

SENATE BILL No. 100

By Committee on Ethics, Elections and Local Government

Representative Schwab  
Proposed Amendments for SB 100  
As Amended by Senate Committee  
March 20, 2013  
Prepared by Renae Jefferies  
Office of the Revisor of Statutes.

1 AN ACT concerning ~~candidates and~~ lobbyists; regarding filings;  
2 amending K.S.A. 25-904, 25-4173 ~~and 46-268~~ and repealing the  
3 existing section sections.  
4

campaign finance;

25-4175, 46-237, 46-268 and 46-269  
and K.S.A. 2012 Supp. 46-237a

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

6 *Section 1. K.S.A. 25-904 is hereby amended to read as follows: 25-*  
7 *904. (a) Every candidate for election to any city of the second and third*  
8 *class, unified school district, community college or township office*  
9 *subject to this act who intends to expend or have expended on such*  
10 *person's behalf an aggregate amount or value of less than ~~-\$500~~ \$1,000,*  
11 *exclusive of such candidate's filing fee, and who intends to receive or*  
12 *have received on such person's behalf contributions in an aggregate*  
13 *amount or value of less than ~~-\$500~~ \$1,000 in each the primary and the*  
14 *general election shall file, not later than the ninth day preceding the*  
15 *primary election, an affidavit of such intent with the county election*  
16 *officer of the county of residence of the candidate. No report required by*  
17 *subsection (b) shall be required to be filed by or for such candidate.*

18 *(b) Except as provided in subsection (a), it shall be the duty of every*  
19 *candidate for nomination or for election to any city of the second and*  
20 *third class, unified school district, community college or township office*  
21 *subject to this act, within 30 days after each primary, general or special*  
22 *election, to file with the county election officer an itemized statement*  
23 *under oath stating the name and address of each person who has made*  
24 *any contribution in excess of \$50 during the election period together*  
25 *with the amount and date of such contributions and an itemized*  
26 *statement of all expenditures made by such candidate or obligations*  
27 *contracted or incurred by such candidate in connection with each*  
28 *primary, general or special election.*

29 *(c) No candidate which is subject to the provisions of the campaign*  
30 *finance act (~~K.S.A. 25-4142 et seq., and amendments thereto~~), shall be*  
31 *required to file any report required by this section.*

32 *(d) Any candidate who has signed an affidavit pursuant to*  
33 *subsection (a) and who incurs expenses in excess of or receives*  
34 *contributions in excess of ~~-\$500~~ \$1,000, exclusive of such candidate's*  
35 *filing fee for either the primary or the general election, shall file the*  
36 *report required by subsection (b).*

1     *Sec. 2. K.S.A. 25-4173 is hereby amended to read as follows: 25-*  
 2 *4173. Every candidate for state or local office who intends to expend or*  
 3 *have expended on such person's behalf an aggregate amount or value of*  
 4 *less than \$500 \$1,000, exclusive of such candidate's filing fee, and who*  
 5 *intends to receive or have received on such person's behalf contributions*  
 6 *in an aggregate amount or value of less than \$500 \$1,000 in each of the*  
 7 *primary and the general elections shall file, not later than the ninth day*  
 8 *preceding the primary election, an affidavit of such intent with the*  
 9 *secretary of state for state offices. In the case of a candidate for a local*  
 10 *office, such affidavit also shall be filed with the county election officer of*  
 11 *the county in which the name of the candidate is on the ballot. No report*  
 12 *required by K.S.A. 25-4148, and amendments thereto, shall be required*  
 13 *to be filed by or for such candidate.*

14     ~~Section 1.~~ *Sec. 3. K.S.A. 46-268 is hereby amended to read as*  
 15 *follows: 46-268. (a) Except as otherwise provided in subsection (b), every*  
 16 *lobbyist shall file with the secretary of state a report of employment and*  
 17 *expenditures on a form and in the manner prescribed and provided by the*  
 18 *commission. A report shall be filed on or before the 10<sup>th</sup> day of the months*  
 19 *of February, March, April, May, September and January. Reports shall*  
 20 *include all expenditures which are required to be reported under K.S.A.*  
 21 *46-269, and amendments thereto, or a statement that no expenditures in*  
 22 *excess of \$100 were made for such purposes, during the preceding*  
 23 *calendar month or months since the period for which the last report was*  
 24 *filed.*

25     (b) For any calendar year in which a lobbyist expects to expend an  
 26 aggregate amount of less than \$100 for lobbying in each reporting period,  
 27 a lobbyist shall file an affidavit of such intent with the secretary of state.  
 28 Such lobbyist shall not be required to file the reports required under  
 29 subsection (a) for the year for which such affidavit is filed ~~but shall file a~~  
 30 ~~report on or before January 10, which shall include all expenditures made~~  
 31 ~~in the preceding calendar year which are required to be reported under~~  
 32 ~~K.S.A. 46-269, and amendments thereto. If in any reporting period a~~  
 33 ~~lobbyist filing such affidavit expends in excess of \$100 in reportable~~  
 34 ~~expenses, a report shall be filed for such period in the manner prescribed~~  
 35 ~~by subsection (a).~~

36     ~~Sec. 2.~~ *4. K.S.A. 25-904, 25-4173 ~~and 46-268~~ is *are* hereby repealed.*

37     ~~Sec. 3.~~ *5. This act shall take effect and be in force from and after its*  
 38 *publication in the statute book.*

See Attached Insert

25-4175, 46-237, 46-268 and 46-269  
 and K.S.A. 2012 Supp. 46-237a

**INSERT Page 1**

Sec. 4. K.S.A. 25-4175 is hereby amended to read as follows: 25-4175. For any calendar year during which a party or political committee intends to expend an aggregate amount or value of less than ~~\$500~~ \$1,000 and intends to receive contributions in an aggregate amount or value of less than ~~\$500~~ \$1,000 and during which such party or political committee intends to receive no contributions in excess of \$50 from any one contributor, the treasurer of such party or political committee shall file an affidavit of such intent with the secretary of state if such committee is a party committee or a political committee which expressly advocates the nomination, election or defeat of a clearly identified candidate for state office and with the county election officer if the committee is a political committee which expressly advocates the nomination, election or defeat of a clearly identified candidate for local office. Such treasurer shall not be required to file the reports required by K.S.A. 25-4148, and amendments thereto, for the year for which such affidavit is filed. Such affidavit may be filed at any time not later than the ninth day preceding the primary election.

Sec. 5. 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:

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

(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, 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

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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, 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. 6. K.S.A. 2012 Supp. 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;

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- (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; or

(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; or

(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 is exempt from taxation under paragraph (3) of subsection (c) of section 501 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

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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 ~~\$25~~ \$50 or less;

(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; and

(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.

(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.

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(e) 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. The provisions of this subsection 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.

Sec. 7. K.S.A. 46-269 is hereby amended to read as follows: 46-269. Each report required to be filed by K.S.A. 46-268, and amendments thereto, is a public record and shall be open to public inspection upon request. Such report shall disclose the following:



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

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

- (1) Food and beverages provided as hospitality;
- (2) entertainment, gifts, honoraria or payments;
- (3) mass media communications;
- (4) recreation provided as hospitality;
- (5) communications for the purpose of influencing legislative or executive action; and
- (6) all other reportable expenditures made in the performance of services as a lobbyist.

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

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

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

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

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

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

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

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

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

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

(d) Except as provided by subsection (c), whenever an individual lobbyist contributes to a single special event, such lobbyist shall

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report only the aggregate amount or value of the expenditure contributed by such lobbyist.

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

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