aggregate value of
28 ~~\$100~~ ~~\$500~~ **{ \$250 }** or more in any calendar year to any state officer or
29 employee, candidate for state office or state officer elect with a major
30 purpose of influencing such officer or employee, candidate for state office
31 or state officer elect in the performance of official duties or prospective
32 official duties. ~~The dollar limitation for hospitality in the form of~~
33 ~~recreation shall not apply to the spouse of a legislator or candidate for~~
34 ~~such office.~~

1 (c) No person licensed, inspected or regulated by a state agency shall
2 offer, pay, give or make any economic opportunity, gift, loan, gratuity,
3 special discount, favor, hospitality or service having an aggregate value of
4 \$40 or more in any calendar year to such agency or any state officer or
5 employee, candidate for state office or state officer elect of that agency.

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

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

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

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

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

1 and strengthening state legislatures in all states of the nation, when paid
2 from funds of such organization and nothing shall be construed to limit or
3 prohibit the expenditure of funds of and by any such organization for such
4 purposes.

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

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

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

17 (1) A gift having an aggregate value of less than \$40 given at a
18 ceremony or public function where the person is accepting the gift in such
19 person's official capacity; or

20 (2) gifts from relatives or gifts from personal friends when it is
21 obvious to the person that the gift is not being given because of the
22 person's official position; or

23 (3) anything of value received by the person on behalf of the state
24 that inures to the benefit of the state or that becomes the property of the
25 state; or

26 (4) contributions solicited on behalf of a nonprofit organization which
27 is exempt from taxation under paragraph (3) of subsection (c) of section
28 501 of the internal revenue code of 1986, as amended.

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

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

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

39 (3) meals provided to a person subject to this act when it is obvious
40 such meals are not being provided because of the person's official position;

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

43 (5) any meal the value of which is ~~\$25~~ \$50 or less;

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

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

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

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

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

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

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

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

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

1 amendments thereto.

2 Sec. 3. K.S.A. 46-269 is hereby amended to read as follows: 46-269.
3 Each report required to be filed by K.S.A. 46-268, and amendments
4 thereto, is a public record and shall be open to public inspection upon
5 request. Such report shall disclose the following:

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

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

18 (1) Food and beverages provided as hospitality;

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

20 (3) mass media communications;

21 (4) recreation provided as hospitality;

22 (5) communications for the purpose of influencing legislative or
23 executive action; and

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

26 With regard to expenditures for entertainment or hospitality which is
27 primarily recreation, food and beverages, only amounts expended on a
28 state officer or employee or on such officer or employee's spouse shall be
29 considered to be for or in direct relation to lobbying. Notwithstanding the
30 requirements of this subsection and subsection (d), no lobbyist shall be
31 responsible to report any expenditure by the lobbyist's employer of which
32 such person has no knowledge.

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

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

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

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

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

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

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

12 (i) All members of the legislature or all members of either house of
13 the legislature; or

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

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

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

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

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

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