

## Senate Substitute for HOUSE BILL No. 2161

By Committee on Elections and Local Government

3-21

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AN ACT concerning governmental ethics; relating to gifts and hospital-  
ity; amending K.S.A. 46-229, 46-237, 46-237a, 46-269 and 46-271 and  
repealing the existing sections.

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

Section 1. K.S.A. 46-229 is hereby amended to read as follows: 46-  
229. (a) "Substantial interest" means any of the following:

~~(a)~~ (1) If an individual or an individual's spouse, either individually  
or collectively, has owned within the preceding 12 months a legal or  
equitable interest exceeding ~~\$5,000~~ \$10,000 or 5% of any business, which-  
ever is less, the individual has a substantial interest in that business.

~~(b)~~ (2) If an individual or an individual's spouse, either individually  
or collectively, has received during the preceding calendar year compen-  
sation which is or will be required to be included as taxable income on  
federal income tax returns of the individual and spouse in an aggregate  
amount of \$2,000 from any business or combination of businesses, the  
individual has a substantial interest in that business or combination of  
businesses.

~~(c)~~ (3) If an individual or an individual's spouse, either individually  
or collectively, has received directly or indirectly in the preceding 12  
months, gifts or honoraria having an aggregate value of \$500 or more  
from any person, the individual has a substantial interest in that person.  
If a gift is received for which the value is unknown, the individual shall  
be deemed to have a substantial interest in the donor. A substantial in-  
terest does not exist under this subsection by reason of: ~~(1)~~ (A) A gift or  
bequest received as the result of the death of the donor; ~~(2)~~ (B) a gift  
from a spouse, parent, grandparent, sibling, aunt or uncle; or ~~(3)~~ (C)  
acting as a trustee of a trust for the benefit of another.

~~(d)~~ (4) If an individual or an individual's spouse holds the position of  
officer, director, associate, partner or proprietor of any business, the in-  
dividual has a substantial interest in that business, irrespective of the  
amount of compensation received by the individual or individual's spouse.

~~(e)~~ (5) If an individual or an individual's spouse receives compensa-  
tion which is a portion or percentage of each separate fee or commission  
paid to a business or combination of businesses, the individual has a sub-

1 substantial interest in any client or customer who pays fees or commissions  
2 to the business or combination of businesses from which fees or com-  
3 missions the individual or the individual's spouse, either individually or  
4 collectively, received an aggregate of \$2,000 or more in the preceding  
5 calendar year.

6 (b) As used in this ~~subsection~~, *section* "client or customer" means a  
7 business or combination of businesses.

8 Sec. 2. K.S.A. 46-237 is hereby amended to read as follows: 46-237.

9 (a) Except as provided by this section, no ~~state officer or employee, candi-~~  
10 ~~date for state office or state officer elect of the legislative branch of state~~  
11 *government, legislator, legislator elect or candidate for the legislature* shall  
12 accept, or agree to accept any (1) economic opportunity, gift, loan, gra-  
13 tuity, special discount, favor, ~~hospitality~~ or service having an aggregate  
14 value ~~in excess of \$40 or more~~ \$5 in any calendar year ~~or~~, (2) hospitality  
15 in the form of recreation having an aggregate value of \$100 or more in  
16 any calendar year ~~or~~ (3) *entertainment having an aggregate value of \$40*  
17 *or more in any calendar year* from any one person known to have a special  
18 interest, under circumstances where such person knows or should know  
19 that a major purpose of the donor is to influence such person in the  
20 performance of their official duties or prospective official duties.

21 (b) Except as provided by this section, no person with a special inter-  
22 est shall offer, pay, give or make any (1) economic opportunity, gift,  
23 loan, gratuity, special discount, favor, ~~hospitality~~ or service having an ag-  
24 gregate value ~~in excess of \$40 or more~~ \$5 in any calendar year ~~or~~, (2)  
25 hospitality in the form of recreation having an aggregate value of \$100 or  
26 more in any calendar year, ~~or~~ (3) *entertainment having an aggregate value*  
27 *of \$40 or more in any calendar year* to any ~~state officer or employee,~~  
28 ~~candidate for state office or state officer elect of the legislative branch of~~  
29 *state government, legislator, legislator elect or candidate for the legislature*  
30 with a major purpose of influencing such ~~officer or employee, legislator,~~  
31 *legislator elect or candidate for state office or state officer elect the leg-*  
32 *islature* in the performance of official duties or prospective official duties.

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

38 (d) Hospitality in the form of food and beverages ~~is presumed not to~~  
39 ~~be given to influence a state officer or employee, candidate for state office~~  
40 ~~or state officer elect in the performance of official duties or prospective~~  
41 ~~official duties, may be accepted by an employee of the legislative branch~~  
42 *of state government, legislator, legislator elect or candidate for the legis-*  
43 *lature* except when a particular course of official action is to be followed

1 as a condition thereon.

2 (e) Except when a particular course of official action is to be followed  
3 as a condition thereon, this section shall not apply to: (1) Any *official*  
4 *publication published on a regular basis by a trade association, profes-*  
5 *sional association, foundation or tax exempt organization;* (2) any contri-  
6 bution reported in compliance with the campaign finance act; or ~~(2)-a~~ (3)  
7 any commercially reasonable loan or other commercial transaction in the  
8 ordinary course of business.

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

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

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

40 (i) *For the purposes of this section, "hospitality" means the provision*  
41 *of recreation and food and beverages to any employee of the legislative*  
42 *branch of state government, legislator, legislator elect or candidate for the*  
43 *legislature while the employee of the legislative branch, legislator, legis-*

1 *lator elect or candidate for the legislature is in the company of the donor*  
2 *or the donor's authorized agent.*

3 *(j) For the purposes of this section, "entertainment" means the pro-*  
4 *vision of recreation, food and beverage when not accompanied by the*  
5 *donor or the donor's authorized agent.*

6 Sec. 3. K.S.A. 46-237a is hereby amended to read as follows: 46-  
7 237a. (a) The provisions of this section shall apply to:

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

15 (b) No person subject to the provisions of this section shall solicit or  
16 accept any gift, economic opportunity, loan, gratuity, special discount or  
17 service *in excess of \$5* provided because of such person's official position,  
18 except:

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

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

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

28 (4) contributions solicited on behalf of a nonprofit organization which  
29 is exempt from taxation under paragraph (3) of subsection (c) of section  
30 501 of the internal revenue code of 1986, as amended.

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

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

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

41 (3) *meals provided at any event in which the person is attending as*  
42 *a speaker, presenter or panelist;*

43 (4) meals provided to a person subject to this act when it is obvious

1 such meals are not being provided because of the person's official posi-  
2 tion; and

3 ~~(4)~~ (5) food such as soft drinks, coffee or snack foods not offered as  
4 part of a meal.

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  
12 a legitimate state purpose or interest and the person's agency authorizes  
13 or 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 sport-  
16 ing events or activities such as plays, concerts, games, golf, exclusive swim-  
17 ming, hunting or fishing or other recreational activities when the free or  
18 special discount tickets or access are provided because of the person's  
19 official position. The provisions of this subsection shall not apply to per-  
20 sons whose official position requires or obliges them to be present at such  
21 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 em-  
27 ployee shall subject such employee to discipline up to and including  
28 termination.

29 (3) In addition to the penalty prescribed under paragraphs (1) and  
30 (2), 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 col-  
35 lected under this section shall be remitted to the state treasurer. Upon  
36 receipt thereof, the state treasurer shall deposit the entire amount in the  
37 state treasury and credit it to the governmental ethics fee fund established  
38 by K.S.A. 25-4119e, and amendments thereto.

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

43 (a) The full name and address of each person who has paid compen-

1 sation for lobbying to the lobbyist or has paid for expenses of lobbying by  
2 the lobbyist during the period reported.

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

11 (1) Food and beverages provided as hospitality;

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

13 (3) mass media communications;

14 (4) recreation provided as hospitality;

15 (5) communications for the purpose of influencing legislative or ex-  
16 ecutive action; and

17 (6) all other reportable expenditures made in the performance of  
18 services as a lobbyist. With regard to expenditures for entertainment or  
19 hospitality which is primarily recreation, food and beverages, only  
20 amounts expended on a state officer or employee or on such officer or  
21 employee's spouse shall be considered to be for or in direct relation to  
22 lobbying. Notwithstanding the requirements of this subsection and sub-  
23 section (d), no lobbyist shall be responsible to report any expenditure by  
24 the lobbyist's employer of which such person has no knowledge.

25 (c) (1) In addition to the information reported pursuant to subsection  
26 (b), each lobbyist expending an aggregate amount of \$100 or more for  
27 lobbying in any reporting period shall report any gift, entertainment or  
28 hospitality provided to members of the legislature, members of the ju-  
29 dicial branch of government and any employees of the legislature or ju-  
30 dicial branch of government. Such report shall disclose the full name of  
31 the legislator, member of the judicial branch and employee who received  
32 such gift, entertainment or hospitality and the amount expended on such  
33 gift, entertainment or hospitality.

34 (2) *Subject to the provisions of paragraph (4) of this subsection, no*  
35 *report itemization shall be required to be filed pursuant to this subsection*  
36 (c) for the following:

37 ~~(A) Meals, the provision of which is motivated by a personal or family~~  
38 ~~relationship;~~

39 ~~—(B) meals provided at public events in which the person is attending~~  
40 ~~in an official capacity;~~

41 ~~—(C) meals provided to a person subject to this section when it is ob-~~  
42 ~~vious such meals are not being provided because of the person's official~~  
43 ~~position;~~

1 ~~—(D)— food such as soft drinks, coffee or snack foods not offered as part~~  
2 ~~of a meal; and~~

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

5 ~~—(i)— All members of the legislature or all members of either house of~~  
6 ~~the legislature; or~~

7 ~~—(ii)— all members of a political party caucus of the legislature or all~~  
8 ~~members of a political party caucus of either house of the legislature.~~

9 *(A) Gifts having a value of \$5 or less;*

10 *(B) food or beverage having a value of \$15 or less per person per*  
11 *event;*

12 *(C) food or beverage, the provision of which is motivated by a per-*  
13 *sonal or family relationship;*

14 *(D) food or beverage provided to a person subject to this section when*  
15 *it is obvious such food or beverage is not provided because of such person's*  
16 *official position;*

17 *(E) any event to which all members of the legislature or all members*  
18 *of either house of the legislature are invited;*

19 *(F) any event to which all members of a political party caucus of the*  
20 *legislature or all members of a political party caucus of either house of*  
21 *the legislature are invited;*

22 *(3) When used in this paragraph and paragraph (2) of this subsection,*  
23 *“event” means, but is not limited to, a meeting or other gathering, meal,*  
24 *reception, party, sporting, civic or cultural activity;*

25 *(4) On July 1, 2002, and on July 1 of each year thereafter, the value*  
26 *of food or beverages requiring disclosure of individual names of officers*  
27 *and employees under subsection (c)(1) shall be increased each year by an*  
28 *amount which equals the product of the amount allowed under subsection*  
29 *(e)(1) during the next preceding year multiplied by a fraction the numer-*  
30 *ator of which is the average consumer price index for all urban consumers*  
31 *published by the federal department of labor as of the close of the 12-*  
32 *month period ending on August 31 of the first calendar year preceding*  
33 *the year in which the adjustment is made and the denominator of which*  
34 *is such index as of such period ending on August 31 of the second calendar*  
35 *year preceding the year in which the adjustment is made.*

36 *(d) Except as provided by subsection (c), whenever an individual lob-*  
37 *byist contributes to a single special event, such lobbyist shall report only*  
38 *the aggregate amount or value of the expenditure contributed by such*  
39 *lobbyist.*

40 *(e) In addition to any other report required to be filed pursuant to*  
41 *K.S.A. 46-268 and amendments thereto, each lobbyist shall file a separate*  
42 *“summary report” in the format designated by the governmental ethics*  
43 *commission at the times designated in K.S.A. 46-268 and amendments*

1 *thereto. Each lobbyist shall file one such report per reporting period and*  
2 *the report shall be filed under the lobbyist's name. Such report shall dis-*  
3 *close the cost of all food and beverage having a value in excess of \$15*  
4 *provided at a single event to any legislator, legislator elect, member of the*  
5 *judicial branch of government, or employees of the legislative or judicial*  
6 *branch of government regardless of the number of clients who paid for*  
7 *the food and beverage. This disclosure shall include (1) the name of the*  
8 *legislator, legislator elect, member of the judicial branch of government,*  
9 *or employee of the legislative or judicial branch of government accepting*  
10 *the food and beverage, (2) the total amount spent including the legislator,*  
11 *legislator elect, member of the judicial branch of government, or employee*  
12 *of the legislative or judicial branch of government's pro rata portion of*  
13 *the tax and gratuity, (3) the date the food and beverage was provided and*  
14 *(4) a pro rata itemization of the lobbyist's client or clients on whose behalf*  
15 *the expenditure was made.*

16 ~~(e)~~ (f) 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  
20 or gift, honoraria or payment. No expenditure or gift, honoraria or pay-  
21 ment required to be reported by this section shall be reported by more  
22 than one lobbyist.

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

28 Sec. 5. K.S.A. 46-271 is hereby amended to read as follows: 46-271.

29 (a) No lobbyist shall offer, pay, give or make (1) any economic opportu-  
30 nity, gift, loan, gratuity, special discount, favor, ~~hospitality~~, or service hav-  
31 ing an aggregate value ~~in excess of \$40 or more~~ \$5 in any calendar year ,  
32 (2) ~~hospitality in the form of recreation having an aggregate value of \$100~~  
33 ~~or more in any calendar year or (3) entertainment having an aggregate~~  
34 ~~value of \$40 or more in a calendar year to any state officer or employee~~  
35 ~~or candidate for state office of the legislative branch of state government,~~  
36 ~~legislator, legislator elect or candidate for the legislature with a major~~  
37 ~~purpose of influencing such officer or employee, legislator, legislator elect~~  
38 ~~or candidate for the legislature in the performance of official duties or~~  
39 ~~prospective official duties. Hospitality in the form of recreation, food and~~  
40 ~~beverages are presumed not to be given to influence a state officer or~~  
41 ~~employee or candidate for state office in the performance of official~~  
42 ~~duties;~~

43 ~~Except when a particular course of official action is to be followed as~~



1 ~~a condition thereon.~~

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

4 (1) *Hospitality in the form of food and beverage;*

5 (2) *official publications published on a regular basis by trade asso-*  
6 *ciations, professional associations, foundations and tax exempt organiza-*  
7 *tions when provided by the lobbyist therefor;*

8 ~~(3) any contribution reported in compliance with the campaign~~  
9 ~~finance act as amended, or;~~ *or*

10 ~~(4) a commercially reasonable loan or other commercial transac-~~  
11 ~~tion in the ordinary course of business.~~

12 Sec. 6. K.S.A. 46-229, 46-237, 46-237a, 46-269 and 46-271 are  
13 hereby repealed.

14 Sec. 7. This act shall take effect and be in force from and after its  
15 publication in the statute book.

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