

M I N U T E S

SPECIAL COMMITTEE ON ELECTIONS

May 24, 1977

Room 510 - State House

Members Present

Senator Paul Burke, Chairperson
Representative Norman Justice, Vice-Chairperson
Senator Bill Mulich
Senator Frank Smith
Representative Francis Gordon
Representative Glee Jones
Representative John Modrcin
Representative Belva Ott
Representative Richard Schmidt
Representative Richard Walker

Staff Present

Myrta Anderson, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office

Conferees and Others Present

Lavina McDonald, Secretary of State's Office
Mary Ritter, Secretary of State's Office
Betty Dunn, Governmental Ethics Commission, Topeka
Lynn Hellebust, 109 West 9th, Governmental Ethics Commission, Topeka
Marilyn Bradt, League of Women Voters, Topeka
Keith Henley, Aide, House Minority Leader, Topeka
Kathy Maag, Kansas Republican Party, Topeka
Debby Schmidt, Governor's Office, Topeka
Dean A. Hinnen, Harris News Service, Topeka
Randy Myers, Kansas City Star, Topeka
Brad Smoot, Department of Administration, Topeka
Jack Swartz, Kansas Association of Commerce and Industry, Topeka
Deb Harrison, Associate Students of Kansas, Topeka
Gary Shearer, Governmental Ethics Commission, Topeka

Tuesday, May 24

The Special Interim Committee on Elections convened at 10:00 a.m. on Tuesday, May 24, 1977. Senator Burke called the meeting to order and stated the four proposals assigned to the Committee were:

- Proposal No. 15 -- A study of the activities, statutory authority, rules and regulations and operations and procedures of the Kansas Governmental Ethics Commission.
- Proposal No. 16 -- Review and evaluate the Campaign Finance Act adapted in 1974 as applied to the 1976 election of members of the Kansas Senate and House of Representatives, including consideration of general revisions that were submitted to the 1977 Session.
- Proposal No. 17 -- The desirability of establishing a Presidential Preference Primary in Kansas.
- Proposal No. 18 -- Examine and monitor proposed changes in federal voting procedures; review Kansas statutes concerning postcard voter registration and recommend necessary changes.

Kansas Governmental Ethics Commission

Senator Burke stated that the first item of discussion on the agenda would be a review of the structure and activities of the Governmental Ethics Commission and a briefing on the Campaign Finance Act by Lynn Hellebust, Executive Director of the Governmental Ethics Commission. Mr. Hellebust then introduced two members of the Commission, Betty Dunn and Gary Shearer. He stated that Brian Moline, a member of the Commission, was to have made a few remarks about the structure of the Commission but would not be able to be present. Mr. Hellebust then gave a summary of the following material presented to the Committee. (See Attachment I.)

1. Governmental Ethics Commission Fact Sheets
2. Statement of Agency Goals, Objectives and Program Activities
3. Description of Governmental Ethics Commission Operations prepared by Fiscal Division of the Kansas Legislative Research Department
4. General Policy Regarding Campaign Finance Act and Audit Guidelines
5. Campaign Finance Act: K.S.A. 1976 Supp. 25-4101 et seq., as amended
6. Conflict of Interest and Lobbying Regulation: K.S.A. 1976 Supp. 46-215 et seq., as amended
7. General (local) Conflict of Interest Law: K.S.A. 1976 Supp. 75-4301 et seq., as amended

During Committee discussion the influence of the Buckley V. Valeo decision in January, 1976, was mentioned. Mr. Hellebust stated that the decision struck down provisions of the campaign law that limited spending by candidates and private individuals. The court, however, upheld the disclosure provisions of the law, public financing of elections and limitation on individual contributions to political candidates. Committee discussion followed.

During Committee discussion of K.S.A. 25-4120, Commission Opinions, Mr. Hellebust presented the following statistics concerning the opinions issued:

| | |
|------------------------|---------------------------|
| 1974 - (one-half year) | 69 opinions issued |
| 1975 - | 107 opinions issued |
| 1976 - | 39 opinions issued |
| 1977 - | <u>11</u> opinions issued |
| TOTAL | 226 |

Of the 226 opinions which have been issued, 31 percent have been on campaign finance, 20 percent on lobbying, 24 percent on state conflict of interest, and 25 percent on local conflict of interest.

Discussion followed on K.S.A. 25-4110, Reports by Certain Persons, and K.S.A. 25-4111, Verification of Reports. In addition, Mr. Hellebust reviewed a recent Attorney General's Opinion on the Campaign Finance Act stating that the Governmental Ethics Commission has no jurisdiction under the Campaign Act to entertain a complaint against any person other than a person to whom the Campaign Finance Act applies. (See Opinion No. 77-151, May 3, 1977.) Committee discussion followed on K.S.A. 25-4136, Statements or Reports by Certain Out-of-State Individuals and Persons, and on K.S.A. 46-247, Individuals Required to File Written Statements of Substantial Interests.

Mr. Hellebust then continued his discussion of the Statement of Agency Goals, Objectives and Program Activities. He next reviewed the Governmental Ethics Commission's general policy regarding Campaign Finance Act Review and Audit Guidelines.

The four stages are as follows:

1. Identification of candidates, candidate committees, party committee and political committees that are required to register under the Campaign Finance Act.
2. Preliminary review. An initial review to determine whether the required reports are filed. Notification of failure to file are sent at this stage.
3. Comprehensive review. Detailed desk review of reports conducted after each primary election, each general election and following the filing of reports in non-election years. This review includes determination of compliance with general statutory provisions, cross-checking between the reports of candidates and committees, and the confirmation of receipts and expenditures. Notification of material errors or omission are sent at this stage.

4. Audits are conducted on the following priority basis: formal complaints, as necessary to clarify material errors or omissions resulting from the comprehensive desk review. Representative sample of candidates and committees. When a candidate is selected, his or her opponents are also to be audited.

In response to a question, Mr. Hellebust then described the procedure involved in the determination of a decision to file a criminal complaint. He stated that of the eight hearings scheduled two have been recalled, one has gone to the Attorney General's Office, one is currently scheduled and four have been continued. Committee discussion followed. Questions were posed concerning the court case testing the constitutionality of the Ethics Commission. Mr. Hellebust stated that he had no further information except that he understood such a case would be filed.

In response to questions as to whether Kansas had kept pace with the other states with respect to the field of campaign finance, Mr. Hellebust stated that he thought Kansas could be ranked with such states as California, New Jersey and Ohio. He said that Kansas was ahead of many states and that Missouri was about on par with us. He stated that this did not mean there had not been problems. As far as funding was concerned the Commission had only five full-time employees and could only undertake a comparable work load. He stated he felt the next nine months would determine whether or not the Commission could get a handle on its long-range course of action.

In response to questioning, Mr. Hellebust stated that there were some areas that might be looked into without invalidating the act--candidates contributions, reporting periods and clarification of statement of substantial interests. The Chairman stated that the discussion on campaign finance and the Governmental Ethics Commission would be continued at another date and the Committee adjourned for lunch.

Afternoon Session

Presidential Preference Primary

The Chairman called on Mary Torrence, Revisor of Statutes' Office, to give a summary of Proposal No. 17, the Desirability of Establishing a Presidential Preference Primary in Kansas. She reported that 29 states and the District of Columbia have presidential primaries. There are basically two major types of preference primaries. The first is the presidential preference poll or primary wherein the names of prospective nominees are printed on the ballot and the voter may mark his or her preference. These polls may or may not be binding on the delegates from the state to the national political party conventions. The second kind is the delegate election in which voters choose the delegates to go to the national conventions. In some instances, delegates are elected by slate; sometimes, individually. They may be listed as pledged to a certain presidential candidate, or simply "favorable" to one, or unpledged. Some states use combinations and modifications of these two types of systems.

The positions various people take on presidential primaries emphasize either "organization politics" or "participatory politics." The national political parties have features representing both values. Primaries tend to weaken the role of party and increase popular participation. Most decisions as to whether or not to hold a presidential preferential primary are made with consideration of its likely effect on the state's party organization and the electoral process. There are arguments both pro and con with respect to the presidential preferential primary.

A section-by-section summary of H.B. 2144 was then given. H.B. 2144 was held over in the House Election Committee during the 1977 Session of the Legislature. H.B. 2144 relates to elections and amends numerous existing statutes. The bill provides for a presidential preference primary in Kansas to be held on the first Tuesday in June in years when candidates for the office of President of the United States are to be nominated and elected.

Candidates for president would have their names on the ballot either by filing a declaration of intent with the Secretary of State and paying a fee of \$100, or by filing a nominating petition signed by 1,000 registered voters affiliated with the candidate's political party. Voters may vote in the primary for their preference on the primary ballot or for "none of the names shown." A vote in the latter category would express a preference for an uncommitted delegation from Kansas to the party's national convention.

With respect to the fiscal note on H.B. 2144, (not included in Committee discussion), additional revenues would result from the filing fees in the amount of \$100 each paid by presidential candidates. The total of those revenues would, of course, be affected by the number of candidates filing. Additional workloads would also result from the presidential primary, particularly if a number of candidates filed for the preference primary by petition. Those additional responsibilities could result in a need for more part-time staff in the Secretary of State's Office.

The immediate effect of the change in primary date proposed by H.B. 2144 would be to transfer the state and local expenditures for the 1978 primary from fiscal year 1979 (August 1978) to fiscal year 1978 (June 1978). Of course, subsequent primaries would also appear in the earlier fiscal year, whether or not they were presidential preference primaries. The following amounts would have been requested by the Secretary of State for fiscal year 1979 to support activities related to the primary election and should be included in the fiscal year 1978 expenditures of the agency, should H.B. 2144 be enacted: salaries and wages, \$750; other operating expenditures, \$2,100.

Committee discussion followed on the general topic of dates of primaries in surrounding states, New Section 3 of H.B. 2144, qualifications or proposed delegates, etc. New Section 3 of H.B. 2144 states that proposed delegates must be qualified electors of the State of Kansas and a resident of the state for at least one year. Discussion followed on the constitutionality of this provision based upon the Dunn vs. Blumstein court decision concerning residency requirements. Further committee discussion followed. Chairman Burke then stated that Proposal 17 would be discussed further at a future date and hearings scheduled.

Voter Registration

Chairman Burke then directed the Committee to Proposal No. 18--examine and monitor proposed changes in federal voting procedures; review Kansas statutes concerning postcard voter registration and recommend necessary changes. Staff of the Legislative Research Department then reviewed the recent Uniform Voter Registration Act (H.R. 5400 and S. 1072) proposed by the current administration. (See Attachment II.) Committee discussion followed. Staff then reviewed K.S.A. 1976 Supp. 25-2309 concerning registration to vote and summarized H.B. 2145 and H.B. 2465 introduced during the 1977 Legislative Session. Both H.B. 2145 and H.B. 2465 were in the House Elections Committee at the end of the Session and were carried over to the next Session. Committee discussion followed. Chairman Burke stated that there would be further discussion of this proposal at later meetings.

Interim Meeting Dates

Discussion was then directed to meeting dates and topics for the future Committee meetings. Representative Justice moved that the Committee discussion include an in-depth review of the Rules and Regulations of the Governmental Ethics Commission. Senator Mulich seconded the motion. Motion carried. Representative Walker suggested this action be coordinated with the Rules and Regulations Interim Committee. The Chairman stated he would do this. The following Committee meeting dates were then agreed upon:

June 6 and 7
July 18 and 19
August 17 and 18
September 6 and 7
October - open

June Meeting Agenda

After Committee discussion it was decided that the June 6 and 7 meeting would be on Rules and Regulations of the Governmental Ethics Commission and H.C.R. 5026. It was decided that Mr. Hellebust of the Governmental Ethics Commission be invited to be present, or a member of his staff designated by him. Suggestions as to other conferees to be invited were made to the Committee. Copies of the Rules and Regulations of the Governmental Ethics Commission were then distributed to the Committee. (See Attachment III.) The meeting was then adjourned.

Prepared by Myrta Anderson

Approved by Committee on:

June 7, 1977
(Date)

Attachment 2
Herbust 5. 77
Govt Ethics Commission

SPECIAL COMMITTEE ON ELECTIONS

GOVERNMENTAL ETHICS COMMISSION
MAY 24, 1977

Atch. I

CONTENTS

- I. Governmental Ethics Commission Fact Sheets
- II. Statement of Agency Goals, Objectives and Program
- III. Description of Governmental Ethics Commission
Operations Prepared by Fiscal Division of Legislative
Research Department
- IV. General Policy Regarding Campaign Finance Act Review
and Audit Guidelines
- V. Campaign Finance Act: K.S.A. 1976 Supp. 25-4101
et seq., as amended
- VI. Conflict of Interest and Lobbying Regulation: K.S.A.
1976 Supp. 46-215 et seq., as amended
- VII. General (Local) Conflict of Interest Law: K.S.A. 1976
Supp. 75-4301 et seq., as amended



GOVERNMENTAL ETHICS COMMISSION

109 W. NINTH
TOPEKA, KANSAS 66612
PHONE: (913) 296-4219

GENERAL FACT SHEET*

The Kansas Governmental Ethics Commission was established to administer and enforce the 1974 Campaign Finance Act and another 1974 law relating to ethical conduct of state officers and the regulation of lobbyists. In addition, the Commission is charged with rendering advisory opinions under a less comprehensive conflict of interests law covering local government officers and employees.

Campaign Finance

The 1974 Campaign Finance Act provides for disclosure of campaign contributions and expenditures in elections for state office by most candidates, political parties and political committees. The major provisions of the Act are:

1. All candidates for state office, political parties and political committees must appoint a treasurer and register with the Secretary of State. No contribution may be received and no expenditure may be made by or on behalf of a candidate or committee until a treasurer is appointed.

2. Most candidates, political parties and political committees must file a report of all contributions and expenditures seven days before each primary election, ten days after each primary election, seven days before each general election, and on December 3rd each year. These reports are available for public inspection in the office of the Secretary of State.

3. Except for bona fide political parties, no individual, organization or committee may contribute directly or indirectly more than \$2,500 per election to a candidate for statewide office, or \$500 per election to a candidate for any other state office. The limits apply separately to each primary and each general election. However, candidates and their spouses are not subject to these limitations insofar as the use of their own funds is concerned.

4. While individuals and organizations are limited as to what they may directly or indirectly contribute to a candidate, they are not limited as to what they may independently spend on behalf of a

(over)

*This is only a summary. For a full statement of the law, consult K.S.A. 1975 Supp. 25-4101 et seq. and 46-215 et seq. If you have any questions, contact the Governmental Ethics Commission.

candidate without the candidate or the candidate's treasurer participating in any manner. But, an individual or organization making such an expenditure in excess of \$100 during a calendar year must file a campaign finance report disclosing the expenditure and the source of the funds.

Conflict of Interest

Other statutory provisions enacted during 1974 regulate the ethical conduct of state officers and employees and provide for the disclosure of substantial interests by certain state officers and employees. The major provisions of this statute are:

1. State officers or employees are prohibited from, among other things: (a) participating in the making of a contract with any business by which they are employed or in which they have a substantial economic interest; (b) accepting compensation for performance of official duties other than that to which they are officially entitled; (c) soliciting a favor or anything of value from a person with a special interest if the purpose of the donor could be to influence the officer or employee; or (d) accepting during a year anything worth a total of more than \$100, with certain exceptions, from a person with a special interest if the purpose of the donor is to influence the officer or employee.

2. State officers or employees are also prohibited from representing any person in a matter before a state agency without first filing a disclosure statement indicating the name of the employer, the purpose of the employment and the method of compensation.

3. All elected state officers and candidates for such office as well as individuals whose appointment is subject to confirmation and those officers and employees receiving \$15,000 or more per year, except teachers under the State Board of Regents, must file an annual statement of their substantial financial interests.

Regulation of Lobbyists

Changes enacted in 1974 also provide for the registration and regulation of lobbyists at the state level. The legislation requires the following people, with certain exceptions, to register as lobbyists: (a) individuals who are employed to lobby; (b) certain individuals who are appointed to lobby; and (c) persons who make expenditures of more than \$100 in a calendar year for lobbying. In addition, lobbyists must file expenditure statements periodically.

General Powers and Penalties

The Governmental Ethics Commission is charged with the administration of both Acts, including the investigation and hearing of complaints. Investigations are conducted in response to complaints or upon the Commission's own initiative. Anyone believing a violation of the law has occurred may file a complaint. The intentional violation of the standards is either a class A or class B misdemeanor and also subjects a state officer or employee to possible removal from office or employment. Finally, the Commission must, upon appropriate request and may upon its own initiative, render opinions in writing on questions concerning the interpretation of either Act.

(April 20, 1976)

STATE OF KANSAS



GOVERNMENTAL ETHICS COMMISSION

109 W. NINTH
TOPEKA, KANSAS 66612
PHONE: (913) 296-4219

CAMPAIGN FINANCE
FACT SHEET*

The Kansas Governmental Ethics Commission was created, in part, to administer and enforce the 1974 Campaign Finance Act which provides for full disclosure of campaign contributions and expenditures in elections for state office by most candidates, political parties and other political committees. In addition, the Act limits the amount of contributions that can be received by a candidate. However, there no longer is a limit on what candidates may spend.

Registration

All candidates for state office must appoint a treasurer or a candidate committee not later than ten days after becoming a candidate and report the name of the treasurer within ten days of the appointment to the Secretary of State. A candidate may be his or her own treasurer. Political parties and other political committees must also register when they are created and update the information when any change in treasurer or chairperson is made. Such changes must be filed with the Secretary of State within ten days.

Disclosure

It is the responsibility of the treasurer for a candidate, political party or other political committee to keep detailed records of all transactions and to file campaign finance reports. Such reports of contributions and expenditures must be filed in the office of the Secretary of State seven days before each primary election, ten days after each primary election, seven days before each general election and on December 3rd each year. These reports are available to the public in the office of the Secretary of State.

Certain candidates and a few political committees are exempt from reporting requirements. Candidates who will not raise or spend more than

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\$500 in their primary election nor more than an additional \$500 in their general election may file an affidavit exempting themselves from the reporting provision. Political committees, other than official party committees, may also exempt themselves from the reporting requirements if they do not anticipate spending more than \$500 during a calendar year and will not receive more than \$10 from any one contributor.

Limitations

Except for bona fide political parties, no individual, organization or committee may contribute more than \$2,500 per election to a candidate for statewide office or \$500 per election to a candidate for any other state office. The limits apply separately to each primary and each general election. Candidates and their spouses are not subject to these limitations insofar as the use of their own funds are concerned.

While individuals and organizations are limited as to what they may directly or indirectly contribute to a candidate, they are not limited as to what they may independently spend on behalf of a candidate without the candidate or the candidate's treasurer participating in any manner. However, an individual or organization making such an expenditure in excess of \$100 during a calendar year must file a campaign finance report disclosing the expenditure and the source of the funds.

The Act does not limit the amount which may be spent for a candidate's campaign.

Complaints

Anyone believing that a violation of the Campaign Finance Act has occurred may file a complaint with the Governmental Ethics Commission. Such complaints remain confidential during the Commission's investigation and become public if the Commission concludes that there was probable cause to believe that a violation did occur.

General Powers and Penalties

The Governmental Ethics Commission is charged with the administration of the Act including the investigation and hearing of complaints. Investigations are conducted in response to complaints or upon the Commission's own initiative. Intentional violation of the Act is a class A misdemeanor and also subjects an elected state officer to possible censure or removal from office. Finally, the Commission must, upon appropriate request, and may upon its own initiative, render opinions in writing on questions concerning the interpretation of the Act.

(April 23, 1976)

II. Statement of Agency Goals,
Objectives and Program
Activities

Governmental Ethics Commission

Statement of

Agency Goals, Objectives and Program Activities*

General

I. Goals

Assure the integrity of (1) the electoral process and (2) governmental decisions.

II. Objectives

- A. Assure compliance with the Campaign Finance Act
 - 1. Provide information and other services to the public and to those covered by the Act in order to assist with compliance.
 - 2. Provide for adequate and timely disclosure of receipts and expenditures.
 - 3. Enforce contribution limitations.
 - 4. Provide for compliance with other prohibitions.
- B. Assure compliance with conflict of interest provisions.
 - 1. Provide information and other services to the public and to those covered by these provisions in order to assist with compliance.
 - 2. Provide for adequate and timely disclosure of substantial interests and representation cases.
 - 3. Provide for compliance with standards and prohibitions governing behavior.
- C. Assure compliance with provisions governing lobbyists.
 - 1. Provide information and other services to the public and to those covered by these provisions in order to assist with compliance.
 - 2. Provide for compliance with registration provisions.
 - 3. Provide for compliance with expenditure reporting provisions.
 - 4. Provide for compliance with standards and prohibitions governing behavior.

III. Program Activities

- A. Information Program
 - 1. Public
 - 2. Clientele

- B. Advisory Opinions

- C. Review and Audit Program
 - 1. Campaign finance
 - 2. Conflict of interest and regulation of lobbying
- D. Investigations
- E. Enforcement
 - 1. Complaints
 - 2. Hearings
- F. General Administration
 - 1. Program analysis, planning and budgeting
 - 2. Personnel matters
 - 3. Rule and regulation revision
 - 4. Form revision
 - 5. Report and recommendations
 - 6. Research
 - 7. Interagency relations
 - 8. Commission meetings
 - 9. Record keeping and processing
 - 10. Clerical

Program Activity Breakdown

- A. Information Program
 - 1. Public
 - a. Media
 - b. Speaking engagements
 - c. Correspondence and telephone
 - d. Brochures
 - 2. Clientele
 - a. Candidates, treasurers and chairpersons
 - (1) Meetings
 - (2) Correspondence and telephone
 - b. State officers and employees
 - (1) Instruction brochures
 - (2) Meetings
 - (3) Correspondence and telephone
 - c. Lobbyists
 - (1) Handbook
 - (2) Meetings
 - (3) Correspondence and telephone
- B. Advisory Opinions
- C. Review and Audit Program
 - 1. Campaign finance
 - a. Preliminary review and notification of failure to file
 - b. Comprehensive review and notification of material errors or omissions
 - c. Field audit

2. Conflict of interest
 - a. Process and review Statements of Substantial Interests
 - b. Process and review Representation Case Disclosure Statements
3. Regulation of Lobbying
 - a. Process and review Lobbyist Registration Statements
 - b. Process and review Lobbyist Employment and Expenditure Reports

D. Investigations

1. Review and audit follow-up
2. General

E. Enforcement Program

1. Complaints
2. Hearings

F. General Administration

1. Program analysis, planning and budgeting
2. Personnel matters
3. Rules and regulations revision
4. Form revision
5. Report and recommendations
6. Research
7. Interagency relations
8. Commission meetings
 - a. Actual
 - b. Preparation
9. Record keeping and processing - report processing, payroll, bookkeeping, purchasing, etc.
10. Clerical - typing, steno, filing, etc.

III.

Description of Governmental
Ethics Commission Operations
Prepared by Fiscal Division
of Legislative Research
Department

GOVERNMENTAL ETHICS COMMISSION

Budget Pg. No. 135
 Approp. Bill Sec. 6

| <u>Expenditure Summary</u> | <u>Agency Est. FY 77</u> | <u>Governor's Rec. FY 77</u> | <u>Agency Req. FY 78</u> | <u>Governor's Rec. FY 78</u> |
|----------------------------|--------------------------|------------------------------|--------------------------|------------------------------|
| State Operations: | | | | |
| All Funds | \$ 135,934 | \$ 135,934 | \$ 237,400 | \$ 182,941 |
| State General Fund | 135,934 | 135,934 | 237,400 | 165,941 |
| F.T.E. Positions | 5.0 | 5.0 | 10.0 | 7.0 |

Introduction

The Governmental Ethics Commission is comprised of 11 members who are appointed for terms of two years. The purpose of the Commission is to administer and enforce the Campaign Finance Act, the Governmental Ethics Article relating to ethical conduct of state officers and employees, and the regulation of lobbyists, and to render advisory opinions under the conflict of interest law for local units of government.

This report focuses on the agency's FY 1978 budget request for additional staffing. Accordingly, four major agency functions are examined in terms of present staffing and activity levels and the effects of increased staffing and activity levels for those functions. They are: (1) review, (2) audit, (3) investigation/complaints, and (4) legal processes/hearings.

Fiscal Year 1978 Budget Analysis

Summary. The Commission's FY 1978 budget request totals \$237,400. The major expenditure item, salaries and wages, reflects an increase in staffing from 5.0 F.T.E. to 10.0 F.T.E. New positions requested include an attorney, an investigator, two auditors, and a secretary. Agency activities would be expanded accordingly. The budget request estimates the gross cost of expanding program activities and adding personnel to be \$94,975.

Governor's Recommendations. The Governor has recommended an FY 1978 budget of \$182,941 for the Governmental Ethics Commission. That amount, which represents an increase of \$47,007 or 34.6 percent over FY 1977, would allow for the additions of two new positions — an investigator and an auditor. The Governor's budget also allows \$5,000 for seasonal and temporary employees. The Governor has recommended enactment of a fine schedule to encourage compliance with the time limits for filing set by statute. The Governor recommends that the Legislature set fines at the rate of \$10 per day for late filings of the Receipts and Expenditure Reports, the Lobbyist Employment and Expenditure Reports, and the Statements of Substantial Interest, up to a maximum of \$500 per violation. The Governor has estimated receipts of \$17,000 from fines and has proposed using such revenue to partially finance the Commission.

Review. The agency's review program is a three-step process. The first step is the compiling of lists of candidates, committee organizations, lobbyists, and state employees who are required to file financial statements or reports under the various acts controlled by the Commission. After the lists are compiled, a preliminary desk review is conducted to determine if such persons have filed the appropriate reports required by state statute. If a report has not been filed a notice of failure to file is sent.

The final step, which deals primarily with persons required to file reports under the Campaign Finance Act and state employee's reports of substantial interest, is a comprehensive desk review of financial reports filed. This review encompasses a check of all reports for mathematical accuracy and obvious material errors, an evaluation of contributions, an evaluation of expenditures, and a general compliance procedure review. Included in this process are some basic audit techniques; however, according to the agency's procedure manual the review process is separate from the audit process. After the comprehensive desk review, notices of omissions and material errors are sent to the appropriate persons. Complaints may be filed against candidates and committees not filing amended receipt and expenditure reports within a thirty day period. According to agency records, 37 percent of the candidates and committees required to file received notices of having one or more excessively late reports and 41 percent received one or more notices of material error as of December 31, 1976.

The agency's FY 1977 budget request, as approved by the Legislature, called for part-time personnel and the agency's auditor to perform the review activities. In July of 1976, the agency terminated the use of the full-time attorney and hired a full-time report examiner to perform the major parts of review activities. At present the auditor supervises the review activities performed by the report examiner and intermittent personnel. The FY 1978 budget request reflects continued use of the full-time report examiner; however, part-time personnel are not requested. It is anticipated that the auditors will assist on an as needed basis in the review activities. The report examiner salary for FY 1978 is estimated at \$13,662.

Audit. The audit process involves field audits of campaign finance records and accounts. It is based on generally accepted audit standards and procedures adapted to the area of campaign finance. It includes the confirmation of receipts and expenditures. Audits originate and are conducted on the following priority basis: (1) formal complaints, (2) clarification of material errors and omissions discovered in the review process, and (3) representative samples of candidates and committees. To date, eleven audits have been completed which have resulted in six candidates or committees filing substantially amended reports. All eleven audits were of state candidates and committees and were generally conducted on a representative sample basis.

The agency presently employs one full-time auditor who, according to the budget document, currently spends approximately 65 percent of his time on audits and 35 percent of his time training and supervising other personnel in the audit and review programs. The agency's FY 1978 request includes the addition of two auditors to the staff at a salary cost of \$28,164. The present auditor's salary is \$16,907; for FY 1978 the agency is requesting that the position be upgraded to chief auditor and the salary set at \$18,648. Total personnel cost of the audit program for FY 1978 is \$45,071. It is estimated that with three auditors, approximately 25 percent of all candidates and committees would be audited compared to the less than one percent audited now. The 25 percent includes all three types of audits; in the case of representative sample audits, all candidates running for the same individual office would be audited. It is estimated that with the additional personnel approximately 456 candidates and committees would be audited over a four-year period.

The Governor has recommended the addition of an auditor at a salary of \$13,080 and recommends that the present auditor's salary be increased from \$16,907 to \$17,796.

Investigations/Complaints. The Commission is authorized to conduct investigations of candidates and committees believed to be in violation of the campaign finance act. Investigations can originate from two sources. First, if an outside complaint is filed and the Commission determines it is valid, a preliminary investigation can be made. Second, if a report is filed by the Commission's Executive Director, the Commission after reviewing the report, can authorize an investigation to determine whether a complaint should be filed. Of the eight investigations conducted by the Commission so far, five have resulted in the filing of formal complaints.

Complaints may be filed without an investigation being conducted. Formal complaints filed with the Commission total 68. Of those, 29 have been withdrawn or dismissed, seven have resulted in hearings being scheduled, and 32 remain unresolved. In each case initial evaluation and preparation, follow-up interviews, transcription of interviews and drafting of a report for presentation to the commission must be done. To date, most investigations and complaints filed with the Commission have come from in-house sources. The largest number of complaints have been filed against candidates and committees for failure to file reports.

Investigations are currently conducted by the auditor or the Executive Director as are background reports for complaints filed. For FY 1978 the agency is requesting a full-time investigator at a salary cost of \$15,084. The investigator would help process background data for complaints filed. He or she would be under the supervision of a full-time attorney. The Governor has recommended that an investigator be hired at a salary cost of \$15,084.

Legal Processes/Hearings. In addition to reviews, audits and investigations, the Commission is responsible for issuing opinions relating to the laws it is charged with enforcing. The agency has issued 215 such opinions; 44 related to regulation of lobbyists, 49 related to the conflict of interest provisions governing state officers and employees, 52 related to local conflict of interest laws, and 70 concerned with campaign finance. Of the 215 opinions, 196 originated from outside sources.

After a complaint has been filed and background report prepared, the Commission determines whether there is probable cause to conduct a hearing. If probable cause exists, a formal hearing is conducted. As of this writing, seven hearings have been scheduled and of these, two have been held.

As mentioned previously, in July of 1976 the agency terminated use of a full-time salaried attorney. The money budgeted for that position was used to hire a full-time report examiner as well as contract for the services of a part-time counsel. The part-time counsel the agency contracted with is the former full-time attorney employed by the agency. When the agency made the aforementioned personnel switch, it justified the action by stating that since there was an estimated decrease in rule and regulation revision and advisory opinions and the number of irregularities found by the one auditor would be less than anticipated, the services of a full-time attorney for FY 1977 was not necessary. It should be noted that the Commission's original FY 1977 budget request for the addition of review and audit staff was not recommended by the Governor or approved by the Legislature. At the present level of activity, it is estimated that the part-time counsel will draft responses to opinion requests, provide general legal advice, supervise investigations, and help evaluate and prosecute complaints for FY 1977 at a cost of \$8,900.

For FY 1978 the agency is requesting \$17,383 to hire a full-time attorney and \$4,450 to retain the part-time counsel on a contractual basis. The full-time attorney is requested on the basis of an anticipated increase in the number of complaints filed and investigations conducted caused by the addition of two auditors and an investigator to the staff. The attorney would supervise the investigations, provide guidance to the audit staff in evaluating complaints, and prosecute all complaints. The general counsel would serve as law officer during the hearings, draft responses to opinion requests, and provide general legal advice.

The Governor has recommended \$8,900 to retain part-time counsel on a contractual basis. The Governor did not recommend addition of a full-time attorney.

Comments. The request for additional personnel is predicated on the Commission's assertions that disclosure provisions of the law cannot be fulfilled without increased agency activities. The Commission views adequate disclosure as requiring expanded audit and investigation activities. It would appear that to determine the proper staffing level the Legislature must carefully examine what actually constitutes adequate disclosure under the law. If expanded audit and investigation activities are not viewed as necessary to assure disclosure then the agency budget should be adjusted accordingly. The agency estimates that \$158,362 would be necessary to continue operation at the current level. That amount includes the addition of \$15,937 for seasonal help and additional services of the part-time counsel not budgeted for in the original request of \$237,400.

IV. General Policy Regarding
Campaign Finance Act Review
and Audit Guidelines

Governmental Ethics Commission General Policy
Regarding
Campaign Finance Act Review & Audit Guidelines*

Reviews and audits conducted by the Commission under the Campaign Finance Act shall be governed by the following guidelines. These standards form a multi-stage system which in design and application is intended to be uniform and even-handed. The general purpose is to promote and yield maximum disclosure and to identify apparent violations and provide an authoritative basis for action when warranted. Both between stages and within each stage work shall proceed on the basis of priority assigned first to statewide candidates and major committees and then other candidates and committees. As necessary, representative samples shall be utilized to make the workload manageable. The four procedural stages are as follows:

- A. Identification of candidates, candidate committees, party committees and political committees that are required to register under the Campaign Finance Act.
- B. Preliminary review. This is an initial review to determine whether the required reports are filed. Notifications of failure to file are sent at this stage.
- C. Comprehensive review. This is a detailed desk review of the reports conducted after each primary election, each general election and following the filing of reports in non-election years. This review shall include determination of compliance with general statutory provisions, cross-checking between the reports of candidates and committees, and the confirmation of receipts and expenditures. Notifications of material errors or omissions are sent at this stage.
- D. Audits.
 1. Audits of accounts and records shall be based on generally accepted auditing standards and procedures adapted to the area of campaign finance, including the confirmation of receipts and expenditures. Notifications of material errors or omissions may also be sent at this stage.
 2. Audits shall be conducted on the following priority basis:
 - a. Formal complaints.
 - b. As necessary to clarify material errors or omissions resulting from the comprehensive desk review.
 - c. Representative sample of candidates and committees. When a candidate is selected, his or her opponents are also to be audited.

3. Disclosure of audit results.
 - a. Advance notice. Where appropriate, advance notice shall be given to candidates, treasurers and others responsible for the records to make mutually convenient arrangements. No other notice of time or circumstances shall be given to anyone.
 - b. Verbal review. Upon completion of an audit, a verbal review of findings will be provided by the auditor to the treasurer, and if desired by the treasurer, to the person assisting him or her in the maintenance of the records. Problems identified during the audit will be discussed at this time.
 - c. Written memorandum.
 1. Where appropriate, a written memorandum will be issued to the treasurer and the candidate or chairperson detailing disclosure, bookkeeping, compliance, internal control and any other deficiencies discovered during the audit.
 2. Factors to be considered in determining whether a written memorandum will be issued include:
 - i. The magnitude and complexity of the deficiencies discovered during the audit.
 - ii. Whether or not there appears to be an intentional violation of the Campaign Finance Act.
 - iii. Whether a written memorandum will assist the treasurer in improving bookkeeping procedures or future operations.

V. Campaign Finance Act:
K.S.A. 1976 Supp. 25-4101
et seq., as amended

C A M P A I G N
F I N A N C E
A C T

STATE OF KANSAS



GOVERNMENTAL ETHICS COMMISSION

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TOPEKA, KANSAS 66612
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Article 41.—CAMPAIGN FINANCE ACT

Revisor's Note:

Operation and effect of certain sections of 1974 act, see L. 1974, ch. 166, § 34.

25-4101. Title of act. This act may be cited and shall be known as the "campaign finance act." [L. 1974, ch. 166, § 1; March 28.]

25-4102. Definitions. As used in this act, unless the context otherwise requires:

(a) "Candidate" means an individual who:

(1) Appoints a treasurer or a candidate committee,

(2) makes a public announcement of his or her intention to seek nomination or election to state office,

(3) makes any expenditure or accepts any contribution for the purpose of influencing his or her nomination or election to any state office, or

(4) files a declaration or petition to become a candidate for state office.

(b) "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.

(c) "Commission" means the governmental ethics commission created by K. S. A. 1974 Supp. 25-4119[°].

(d) (1) "Contribution" means: (A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to state office;

(B) a transfer of funds between any two or more candidate committees, party committees or political committees;

(C) the payment, by any person other than a candidate, candidate committee, party committee or political committee, of compensation to an individual for the personal services rendered without charge to or for a candidate's campaign or to or for any such committee;

(D) the purchase of tickets or admissions to, or advertisements in journals or programs for, testimonial events.

(2) "Contribution" does not include:

(A) the value of volunteer services provided without compensation;

(B) costs to a volunteer related to the rendering of volunteer services not exceeding a fair market value of fifty dollars (\$50) during an allocable election period as provided in K. S. A. 1975 Supp. 25-4109;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding a fair market value of ten dollars (\$10) per event.

(e) "Election" means: (1) A primary or general election for state office and (2) a convention or caucus of a political party held to nominate a candidate for state office.

(f) (1) "Expenditure" means: (A) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to state office;

(B) any contract to make an expenditure;

(C) a transfer of funds between any two or more candidate committees, party committees or political committees;

(D) payment of a candidate's filing fees.

(2) "Expenditure" does not include:

(A) the value of volunteer services provided without compensation;

(B) costs to a volunteer incidental to the rendering of volunteer services not exceeding a fair market value of fifty dollars (\$50) during an allocable election period as provided in K. S. A. 1975 Supp. 25-4109;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning or payment of such costs by the treasurer of a candidate or candidate committee;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding fair market value of ten dollars (\$10) per event; or

(E) any communication by an incumbent elected state officer with one or more of such incumbent's constituents unless the primary purpose thereof is to influence the nomination or election of a candidate.

(g) "Party committee" means the state committee of a political party regulated by

article 3 of chapter 25 of the Kansas Statutes Annotated, or the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated or the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated.

(h) "Person" means any individual, committee, corporation, partnership, trust, organization or association.

(i) "Political committee" means any combination of two or more individuals or any person other than an individual, a major purpose of which is to support or oppose any candidate for state office, but not including any candidate committee or party committee.

(j) "Receipt" means a contribution or any other money or thing of value, but not including volunteer services provided without compensation, received by a treasurer in his or her official capacity.

(k) "State office" means any state office as defined in K. S. A. 1975 Supp. 25-2505.

(l) "Testimonial event" means an event held for the benefit of an individual who is a candidate to raise funds for such candidate's campaign. Testimonial events include but are not limited to dinners, luncheons, rallies, barbecues and picnics.

(m) "Treasurer" means a treasurer of a candidate or of a candidate committee, a party committee or a political committee appointed under this act or a treasurer of a combination of individuals or a person other than an individual which is subject to paragraph (2) of subsection (a) of K. S. A. 1975 Supp. 25-4136. [L. 1974, ch. 166, § 2; L. 1975, ch. 209, § 1; July 1.]

* Section now repealed.

25-4103. Appointment of campaign treasurer or candidate committee; report to secretary of state; governor candidate's responsibilities. Not later than ten (10) days after becoming a candidate, every candidate shall appoint a treasurer or in lieu thereof shall appoint a candidate committee. A candidate may appoint himself or herself as treasurer. No candidate shall appoint more than one candidate committee to exist at the same time. If a candidate appoints a candidate committee, such candidate shall appoint a chairman and a treasurer thereof, and the treasurer so appointed may be the candidate. The name and address of each treasurer and chairman appointed under this section shall be reported to the secretary of state by the candi-

date not later than ten (10) days after appointment. The candidate for governor shall carry out the requirements and responsibilities of the candidate under this act, for the pair of candidates for governor and lieutenant governor, unless another specific provision applies. [L. 1974, ch. 166, § 3; L. 1975, ch. 209, § 2; July 1.]

25-4104. Party and political committee statement of organization; contents; appointment of treasurer. (a) Each party committee and each political committee which anticipates receiving contributions or making expenditures shall appoint a chairman and a treasurer. The chairman of each such committee shall make a statement of organization and file it with the secretary of state not later than May 10, 1974, or not later than ten (10) days after establishment of such committee, whichever occurs later.

(b) Every statement of organization shall include: (1) The name and address of the committee;

(2) the names and addresses of the chairman and treasurer of the committee;

(3) the names and addresses of affiliated or connected organizations.

(c) Any change in information previously reported in a statement of organization shall be reported on a supplemental statement of organization and filed not later than ten (10) days following the change. [L. 1974, ch. 166, § 4; March 28.]

25-4105. Removal of treasurer; filling of vacancy; verification of records; receipts and expenditures, when. (a) A candidate may remove any treasurer or chairman that such candidate has appointed, and a party committee or political committee may remove its chairman or treasurer. In case of a vacancy in the position of treasurer, before all of the obligations of the treasurer have been performed, such committee or candidate shall appoint a successor and report the name and address of the successor within ten (10) days of the occurrence of the vacancy to the secretary of state not later than ten (10) days after such appointment. An individual who vacates the position of treasurer by reason of removal or resignation shall verify the accuracy of his or her records to the succeeding treasurer. The succeeding treasurer shall not be held responsible for the accuracy of his or her predecessor's records.

(b) No contribution or other receipt shall be received or expenditure made, by or on behalf of a candidate, pair of candidates or

candidate committee, except receipt or payment of a filing fee:

(1) Until such candidate appoints a treasurer and makes the report required by K. S. A. 1975 Supp. 25-4103; and

(2) unless by or through such treasurer.

(c) No contribution or other receipt shall be received or expenditures made by or on behalf of a party committee or political committee:

(1) Until the chairman of the party committee or a political committee has filed a statement of organization required by K. S. A. 1975 Supp. 25-4104; and

(2) unless by or through the treasurer of such committee. [L. 1974, ch. 166, § 5; L. 1975, ch. 209, § 3; July 1.]

- 25-4106. Treasurer; accounts required; inspection; all receipts to be forwarded to treasurer; commingling of funds prohibited.

(a) Every treasurer shall keep detailed accounts of all contributions and other receipts received and all expenditures made by or on behalf of his candidate or committee.

(b) Accounts of any treasurer may be inspected under conditions determined by the commission, and shall be preserved for a period to be designated by the commission.

(c) An individual may serve as treasurer for a candidate or a candidate committee, party committee or political committee or of any two or more such committees or candidates.

(d) Every person who receives a contribution for a candidate or for a candidate committee, party committee or political committee shall, on demand of the treasurer, or in any event within five (5) days after receipt of such contribution, remit the same and render to the treasurer an account thereof, including the amount, the name and address of the person, if known, making the contribution and the date received.

(e) No contribution or other receipt received by a candidate or a candidate committee, party committee or political committee shall be commingled with personal funds of the candidate or the treasurer or other officers or members of such committee. [L. 1974, ch. 166, § 6; March 28.]

25-4107. Refusal of certain contributions. Every treasurer shall refuse any contribution from: (a) A party committee or political committee which has not filed its statement of organization as required by this act or (b) a combination of individuals or a

person other than an individual which is subject to K. S. A. 1975 Supp. 25-4136 and which has neither provided such treasurer with the statement required therein nor filed a statement of organization. [L. 1974, ch. 166, § 7; L. 1975, ch. 209, § 4; July 1.]

25-4108. Reports required of treasurer; when filed; contents. (a) Every treasurer shall file a report prescribed by this section in the office of the secretary of state so that it is received by such office on or before each of the following days: (1) The seventh day preceding the primary election, which report shall be for the period beginning on December 1 of the preceding year and ending on the tenth day preceding the primary election, inclusive;

(2) the tenth day following the primary election, which report shall be for the period beginning nine (9) days before the primary election and ending the date of the primary election, inclusive;

(3) the seventh day preceding a general election, which report shall be for the period beginning the day after the primary election and ending ten (10) days before the general election, inclusive;

(4) December 3 of an election year, which report shall be for the period beginning nine (9) days before the general election and ending on the date of the general election, inclusive, and for the period beginning the day after the general election and ending on November 30, inclusive, each such period to be reported separately on the same date; and

(5) December 3 of a year when no election is held, which report shall be for the period beginning on December 1 of the preceding year and ending on November 30 of the year in which it is filed.

(b) Each report required by this section shall state: (1) Cash on hand on the first day of the reporting period;

(2) except as provided in subsection (d), the name and address of each person who has made one or more contributions together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;

(3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;

(4) the aggregate amount of contributions for which the name and address of the contributor is not known;

(5) each contribution, rebate, refund, or other receipt not otherwise listed;

(6) the total of all receipts;

(7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of twenty-five dollars (\$25), with the amount, date, and purpose of each and the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;

(8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate or to or for any candidate committee, party committee or political committee in excess of twenty-five dollars (\$25) and which is not otherwise reported under paragraph (7), including the amount, date, and purpose thereof;

(9) the aggregate of all expenditures not otherwise reported under this section; and

(10) the total of expenditures.

(c) Every report required to be filed on the tenth day following a primary election shall show and identify all receipts and expenditures allocated or required to be allocated to the primary election. Every report required to be filed on the December 3 immediately following a general election shall show and identify all receipts and expenditures allocated or required to be allocated to the general election.

(d) Party committees and political committees shall be required to itemize, as provided in paragraph (2) of subsection (b), only contributions received from any person who contributed an aggregate amount or value in excess of ten dollars (\$10) during the calendar year. All other contributions shall be reported in an aggregate amount, but such committees shall be required to maintain, in their own records, the information required by paragraph (2) of subsection (b) for each such contribution.

(e) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions, and notice of such errors or omissions shall be part of the public record. Such

amended report shall be filed within thirty (30) days after notice by the commission.

(f) The commission may require any treasurer to file a report for any period for which the required report is not on file and notice of the failure to file shall be part of the public record. Such report shall be filed within five (5) days after notice by the commission.

(g) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of such candidate's committee or by the treasurer of any party committee or political committee of which the primary purpose is supporting or opposing the nomination of any such candidate, the date of such convention or caucus shall be considered the date of the primary election.

(h) If a report is sent to the office of the filing officer by certified or registered mail on or before the day it is due, such mailing shall constitute receipt by that office. [L. 1974, ch. 166, § 8; L. 1975, ch. 209, § 5; July 1.]

Revisor's Note:

"Filing officer," as used in subsection (h), apparently refers to the secretary of state.

Cross References to Related Sections:

Reports by out-of-state entities, see 25-4136.

Candidates and committees not required to report, see 25-4137 to 25-4140.

25-4109. Allocation of contributions and other receipts and expenditures. (a) All contributions and other receipts received and expenditures made from midnight on one general election date until the next ensuing primary election date at midnight shall be allocated to the primary election on such date. All contributions and other receipts received and expenditures made from midnight on the date of a primary election until midnight on the date of the next ensuing general election shall be allocated to the general election on such date.

(b) For the purposes of allocating, pursuant to subsection (a), contributions to or expenditures by a candidate seeking nomination by convention or caucus or such candidate's candidate committee, the date of such convention or caucus shall be considered the primary election date. [L. 1974, ch. 166, § 9; L. 1975, ch. 209, § 7; 1976 S.B. 910, § 1; April 12.]

25-4110. Reports by certain persons; contents; filing. Every person, other than a candidate or a candidate committee, party committee or political committee, who makes contributions or expenditures, other than by contribution to a candidate or a candidate committee, party committee or political committee, in an aggregate amount of one hundred dollars (\$100) or more within a calendar year shall make statements containing the information required by K. S. A. 1975 Supp. 25-4108, and file them in the office of the secretary of state so that each such statement is in such office on the day specified in K. S. A. 1975 Supp. 25-4108. Reports made under this section need not be cumulative. [L. 1974, ch. 166, § 10; L. 1975, ch. 209, § 8; July 1.]

25-4111. Verification of reports; forms; procedure when forms not available; preservation of reports; delay in filing. (a) Every report or statement made under this act shall be verified as correct, on forms prescribed by the commission, by: (1) The treasurer for any report required by K. S. A. 1975 Supp. 25-4108; (2) the candidate, for any report required by K. S. A. 1975 Supp. 25-4103; or (3) the chairman of the committee, for any statement required by K. S. A. 1975 Supp. 25-4104. If the form for verification is not available, the report or statement to which it relates shall be made as required, but in such form as the person verifying such report or statement chooses, and the commission may require any such report or statement to be replaced after filing by a report or statement on the forms provided by the commission.

(b) Records in support of every report or statement filed under this act shall be maintained and preserved by the person who files it for a period of time to be designated by the commission.

(c) Delay in filing a report or statement beyond the time required by law shall not prevent the acceptance of the report or statement.

(d) No treasurer shall accept or permit to be accepted any contributions or make or permit to be made any expenditures unless all reports or statements required of such treasurer prior to the time of such contribution or expenditures have been filed. [L. 1974, ch. 166, § 11; L. 1975, ch. 209, § 9; July 1.]

25-4112. Limitations on contributions.

(a) The aggregate amount contributed to a

candidate and such candidate's candidate committee and to all party committees and political committees and dedicated to such candidate's campaign, by any person, except a party committee, the candidate or the candidate's spouse, shall not exceed the following:

(1) For the pair of offices of governor and lieutenant governor and for other state officers elected from the state as a whole, twenty-five hundred dollars (\$2,500) for each primary election (or in lieu thereof a caucus or convention of a political party) and an equal amount for each general election;

(2) for the office of state senator, member of the house of representatives, district judge, district attorney or member of the state board of education, five hundred dollars (\$500) for each primary election (or in lieu thereof a caucus or convention of a political party) and an equal amount for each general election.

(b) For the purposes of this section, the face value of a loan at the end of the period of time allocable to the primary or general election is the amount subject to the limitations of this section. A loan in excess of the limits herein provided may be made during the allocable period if such loan is reduced to the permissible level, when combined with all other contributions from the person making such loan, at the end of such allocable period. [L. 1974, ch. 166, § 12; L. 1975, ch. 209, § 14; 1976 S.B. 910, § 2; April 12.]

25-4113. Contributions in name of another prohibited; anonymous contributions, aggregate, maximum; copying names of contributors for commercial purpose prohibited. (a) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another.

(b) No person shall give or accept any contribution in excess of ten dollars (\$10) unless the name and address of the contributor is made known to the individual receiving the contribution.

(c) The aggregate of contributions for which the name and address of the contributor is not reported under section 8 [25-4103]

TC
required
amended
report

shall not exceed fifty percent (50%) of the amount one individual (other than the candidate or spouse) may contribute to or for a candidate's campaign.

(d) No person shall copy any name of a contributor from any report or statement filed under this act and use such name for any commercial purpose, and no person shall use any name for a commercial purpose with knowledge that such name was obtained solely by copying information relating to contributions contained in any report or statement filed under this act. [L. 1974, ch. 166, § 13; March 28.]

25-4114. Repealed. [1976 S.B. 910, § 3; April 12.]

25-4115. Debts and obligations; statements required. In addition to other reports and statements required by this act, every treasurer shall make a statement of the amount and nature of debts and obligations owed by or to the candidate or candidate committee, party committee or political committee after every election, at times prescribed by the commission, continuing until such debts and obligations are fully paid or discharged. [L. 1974, ch. 166, § 15; March 28.]

25-4116. Charges for space in newspapers and other periodicals; limitations. Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes. [L. 1974, ch. 166, § 16; March 28.]

25-4117. Termination report. Before any candidate committee, party committee or political committee may be dissolved or the position of a candidate's treasurer terminated, the treasurer of the candidate or such committee shall file a termination report with the secretary of state which shall include full information as to the disposition of residual funds. Any report required by K. S. A. 1975 Supp. 25-4108, may be a termination report. [L. 1974, ch. 166, § 17; L. 1975, ch. 209, § 16; July 1.]

25-4118. Duties of secretary of state; commission investigations. (a) The secretary of state shall: (1) Furnish forms prescribed and provided by the commission for making reports and statements required to be filed by this act;

(2) furnish information specified and provided by the commission; and

(3) make such reports and statements available for public inspection and copying during regular office hours.

(b) The commission may investigate, or cause to be investigated any matter required to be reported upon by any person under the provisions of this act, or any matter to which this act applies irrespective of whether a complaint has been filed in relation thereto. [L. 1974, ch. 166, § 18; March 28.]

25-4119. [L. 1974, ch. 166, § 19; L. 1974, ch. 167, § 1; Repealed, L. 1975, ch. 272, § 25; July 1.]

25-4119a. Governmental ethics commission abolished; new commission created; members; appointment; terms; meetings; compensation; executive director and staff; compensation; rules and regulations; annual report and recommendations. (a) The governmental ethics commission created by K. S. A. 1974 Supp. 25-4119[°] is hereby abolished, and there is hereby created a governmental ethics commission, which shall be the successor in every respect to the powers, duties and functions of the governmental ethics commission so abolished. Persons serving on the effective date of this act as members of the governmental ethics commission created by K. S. A. 1974 Supp. 25-4119[°] shall serve as members of the governmental ethics commission created by this section until their successors have been appointed and qualified as members of the new commission. The governmental ethics commission, referred to in this act and in the campaign finance act as the commission, shall consist of eleven (11) members of whom five (5) shall be appointed by the governor, two (2) by the president of the senate, two (2) by the speaker of the house of representatives, one (1) by the minority leader of the house of representatives and one (1) by the minority leader of the senate. Not more than three (3) of the members appointed by the governor shall be affiliated with the same political party. The members first appointed to the new commission shall have terms commencing as soon as appointments are made after the effective date of this act and ending on January 31, 1977. If any of

the appointing officers specified in this section fail to make his or her appointment or appointments herein provided for within thirty (30) days after the effective date of this act, the other appointing officers specified in this section shall meet and make such appointment or appointments in lieu of the specified authority.

(b) The terms of all members appointed after such first appointment shall be two (2) years commencing on February 1 of odd-numbered years. Vacancies occurring on the commission shall be filled for the unexpired term by the same appointing officer as made the original appointment. Members shall serve until their successors are appointed and qualified. One of the members appointed by the governor shall be designated by the governor to be the chairman of the commission. A majority vote of six (6) members of the commission shall be required for any action of the commission. The commission may adopt rules to govern its proceedings and may provide for such officers other than the chairman as it may determine. The commission shall meet at least once each quarter, and also shall meet on call of its chairman or any three members of the commission. Members of the governmental ethics commission attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in subsections (a) to (d), inclusive, of K. S. A. 1975 Supp. 75-3223 and amendments thereto. The commission shall appoint an executive director who shall be in the unclassified service and receive compensation fixed by the commission, in accordance with appropriation acts of the legislature, subject to approval by the state finance council. The commission may employ such other staff and attorneys as it determines, within amounts appropriated to the commission, all of whom shall be in the unclassified service and shall receive compensation fixed by the commission and not subject to approval by the state finance council.

(c) The commission created by this section may adopt rules and regulations for the administration of the campaign finance act. Rules and regulations adopted by the governmental ethics commission created by K. S. A. 1974 Supp. 25-4119[°] shall continue in force and effect and shall be deemed to be the rules and regulations of the commission created by this section, until revised, amended, repealed or nullified pursuant to law. All rules and

regulations of the commission shall be subject to the provisions of article 4 of chapter 77 of Kansas Statutes Annotated.

(d) The commission shall submit an annual report and recommendations to the governor and to the legislative coordinating council on or before December 1 of each year. The legislative coordinating council shall transmit such report and recommendations to the legislature. [L. 1975, ch. 272, § 14; July 1.]

* Section now repealed.

25-4119b. Governmental ethics commission; transfer of powers, duties and functions; effect of opinions of former commission. (a) All of the powers, duties and functions of the existing governmental ethics commission are hereby transferred to and conferred and imposed upon the governmental ethics commission created by K. S. A. 1975 Supp. 25-4119a.

(b) The governmental ethics commission created by K. S. A. 1975 Supp. 25-4119a shall be the successor in every way to the powers, duties and functions of the governmental ethics commission in which the same were vested prior to the effective date of this act. Every act performed under the authority of the governmental ethics commission created by this act shall be deemed to have the same force and effect as if performed by the governmental ethics commission in which such functions were vested prior to the effective date of this act.

(c) Whenever the governmental ethics commission, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the governmental ethics commission created by K. S. A. 1975 Supp. 25-4119a.

(d) All opinions rendered pursuant to K. S. A. 1975 Supp. 25-4120 and 46-254 by the governmental ethics commission created by K. S. A. 1974 Supp. 25-4119[*] before the effective date of this act shall continue to be in force and effect and shall be deemed to be opinions of the governmental ethics commission created by K. S. A. 1975 Supp. 25-4119a, until revised, amended or nullified pursuant to law.

(e) The governmental ethics commission created by K. S. A. 1975 Supp. 25-4119a shall be a continuation of the governmental ethics commission created by K. S. A. 1974 Supp. 25-4119[*]. [L. 1975, ch. 272, § 15; July 1.]

* Section now repealed.

25-4120. Commission opinions; publication and filing; effect of acts that accord with opinions. The commission upon its own initiative may, and upon the request of any individual to which this act applies shall, render an opinion in writing on questions concerning the interpretation of this act. Any person who acts in accordance with the provisions of such an opinion, shall be presumed to have complied with the provisions of this act. A copy of every opinion rendered by the commission shall be filed with the secretary of state, and any opinion so filed shall be open to public inspection. The secretary of state shall publish all opinions rendered under this section monthly and each such publication shall be cumulative. Copies of each opinion shall be filed with the secretary of the senate and the chief clerk of the house on the same date as the same are filed with the secretary of state. The secretary of state shall cause adequate copies of all filings under this section to be supplied to the state library. [L. 1974, ch. 166, § 20; March 28.]

25-4121. Complaints of violations; copy to respondent. Any individual, including any member of the commission, may file, by mail or in person, with the commission a verified complaint in writing stating the name of any person to whom or to which this act applies who is alleged to have violated any provision of this act, and which shall set forth the particulars thereof. If a member of the commission files a complaint, he or she shall disqualify himself or herself from the commission's consideration of that complaint. Whenever a complaint is filed with the commission, the commission shall promptly send a copy thereof to the person complained of, who shall thereafter be designated as the respondent [L. 1974, ch. 166, § 21; L. 1975, ch. 209, § 17; July 1.]

25-4122. Same; confidentiality; preliminary investigation; dismissal, when; fixing time of hearing; notice of hearing. If the commission determines that a verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any provision of this act, it shall dismiss the complaint and notify the complainant and respondent thereof. Whenever a complaint is filed with the commission alleging a violation of a provision of this act, such filing and the allegations therein shall be confidential and shall not be disclosed except as provided in this act. If the commission determines that such verified complaint does allege facts, directly or upon information and belief,

sufficient to constitute a violation of any of the provisions of this act, the commission shall promptly investigate the alleged violation. If after the preliminary investigation, the commission finds that probable cause does not exist for believing the allegations of the complaint, the commission shall dismiss the complaint. If after such preliminary investigation, the commission finds that probable cause exists for believing the allegations of the complaint, such complaint shall no longer be confidential and may be disclosed. Upon making any such finding, the commission shall fix a time for a hearing of the matter, which shall be not more than thirty (30) days after such finding. In either event the commission shall notify the complainant and respondent of its determination. [L. 1974, ch. 166, § 22; March 28.]

25-4123. Same; withdrawal of complaints; civil action for malicious prosecution; when. The commission may permit a complainant to withdraw his complaint at any time. The respondent may bring a civil action in the district court against the complainant for malicious prosecution for the filing or prosecution of any complaint with the commission under this act, whenever under like circumstances an action for malicious prosecution would arise for filing or prosecution of an action or complaint in a court. All papers in the possession of the commission relating thereto shall be admissible. [L. 1974, ch. 166, § 23; March 28.]

25-4124. Same; rights of respondent; hearing procedure; compulsory process; hearings to be public. (a) After a verified complaint alleging violation of a provision of this act has been filed with the commission, the respondent shall be entitled to examine and make copies of all evidence in the possession of the commission relating to the complaint, including the transcript of the hearing, if any. If a hearing is to be held pursuant to section 22 [25-4122], the commission, before the hearing has commenced, shall issue subpoenas and subpoenas *duces tecum* at the request of any party. Any hearing held under section 22 [25-4122], may be conducted and held by a subcommittee of not less than three (3) members of the commission, of whom not more than a majority shall be of the same political party. Final determination of all complaints shall be made by the commission as a whole. The chairman of the commission or other member presiding over the commis-

sion or the presiding member of any subcommittee of the commission shall have the power to: (1) Administer oaths and affirmations; and (2) compel, by subpoena, the attendance of witnesses and the production of pertinent books, papers and documents. Witnesses shall be entitled to receive fees and mileage as provided by law for witnesses in civil actions, which shall be paid out of appropriations to the commission. Depositions may be taken and used in the same manner as in civil actions. Any person subpoenaed to appear and give testimony or to produce books, papers or documents, who fails or refuses to appear or to produce such books, papers or documents, or any person, having been sworn to testify, who refuses to answer any proper question, may be cited for contempt of the district court of Shawnee county, Kansas. The commission shall report to such court the facts relating to any such contempt. Thereupon proceedings before such court shall be had as in cases of other civil contempt.

(b) At every hearing held by the commission: (1) Oral evidence shall be taken only on oath or affirmation.

(2) Each party shall have the right to be represented by legal counsel, to call and examine witnesses, to introduce evidence and to cross-examine opposing witnesses.

(c) All hearings shall be open to the public. [L. 1974, ch. 166, § 24; March 28.]

25-4125. Actions of commission following hearing. After a hearing of an alleged violation of this act the commission shall state its findings of fact. If the commission finds that the respondent has not violated any provisions of this act, it shall order the action dismissed, and shall notify the respondent and complainant thereof. If the commission finds that the respondent has violated any provisions of this act, it shall state its findings of fact and submit a report thereon to the attorney general and to the county or district attorney of the appropriate county. [L. 1974, ch. 166, § 25; March 28.]

25-4126. Commission records; confidentiality; release to attorney general and certain prosecuting attorneys; public records. The commission shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the commission, and all records and transcripts of any investigations, inquiries or hearings of the commission under this act shall be confidential and shall not be open to inspection by any

individual other than a member of the commission, an employee of the commission, or a state officer or employee designated to assist the commission, except as otherwise specifically provided in this act. The commission may, by adoption of a resolution, authorize the release to the attorney general or to the county or district attorney of the appropriate county of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the attorney general or any county or district attorney. All matters presented at a public hearing of the commission and all reports of the commission stating a final finding of fact pursuant to section 25 [25-4125] shall be public records and open to public inspection. [L. 1974, ch. 166, § 26; March 28.]

25-4127. Reports of disposition of cases; information to accompany report; procedure for consideration of and action upon reports; ouster; impeachment or removal; when. (a) Whenever a report is made under section 25 [25-4125], and the respondent is elected to a state office pursuant to a primary election or general election to which such report applies, the commission shall transmit a copy thereof to the supreme court, legislature or attorney general on the first day of the term for which the respondent is so elected.

(b) If the respondent is elected to be a member of the house of representatives or senate, such commission report shall be transmitted to the house to which the respondent is elected. If the respondent is elected to an office to which impeachment applies, the commission report shall be transmitted to the house of representatives. If the respondent is elected to a judicial office, and is not subject to impeachment, the commission report shall be transmitted to the supreme court. If the respondent is elected to an office not heretofore mentioned in this subsection, the commission report shall be transmitted to the attorney general.

(c) Each commission report transmitted in accordance with this section shall include or be accompanied by a summary of the facts relating to the report under section 25 [25-4125], and shall make appropriate reference to this section. All information, reports, transcripts and other records relating to the correspondent [respondent] which are or have been in the possession of the commission shall be available to the body to which the commission report is transmitted.

(d) Reports relating to respondents who

are elected to the legislature shall be considered by the house to which the respondent is elected, and such house shall impose censure or disqualification or it may determine that neither censure or disqualification is justified. Reports relating to impeachable officers shall be considered by the house of representatives. Reports relating to judicial officers, except those subject to impeachment, shall be considered by the supreme court. Reports relating to any officer not heretofore mentioned in this subsection may be the basis for an ouster action brought by the attorney general. [L. 1974, ch. 166, § 27; March 28.]

25-4128. Failure to file a campaign finance report; misdemeanor. Failure to file a campaign finance report is (a) the intentional failure, of any person required to make any report, amended report or statement by this act, to file the same with the secretary of state at the time specified in this act or (b) the intentional failure, of any person required by K. S. A. 1975 Supp. 25-4136 to submit a statement to a treasurer, to submit the same.

Failure to file a campaign finance report is a class A misdemeanor. [L. 1974, ch. 166, § 28; L. 1975, ch. 209, § 18; July 1.]

25-4129. Fraudulent campaign finance reporting; misdemeanor. Fraudulent campaign finance reporting is intentionally making any false material statement in a report or statement made under this act.

Fraudulent campaign finance reporting is a class A misdemeanor. [L. 1974, ch. 166, § 29; March 28.]

25-4130. Charging an excessive amount for political advertising; misdemeanor. Charging an excessive amount for political advertising is intentionally charging an amount greater than that authorized by section 16 [25-4116].

Charging an excessive amount for political advertising is a class A misdemeanor. [L. 1974, ch. 166, § 30; March 28.]

25-4131. Excessive campaign contributions; misdemeanor. Excessive campaign contribution is: (a) Intentionally making any contribution in violation of any provision of section 12 [25-4112], or

(b) intentionally accepting any contribution made in violation of any provision of section 12 [25-4112].

Excessive campaign contribution is a class A misdemeanor. [L. 1974, ch. 166, § 31; March 28.]

25-4132. Repealed. [1976 S.B. 910, § 3; April 12.]

25-4133. Violation of certain provisions; misdemeanor. Intentional violation of any provision of K. S. A. 1975 Supp. 25-4103, 25-4104, 25-4105, 25-4107, 25-4111, 25-4113 or 25-4126, and amendments thereto, or the confidentiality provision of K. S. A. 1975 Supp. 25-4122 is a class A misdemeanor. [L. 1974, ch. 166, § 33; L. 1975, ch. 209, § 20; July 1.]

25-4134. Severability. If any provisions of this act or the application thereof to any person or circumstances is held invalid the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and to this end the provisions of this act are severable. [L. 1974, ch. 166, § 36; March 28.]

25-4135. Certain statutes inapplicable. The provisions of K. S. A. 25-901 to 25-905, inclusive, shall not apply to elections to which this act applies. [L. 1974, ch. 166, § 37; March 28.]

25-4136. Statements or reports by certain out-of-state individuals and persons; contents; filing; maintenance of records. (a) Notwithstanding any other provisions of this act, any combination of three (3) or more individuals or a person other than an individual, not domiciled in this state, which makes or intends to make a contribution or contributions to a candidate, candidate committee, party committee or political committee in this state shall either:

(1) Prepare a verified statement containing (A) the names and addresses of the responsible individuals; (B) the name and address of each person who has made one or more contributions to such out-of-state combination of individuals or person other than an individual in an aggregate amount in excess of ten dollars (\$10) within the preceding twelve (12) months, together with the amount and date of such contributions; and (C) the aggregate amount of all other contributions to such out-of-state combination of individuals or person other than an individual within the preceding twelve (12) months. Such statement shall be submitted to each treasurer receiving any contribution from such out-of-

state combination of individuals or person other than an individual. Such statement shall be a part of and attached to the report required of such treasurer by K. S. A. 1975 Supp. 25-4108; or

(2) file a statement of organization as provided by K. S. A. 1975 Supp. 25-4104, establish a separate fund for the purpose of receiving contributions and making expenditures relating to any election for state office in this state and file statements and reports involving such fund in the manner provided by K. S. A. 1975 Supp. 25-4108, for political committees and party committees. Any transfer from another fund to the separate fund herein provided for shall be subject to the requirements of subsection (1).

(b) Each combination of individuals or person other than an individual which is subject to this section shall maintain, in its own records, the name and address of any person who has made one or more contributions to such combination of individuals or person other than an individual, together with the amount and date of such contributions, regardless of whether such information is required to be reported. [L. 1975, ch. 209, § 6; July 1.]

25-4137. Candidate's affidavit of intent to expend and receive only certain amounts; filing; certain reports not required. Every candidate for state office who intends to expend or have expended in his or her behalf an aggregate amount or value of less than five hundred dollars (\$500) and who intends to receive or have received in his or her behalf contributions in an aggregate amount or value of less than five hundred dollars (\$500) in each the primary and the general election shall, upon filing for office, file an affidavit of such intent with the secretary of state. No report required by K. S. A. 1975 Supp. 25-4108, shall be required to be filed by or for such candidate. [L. 1975, ch. 209, § 10; July 1.]

25-4138. Same; when amount exceeded; filing of past and future reports. Any candidate who has signed an affidavit pursuant to K. S. A. 1975 Supp. 25-4137 and who incurs expenses in excess of or receives contributions in excess of five hundred dollars (\$500) for either the primary or the general election shall, within three (3) days of the date when expenditures or contributions exceed five hundred dollars (\$500), file all past due reports and shall be required to file all future reports

on the dates required by K. S. A. 1975 Supp. 25-4108. [L. 1975, ch. 209, § 11; July 1.]

25-4139. Affidavit of intent by treasurer of political committee to expend and receive only certain amounts; filing; certain reports not required. For any calendar year during which a political committee intends to expend an aggregate amount or value of less than five hundred dollars (\$500) and intends to receive contributions in an aggregate amount or value of less than five hundred dollars (\$500) and during which such political committee intends to receive no contributions in excess of ten dollars (\$10) from any one contributor, the treasurer of such political committee shall file an affidavit of such intent with the secretary of state. Such treasurer shall not be required to file the reports required by K. S. A. 1975 Supp. 25-4108, for the year for which such affidavit is filed. Such affidavit may be filed at any time prior to the date that the first report for such year is required to be filed by K. S. A. 1975 Supp. 25-4108. [L. 1975, ch. 209, § 12; July 1.]

25-4140. Same; when amount exceeded; filing of past and future reports. The treasurer of any political committee for which an affidavit has been filed pursuant to K. S. A. 1975 Supp. 25-4139 and which, in the year for which such affidavit is filed, makes expenditures or receives contributions in an aggregate amount or value in excess of five hundred dollars (\$500) or receives contributions from any one contributor in excess of ten dollars (\$10) shall, within three (3) days of the date when such expenditures or contributions exceed such amount, file all past due reports and shall be required to file all future reports on the dates required by K. S. A. 1975 Supp. 25-4108. [L. 1975, ch. 209, § 13; July 1.]

25-4141. Failure to file affidavit of intent; misdemeanor. Failure to file an affidavit of intent is the intentional failure to file an affidavit as required by K. S. A. 1975 Supp. 25-4137 or 25-4139 or failing to file the reports required by this act after a change in intent as required by K. S. A. 1975 Supp. 25-4138 or 25-4140.

Failure to file an affidavit of intent is a class A misdemeanor. [L. 1975, ch. 209, § 19; July 1.]

VI. Conflict of Interest and
Lobbying Regulation: K.S.A.
1976 Supp. 46-215 et seq.,
as amended

CONFLICT OF INTEREST
AND
LOBBYING REGULATION

STATE OF KANSAS



GOVERNMENTAL ETHICS COMMISSION

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TOPEKA, KANSAS 66612
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Article 2.—STATE GOVERNMENTAL ETHICS

Revisor's Note:

This article was formerly entitled "Legislative Counsel and Agents."

46-201 to 46-213. [K. S. A. 46-201 to 46-213; Repealed, L. 1975, ch. 273, § 2; July 1.]

46-215. Application of definitions. As used in this act, unless the context otherwise requires, the words and terms defined in sections 2 to 17 [46-216 to 46-231] shall have the meanings therein ascribed thereto. [L. 1974, ch. 353, § 1; March 28.]

46-216. "Compensation" defined. "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by such person or another. [L. 1974, ch. 353, § 2; March 28.]

46-217. "Economic opportunity" defined. "Economic opportunity" means any purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services wherein a state officer or employee or candidate for state office may gain a personal economic benefit, but not including any gift. [L. 1974, ch. 353, § 3; March 28.]

46-218. "Preceding calendar year" defined. "Preceding calendar year" shall have its usual meaning, except that in the case of candidates and individuals newly appointed to state office or employment, it shall mean the twelve (12) months immediately preceding a required filing date. [L. 1974, ch. 353, § 4; March 28.]

46-219. "Legislative matter" defined. "Legislative matter" means any bill, resolution, nomination, or other issue or proposal pending before the legislature or any committee, subcommittee, or council thereof. [L. 1974, ch. 353, § 5; March 28.]

46-220. "Legislator" defined. "Legislator" means a member or member-elect of the legislature. [L. 1974, ch. 353, § 6; March 28.]

46-221. "State officer or employee" and "candidate for state office" defined. (a) "State officer or employee" means (1) any individual who is an elected or appointed state officer, (2) any individual who is in the classified service, unclassified service or classified exempt service of the Kansas civil service act, (3) all officers and employees of the legislative branch and of the governor's office, irrespective of how compensated or period of employment, and (4) any individual who receives monthly or semimonthly compensation for services from the state or any state agency. State

officer or employee does not include any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch. Also, state officer or employee does not include any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K. S. A. 1975 Supp. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board.

(b) "Candidate for state office" means a candidate for nomination or election to any state office as defined in K. S. A. 1975 Supp. 25-2505 and amendments thereto, except district judges. [L. 1974, ch. 353, § 7; L. 1975, ch. 272, § 1; July 1.]

46-222. "Lobbyist" defined; exceptions. (a) "Lobbyist" means (1) any person employed in considerable degree for lobbying; (2) any person formally appointed as the primary representative of an organization or other person to lobby in person on state-owned or leased property; or (3) any person who makes expenditures in an aggregate amount of one hundred dollars (\$100) or more, exclusive of personal travel and subsistence expenses, in any calendar year for lobbying.

(b) Lobbyist shall not include: (1) any state officer or employee engaged in carrying out the duties of his or her office; (2) the employer of a lobbyist, if such lobbyist has registered the name and address of such employer under K. S. A. 1975 Supp. 46-265; (3) any nonprofit organization which has qualified under paragraph (3) of subsection (c) of section 501 of the internal revenue code of 1954, as amended, which is interstate in its operations and of which a primary purpose is the non-partisan analysis, study or research of legislative procedures or practices and the dissemination of the results thereof to the public, irrespective of whether such organization may recommend a course of action as a result of such analysis, study or research; (4) any justice or commissioner of the supreme

court or judge of the judicial branch or employee or officer of the judicial branch or any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch; or (5) any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K. S. A. 1975 Supp. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board. [L. 1974, ch. 353, § 8; L. 1975, ch. 272, § 2; July 1.]

46-223. "Person" defined. "Person" means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, group, or corporation, whether or not operated for profit, or a governmental agency unit, or subdivision. [L. 1974, ch. 353, § 9; March 28.]

46-224. "State agency" and "rules and regulations" defined. (a) "State agency" means the legislature, legislators, legislative committees and councils and all executive departments, institutions, offices, officers, commissions, boards and authorities of the state, but does not include municipalities and other political subdivisions.

(b) "Rules and regulations" means rules and regulations required by law to be filed with the revisor of statutes, and does not include rules adopted by the judicial branch or any court. [L. 1974, ch. 353, § 10; L. 1975, ch. 272, § 24; July 1.]

46-225. "Lobbying" defined; exceptions. (a) "Lobbying" means promoting or opposing in any manner (1) action or non-action by the legislature on any legislative matter or (2) the adoption or non-adoption of any rule and regulation by any state agency.

(b) Lobbying also means entertaining any state officer or employee except that bona fide personal or business entertaining does not constitute "lobbying", or giving any gift, honorarium or payment to a state officer or employee in an aggregate value of one hundred dollars (\$100) or more within any calendar year, if at any time during such year the person supplying the entertainment, gifts, honoraria or payments has a case before the state agency in which such state officer or employee serves,

or if such person is the attorney for or representative of a person having such a case.

(c) "Lobbying" does not include any expenditure from amounts appropriated by the legislature for official hospitality. [L. 1974, ch. 353, § 11; L. 1975, ch. 272, § 3; July 1.]

46-226. "Representation case" defined. "Representation case" means the representation of any person, client, principal, or third person, with compensation, in any matter before any state agency where the action or non-action of the state agency involves the exercise of substantial discretion; but representation case does not mean or include (a) any communication initiated by a legislator on behalf of a constituent or other member of the public for which no compensation is received or to be received, or (b) preparation and filing of tax returns or other governmental forms, or (c) participation in tax audit negotiations, or (d) any activity of a state officer or employee in carrying out the duties of his or her office or employment, or (e) a preliminary inquiry by any person into a matter before a state agency. [L. 1974, ch. 353, § 12; L. 1975, ch. 272, § 4; July 1.]

46-227. "Associated person" defined. "Associated person" means a person associated with a state officer or employee in a partnership, limited partnership, association or professional service corporation as a partner or officer. [L. 1974, ch. 353, § 13; L. 1975, ch. 272, § 5; July 1.]

46-228. "Special interest" defined. "Special interest" means an interest of any person as herein defined (1) concerning action or non-action by the legislature on any legislative matter affecting such person as distinct from affect upon the people of the state as a whole, or (2) in the action or non-action of any state agency or state officer or employee upon any matter affecting such person as distinct from affect upon the people of the state as a whole. [L. 1974, ch. 353, § 14; March 28.]

46-229. "Substantial interest" defined. "Substantial interest" means any of the following: (a) The ownership by an individual or spouse, either individually or collectively of a legal or equitable interest exceeding five thousand dollars (\$5,000) or five percent (5%) of any business, whichever is less.

(b) The receipt in the preceding calendar year by an individual or spouse individually or collectively of compensation which is or will be required to be included as taxable income on Kansas income tax returns of such

individual and spouse in an aggregate amount of one thousand dollars (\$1,000) from any business or combination of businesses.

(c) The receipt in the preceding calendar year by an individual of gifts or honoraria having an aggregate value of five hundred dollars (\$500) or more from any person other than a relative of such individual.

(d) The holding of the position of officer or director of any business, irrespective of the amount of compensation received by the individual holding any such position.

(e) If an individual's compensation is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, such individual has a substantial interest in any client or customer who pays fees or commissions to such business or combination of businesses from which fees or commissions such individual received an aggregate of one thousand dollars (\$1,000) or more in the preceding calendar year. [L. 1974, ch. 353, § 15; March 28.]

46-230. "Business" defined. "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income. [L. 1974, ch. 353, § 16; March 28.]

46-231. "Contract" defined. "Contract" means any agreement including but not limited to sales and conveyances of real and personal property and agreements for the performance of services. [L. 1974, ch. 353, § 17; March 28.]

46-232. Lobbying by state officer or employee; prohibited acts; exception. No state officer or employee shall engage in lobbying his own state agency, if he accepts compensation specifically attributable to such lobbying, other than that provided for the performance of his official duties. Nothing in this section shall prohibit a state officer or employee from lobbying without compensation other than that which he is entitled to receive for performance of his official duties. [L. 1974, ch. 353, § 18; March 28.]

46-233. Contracts involving state officer or employee or legislator; prohibited acts, exceptions; challenging constitutionality of legislative action or enactment, by legislator; prohibited acts. (a) No state officer or employee shall in his or her capacity as such officer or employee participate in the making of a contract with any person or business by which such officer or employee is employed or in

whose business such officer or employee has a substantial interest and no such person or business shall enter into any contract where any state officer or employee, acting in such capacity, is a signatory to or a participant in the making of such contract and is employed by or has a substantial interest in such person or business.

Whenever any individual has, within the preceding two (2) years participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business for one (1) year following termination of employment as a state officer or employee.

(b) No individual shall, while a legislator or within one (1) year after the expiration of a term as legislator, be interested pecuniarily, either directly or indirectly, in any contract with the state, which contract is funded in whole or in part by any appropriation or is authorized by any law passed during such term, except that the prohibition of this subsection (b) shall not apply to any contract interest in relation to which a disclosure statement is filed as provided by K. S. A. 1975 Supp. 46-239.

(c) No individual, while a legislator or within one (1) year after the expiration of a term as a legislator, shall as a litigant or by representing any person in a court proceeding attack any legislative action taken or enactment made during any term such individual served as a legislator as being unconstitutional because of error in the legislative process with respect to such action or enactment.

(d) Subsection (a) and (b) shall not apply to the following:

(1) Contracts let after competitive bidding has been advertised for by published notice; and

(2) Contracts for property or services for which the price or rate is fixed by law. [L. 1974, ch. 353, § 19; L. 1975, ch. 272, § 6; July 1.]

46-234. Restrictions on appointments of state officers to other state offices. No elected state officer shall within one (1) year after the expiration of his last term receive any civil appointment to a state office which was created by law during the last term for which such person had been elected, and all such appointments shall be void. Upon resignation by an elected state officer, such person may be appointed to any elective state office to fill a vacancy. [L. 1974, ch. 353, § 20; March 28.]

46-235. Restrictions on compensation of state officers and employees. No state officer or employee shall accept compensation for performance of official duties, other than that to which such person is entitled for such performance. No person shall pay or offer to pay any state officer or employee any compensation for performance of official duties, except a state officer or employee performing official duties in making payments to state officers and employees. The receipt of wages or salary from an individual's non-state employer during a period of service as a state officer or employee shall not be construed as compensation for performance of official duties. [L. 1974, ch. 353, § 21; March 28.]

46-236. Certain solicitations by state officers and employees and candidates for state offices prohibited; exceptions. No state officer or employee or candidate for state office shall solicit any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service from any person known to have a special interest, under circumstances where such officer, employee or candidate knows or should know that a major purpose of the donor in granting the same could be to influence the performance of the official duties or prospective official duties of such officer, employee or candidate.

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; (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business; or (3) any solicitation for the benefit of any charitable organization which is required to file a registration statement with the secretary of state pursuant to K. S. A. 17-1740 or which is exempted from filing such statement pursuant to K. S. A. 1975 Supp. 17-1741 or for the benefit of any educational institution or such institution's endowment association, if such association has qualified as a nonprofit organization under paragraph (3) of subsection (c) of section 501 of the internal revenue code of 1954, as amended. [L. 1974, ch. 353, § 22; L. 1975, ch. 272, § 7; July 1.]

46-237. Accepting or agreeing to accept certain things by state officers and employees and candidates for state offices prohibited; exceptions. No state officer or employee or candidate for state office shall accept, or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality,

or service having an aggregate value of one hundred dollars (\$100) or more in any calendar year from any one person known to have a special interest, under circumstances where he or she knows or should know that a major purpose of the donor is to influence him or her in the performance of his or her official duties or prospective official duties. Hospitality in the form of food and beverages are presumed not to be given to influence a state officer or employee in the performance of his or her official duties or prospective official duties, except when a particular course of official action is to be followed as a condition thereon.

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. [L. 1974, ch. 353, § 23; March 28.]

46-238. Restrictions on sale or lease of property and furnishing services by state officers and employees and candidates for state offices. No state officer or employee or candidate for state office or associated person shall charge to or accept from a person known to have a special interest a price, fee, compensation or other consideration for the sale or lease of any property or the furnishing of services which is substantially in excess of that which other persons in the same business or profession would charge in the ordinary course of business. [L. 1974, ch. 353, § 24; March 28.]

Cross References to Related Sections:

Corresponding restrictions on lobbyists, see 46-272.

46-239. Acceptance of or participation in representation cases by state officers and employees; disclosure statement required; time and procedure for filing; amendments; contents of statement; termination statement; failure to file true disclosure statement defined and classified as crime. (a) No state officer or employee shall accept employment in any representation case, unless such officer or employee has properly filed the disclosure statement prescribed by this section.

(b) Any state officer or employee who is employed in any representation case shall, not later than ten (10) days after the acceptance of employment for such case or on the first appearance before the state agency involved (whichever occurs first), file on a form prescribed and provided by the commission a

disclosure statement as provided in this section. Any individual, while a legislator or within one (1) year after the expiration of a term as a legislator, who contracts to perform any service for a state agency other than the legislature, shall not later than ten (10) days after the acceptance of such contract, file a disclosure statement as provided in this section.

(c) The disclosure statement required by this section shall be filed with the secretary of state in all cases. Any individual who files a statement may file an amended statement (or, if permitted by the secretary of state, amend the original filing) at any time after the statement is originally filed. Copies of each such statement shall forthwith upon filing be transmitted by the secretary of state to (1) in the case of members of the house of representatives, the chief clerk of the house of representatives, or (2) in the case of senators, the secretary of the senate. In addition to the foregoing, a copy of every disclosure statement shall be transmitted by the secretary of state to the state agency involved, if the state agency is other than a part of the legislative branch.

(d) The disclosure statement provided for by this section shall be signed by the person making the same and shall state (1) the name of the employer, (2) the purpose of the employment and (3) the method of determining and computing the compensation for the employment in the representation case.

(e) Any person who is employed in a representation case and who is required to file a disclosure statement pursuant to this section may file, upon termination of such person's employment in such representation case, a termination statement with the secretary of state. Such statement shall be on a form prescribed and provided by the commission and shall state (1) the name of the employer, (2) the state agency involved in the case, and (3) the date of the termination of employment. The secretary of state shall transmit a copy of such statement to the state agency involved.

(f) Failure to file a true disclosure statement is intentionally (1) failure to file a disclosure statement when and where required by this section, or

(2) filing a disclosure statement under this section which contains any material misrepresentation or false or fraudulent statement.

Failure to file a true disclosure statement is a class B misdemeanor. [L. 1974, ch. 353, § 25; L. 1975, ch. 272, § 8; July 1.]

46-240. Same; restrictions on compensation. No state officer or employee shall accept

or agree to accept compensation, or any part thereof, for employment in a representation case of any kind, before a state agency, except workmen's compensation cases, which is contingent upon the result achieved or attained. [L. 1974, ch. 353, § 26; L. 1975, ch. 272, § 9; July 1.]

46-241. Disclosure or use of confidential information by state officer or employee. No state officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further his or her own economic interest or those of any other person. [L. 1974, ch. 353, § 27; March 28.]

46-242. Restrictions on acceptance of representation case and conduct therein by state officer or employee. (a) No state officer or employee shall accept a representation case before a state agency where such officer or employee knows or should know that it is obviously without merit and is being offered with intent to obtain improper influence over a state agency.

(b) No state officer or employee shall use threat or promise of official action in an attempt to influence a state agency in any representation case. [L. 1974, ch. 353, § 28; L. 1975, ch. 272, § 10; July 1.]

Cross References to Related Sections:

Corresponding restrictions on lobbyists, see 46-273.

46-243. Censure or forfeiture of office for misdemeanor violation by state officer and employee or candidate for state office; application to certain state officers and employees. (a) Any state officer or employee or candidate for state office who violates any provision of this act, and such violation is a misdemeanor, shall be subject to censure or forfeiture of office.

(b) When this section applies to an impeachable officer, whether such censure or forfeiture is to be imposed shall be determined by impeachment proceedings.

(c) When this section applies to a legislator, the house of which he or she is a member shall determine whether such censure or forfeiture is to be imposed.

(d) When this section applies to any state officer or employee of, the legislative branch, except a legislator, the legislative coordinating council shall determine whether such censure or forfeiture is to be imposed.

(e) When this section applies to any state officer or employee of the judicial branch, the supreme court shall determine whether such censure or forfeiture is to be imposed.

(f) When this section applies to any state officer or employee of the executive branch and such state officer or employee is not subject to impeachment, the governor shall determine whether censure or removal of such state officer or employee is to be imposed. Upon a determination by the governor of removal under this section, no right of appeal under the Kansas civil service act shall exist, but the provisions of K. S. A. 60-2101 shall apply thereto. In lieu of direct removal, the governor may direct the attorney general, district attorney or county attorney to bring appropriate ouster proceedings to determine such forfeiture. [L. 1974, ch. 353, § 29; March 28.]

46-244. Same; commencement and final determination of action. Action under section 29 [46-243] may be commenced and finally determined whether or not criminal prosecution has been commenced, and criminal prosecution under this act may be commenced and finally adjudicated whether or not proceedings have been commenced under section 29 [46-243]. [L. 1974, ch. 353, § 30; March 28.]

46-245, 46-246. [L. 1974, ch. 353, §§ 31, 32; Repealed, L. 1975, ch. 272, § 25; July 1.]

46-247. Individuals required to file written statements of substantial interests. The following individuals shall file written statements of substantial interests, as provided in sections 34 to 38 [46-248 to 46-252], inclusive:

(a) Legislators and candidates for nomination or election to the legislature;

(b) individuals holding an elected office in the executive branch of this state, and candidates for nomination or election to any such office;

(c) state officers and employees receiving compensation from the state of fifteen thousand dollars (\$15,000) per year or more, except that this section shall not apply to unclassified state officers and employees of institutions under the state board of regents whose principal duties are teaching;

(d) individuals whose appointment to office is subject to confirmation by the senate. [L. 1974, ch. 353, § 33; March 28.]

46-248. Statement of substantial interests; disclosures; times and place for filing; transmittal of certain filings to secretary of senate and chief clerk of house. The statement of substantial interests required by K. S. A. 1975 Supp. 46-247 to 46-252, inclusive, and amendments thereto, shall include the

substantial interests of the individual making the statement as provided in this section. Campaign contributions reported in compliance with the campaign finance act shall not be included in this statement.

(a) The following shall be disclosed by all individuals required to file:

(1) The name, address and type of business of any corporation or the name, address and type of practice of any professional organization or individual professional practice in which the individual making the statement was an officer, director, associate, partner or proprietor at the time of filing.

(2) Each substantial interest of the individual making the statement in such detail and form as is required by the commission.

(b) The statements required by this section to be filed shall be filed at the following times:

(1) For individuals who are state officers or employees, annually on January 31, so long as the act applies to the individual.

(2) For individuals who become candidates, on the date of filing declaration to become a candidate, or if the individual becomes a candidate by another means, then within ten (10) days of becoming a candidate, unless within such period the candidacy is officially declined or rejected.

(3) For individuals to which paragraphs (1), (2) and (4) of this subsection (b) do not apply, at the time of appointment to state office or employment and annually thereafter commencing on the next succeeding January 31, so long as this act applies to such individual.

(4) For individuals whose appointment to state office or employment is subject to confirmation by the senate, on the date when the appointment is submitted to the senate and annually thereafter commencing on the next succeeding January 31, so long as this act applies to such individual.

(c) The statements required by this section to be filed shall be filed with the secretary of state in all cases. The secretary of state shall promptly transmit copies of all filings by legislators, candidates for the legislature and individuals subject to confirmation by the senate to the secretary of the senate and the chief clerk of the house of representatives. [L. 1974, ch. 353, § 34; L. 1975, ch. 272, § 11; July 1.]

46-249. Same; contents of statement. The statement of substantial interests required by sections 33 to 38 [46-247 to 46-252], inclusive, shall be dated and signed by the

individual making the statement and shall contain substantially the following:

STATEMENT OF SUBSTANTIAL INTERESTS

(name)
(office or position of employment for which this statement is filed)

(address)
(body of statement in form prescribed by commission)

"I declare that this statement of substantial interests (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that intentional failure to file this statement as required by law or intentionally filing a false statement is a class A misdemeanor."

(date of filing)

(signature of person making the statement)

[L. 1974, ch. 353, § 35; March 28.]

46-250. Same; forms; amendments. The commission shall prescribe and provide the forms provided for by K. S. A. 1975 Supp. 46-249. Any person required to file a statement of substantial interests, may file an amended statement of substantial interests (or if permitted by the secretary of state, amend the statement originally filed) at any time after the date when such statement is required to be filed. [L. 1974, ch. 353, § 36; L. 1975, ch. 272, § 12; July 1.]

46-251. Failure to file true statement of substantial interests defined and classified as crime. Failure to file true statement of substantial interests is intentionally (a) failing to file a statement of substantial interests as required by this act, or
(b) filing a statement of substantial interests that contains any false statement.

Failure to file a true statement of substantial interests is a class B misdemeanor. [L. 1974, ch. 353, § 37; L. 1975, ch. 272, § 13; July 1.]

46-252. Same; availability for public examination and copying; procedure. All statements of substantial interests filed under this act shall be available for examination and copying by the public at all reasonable times. Each individual examining a statement must first fill out a form or sign a register prepared and publicly maintained by the secretary of state identifying the examiner by name, occupation, address and telephone number, and listing the date of examination. [L. 1974, ch. 353, § 38; March 28.]

46-253. "Commission" defined; rules and regulations. "Commission" as used in this act means the governmental ethics commission

created by K. S. A. 1975 Supp. 25-4119a. The commission may adopt rules and regulations for the administration of the provisions of K. S. A. 1975 Supp. 46-215 to 46-279, and amendments thereto. Any such rules and regulations adopted by the governmental ethics commission created by K. S. A. 1974 Supp. 25-4119 [°] shall continue in force and effect and shall be deemed to be the rules and regulations of the commission created by K. S. A. 1975 Supp. 25-4119a. until revised, amended, repealed or nullified pursuant to law. All rules and regulations of the commission created by K. S. A. 1975 Supp. 25-4119a shall be subject to the provisions of article 4 of chapter 77 of Kansas Statutes Annotated. [L. 1974, ch. 353, § 39; L. 1974, ch. 354, § 1; L. 1975, ch. 272, § 16; July 1.]

° Section now repealed.

46-254. Same; opinions; effect of compliance with opinion; filing, publication and disposition. The commission upon its own initiative may, and upon the request of any individual to which this act applies shall, render an opinion in writing on questions concerning the interpretation of this act. Any person who acts in accordance with the provisions of such an opinion, shall be presumed to have complied with the provisions of this act. A copy of every opinion rendered by the commission shall be filed with the secretary of state, and any opinion so filed shall be open to public inspection. The secretary of state shall publish all opinions rendered under this section monthly and each such publication shall be cumulative. Copies of each opinion shall be filed with the secretary of the senate and the chief clerk of the house on the same date as the same are filed with the secretary of state. The secretary of state shall cause adequate copies of all filings under this section to be supplied to the state library. [L. 1974, ch. 353, § 40; March 28.] -

46-255. Verified complaints; filing with commission; conditions; transmittal of copy to respondent. Any individual, including any member of the commission, may file with the commission a verified complaint in writing stating the name of any person to whom or which this act applies alleged to have violated any provision of this act, and which shall set forth the particulars thereof. If a member of the commission files a complaint, he must disqualify himself from the commission consideration of that complaint. Whenever a complaint is filed with the commission, the commission shall promptly send a copy thereof

to the person complained of, who shall thereafter be designated as the respondent. No complaint alleging a violation of section 31 [46-245] may be filed with the commission after the expiration of thirty (30) days from the date upon which the alleged violation occurred. [L. 1974, ch. 353, § 41; March 28.]

46-256. Same; dismissal; notice; confidentiality; investigation; determination of probable cause; notice; time for hearing. If the commission determines that a verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any provision of this act, it shall dismiss the complaint and notify the complainant and respondent thereof. Whenever a complaint is filed with the commission alleging a violation of any provision of this act, such filing and the allegations therein shall be confidential and shall not be disclosed except as provided in this act. If the commission determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of this act, the commission shall promptly investigate the alleged violation. If, after the preliminary investigation, the commission finds that probable cause does not exist for believing the allegations of the complaint, the commission shall dismiss the complaint. If after such preliminary investigation, the commission finds that probable cause exists for believing the allegations of the complaint, such complaint shall no longer be confidential and may be disclosed. Upon making any such finding, the commission shall fix a time for a hearing in the matter, which shall be not more than thirty (30) days after such finding. In either event the commission shall notify the complainant and respondent of its determination. [L. 1974, ch. 353, § 42; March 28.]

46-257. Same; examination and copying of evidence and hearing transcript by respondent; subpoenas; hearing before subcommittee of commission; powers of presiding officer; witness fees and mileage; depositions; contempt. After a verified complaint alleging violation of any provision of this act has been filed with the commission, the respondent shall be entitled to examine and make copies of all evidence in the possession of the commission relating to the complaint, including the transcript of the hearing, if any. If a hearing is to be held pursuant to section 42 [46-256], the commission, before the hearing has commenced, shall issue subpoenas and subpoenas

duces tecum at the request of any party. Any hearing held under section 42 [46-256] may be conducted and held by a subcommittee of not less than three (3) members of the commission, of whom not more than a majority shall be of the same political party. Final determination of all complaints shall be made by the commission as a whole. The chairman of the commission or other member presiding over the commission or the presiding officer of any subcommittee of the commission shall have the power to: (a) Administer oaths and affirmations; and (b) compel, by subpoena, the attendance of witnesses and the production of pertinent books, papers and documents. Witnesses shall be entitled to receive fees and mileage as provided by law for witnesses in civil actions, which shall be paid out of appropriations to the commission. Depositions may be taken and used in the same manner as in civil actions. Any person subpoenaed to appear and give testimony or to produce books, papers or documents, who fails or refuses to appear or to produce such books, papers or documents, or any person, having been sworn to testify, who refuses to answer any proper question, may be cited for contempt of the district court of Shawnee county, Kansas. The commission shall report to such court the facts relating to any such contempt. Thereupon proceedings before such court shall be had as in cases of other civil contempt. [L. 1974, ch. 353, § 43; March 28.]

46-258. Hearings by commission; limitations on oral evidence; rights of parties; open to public. At any hearing held by the commission: (a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: To be represented by legal counsel; to call and examine witnesses; to introduce exhibits; and to cross-examine opposing witnesses.

(c) The hearing shall be open to the public. [L. 1974, ch. 353, § 44; March 28.]

46-259. Record of commission's investigations, inquiries and proceedings; confidentiality of records, complaints, documents and reports; release of information or material to prosecutor; public records; classification of certain violations as crimes. The commission shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the commission, and all records and transcripts of any investigations, inquiries or hearings of the commission under

this act shall be confidential and shall not be open to inspection by any individual other than a member of the commission, an employee of the commission, or a state officer or employee designated to assist the commission, except as otherwise specifically provided in this act. The commission may, by adoption of a resolution, authorize the release to the attorney general or to the county or district attorney of the appropriate county of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the attorney general or any county or district attorney. All matters presented at a public hearing of the commission and all reports of the commission stating a final finding of fact pursuant to K. S. A. 1975 Supp. 46-262 shall be public records and open to public inspection.

Violation of any provision of this section or the confidentiality provision of K. S. A. 1975 Supp. 46-256 is a class B misdemeanor. [L. 1974, ch. 353, § 45; L. 1975, ch. 272, § 17; July 1.]

46-260. Investigations by commission. The commission may investigate, or cause to be investigated, any matter required to be reported upon by any person under the provisions of this act, or any matter to which this act applies, irrespective of whether a complaint has been filed in relation thereto. [L. 1974, ch. 353, § 46; March 28.]

46-261. Withdrawal of complaint by complainant; civil action, when; admissibility of certain evidence. The commission may permit a complainant to withdraw his or her complaint at any time. The respondent may bring a civil action in the district court against the complainant for malicious prosecution for the filing or prosecution of any complaint with the commission under this act, whenever under like circumstances an action for malicious prosecution would arise for filing or prosecution of an action or complaint in a court. All papers in the possession of the commission relating thereto shall be admissible. [L. 1974, ch. 353, § 47; March 28.]

46-262. Statement of commission's findings of facts after hearing; disposition. After a hearing of an alleged violation of this act, the commission shall state its findings of fact. If the commission finds that the respondent has not violated any provisions of this act, it shall order the action dismissed, and shall notify the respondent and complainant thereof. If the commission finds that the respondent has violated any provisions of this act, it shall

state its findings of fact and submit a report thereon to the house in which the respondent serves if he or she is a legislator, to the legislative coordinating council if he or she is a state officer or employee of the legislative branch other than a legislator, to the supreme court if he or she is a state officer or employee of the judicial branch, and to the governor in other cases, send a copy of such findings and report to the complainant and respondent, and the commission shall also report thereon, except any act which is a violation of section 31 [46-245] only to the attorney general and to the county or district attorney of the appropriate county. [L. 1974, ch. 353, § 48; March 28.]

46-263. Same; action upon commission's findings. If a report is submitted under section 48 [46-262], and the respondent is a legislator, the house to which such a report is made shall consider the same and impose censure or disqualification as a legislator, or it may determine that neither censure or disqualification is justified. If the respondent is a state officer or employee of the legislative branch, other than a legislator, the legislative coordinating council shall consider the same and impose censure or remove the state officer or employee from state service, or such council may determine that neither censure or removal from office is justified. Upon such a determination by the legislative coordinating council, the same shall be final. If the respondent is a state officer or employee of the judicial branch, the supreme court shall consider the same and impose censure or remove the state officer or employee from state service, or such court may determine that neither censure or removal from office is justified. Upon such a determination by the supreme court, the same shall be final. If the respondent is not a legislator and is not a state officer or employee of the legislative branch and is not subject to impeachment or of the judicial branch, the governor shall consider the same and impose censure or remove the state officer or employee from state service, or the governor may determine that neither censure or removal from office is justified. Upon a determination by the governor of removal under this section, no right of appeal under the Kansas civil service act shall exist, but the provisions of K. S. A. 60-2101 shall apply thereto. In lieu of direct removal, the governor may direct the attorney general to bring ouster proceedings against the respondent. In the event the respondent is subject to impeachment, the commission shall refer the

report to the house of representatives, in lieu of other procedures under this section. [L. 1974, ch. 353, § 49; March 28.]

46-264. [L. 1974, ch. 353, § 50; Repealed, L. 1975, ch. 272, § 25; July 1.]

46-265. Registration of lobbyists; form, contents; additional registration or reports, when; transmittal of copies of certain registrations to secretary of senate and chief clerk of house. Every lobbyist shall register with the secretary of state by completing a registration form prescribed and provided by the commission and by signing and verifying the same. Such registration shall show the name and address of the lobbyist, the name and address of the person compensating the lobbyist for lobbying, the purpose of the employment and the method of determining and computing the compensation of the lobbyist. If the lobbyist is compensated or to be compensated for lobbying by more than one employer or is to be engaged in more than one employment the relevant facts listed above shall be separately stated for each employer and each employment, but only one registration fee each year shall be required of one lobbyist. Whenever any new lobbying employment or lobbying position is accepted by a lobbyist already registered hereunder, he or she shall report the same on forms prescribed and provided by the commission before engaging in any lobbying activity related to such new employment or position, and such report shall be filed, when made, with the secretary of state. Whenever the lobbying of a lobbyist concerns a legislative matter, the secretary of state shall promptly transmit copies of each registration and each report filed under this act to the secretary of the senate and the chief clerk of the house of representatives.

Any person may register as a lobbyist under this section. Such registration shall expire annually on December 31. In any calendar year, before engaging in lobbying, persons to whom this section applies shall register or renew their registration hereunder. Every person registering or renewing his or her registration shall pay to the secretary of state a fee of ten dollars (\$10). The secretary of state shall remit all moneys received under this section to the state treasurer, and the state treasurer shall deposit the same in the state treasury to the credit of the state general fund.

Any person who has registered as a lobbyist pursuant to this act may file, upon termination of such person's lobbying activities, a statement terminating such person's registration as

a lobbyist. Such statement shall be on a form prescribed by the commission and shall state the name and address of the lobbyist, the name and address of the person compensating the lobbyist for lobbying and the date of the termination of the lobbyist's lobbying activities. [L. 1974, ch. 353, § 51; L. 1975, ch. 272, § 18; July 1.]

46-266. Alphabetical listing of lobbyists by secretary of state; supplemental indices; public inspection of registration papers and reports; printing, publication and distribution of lists and indices. The secretary of state shall maintain alphabetical listings of all lobbyists showing their employers and appointing authorities and the purpose of their employment or position. Such listing shall be supplemented by indices showing employers and the appointing authorities and relevant information as to each. All registration papers and reports made under section 51 [46-265] shall be open to public inspection at all reasonable times. The listings and supplemental indices provided for by this section shall be maintained current at all times and from time to time each year shall be printed, published and distributed by the secretary of state. [L. 1974, ch. 353, § 52; March 28.]

46-267. Contingent fees for lobbying prohibited. No person shall pay or accept or agree to pay or accept compensation, or any part thereof, for lobbying which is contingent upon the result achieved or attained. [L. 1974, ch. 353, § 53; March 28.]

46-268. Periodic reports of lobbyists; filing with secretary of state. Every lobbyist shall file with the secretary of state a report of employment and expenditures on a form prescribed and provided by the commission. Such reports shall be filed for each of the months of January, February, March and April and for each of the periods from May 1 to June 30, inclusive, from July 1 to September 30, inclusive, and from October 1 to December 31, inclusive. Such reports shall be filed by the tenth (10th) of the month immediately following the reporting period. Reports shall only be required for reporting periods during which expenditures are made or gifts, payments or honoraria are given which are required to be reported under K. S. A. 1975 Supp. 46-269. [L. 1974, ch. 353, § 54; L. 1975, ch. 272, § 19; July 1.]

46-269. Same; contents; reports where multiple lobbyists employed by single employer. Each report under K. S. A. 1975 Supp.

46-268. shall disclose the following: (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.

(b) The aggregate amount or value of all expenditures made (except for expenses of general office overhead) by the lobbyist or by his or her employer for or in direct relation to lobbying during the reporting period, if such expenditures to any one vendor exceed fifty dollars (\$50). Individual expenditures of less than one dollar (\$1) shall not be required to be reported under this subsection (b). Such expenditures shall be reported according to categories of expenditures established by rules and regulations of the governmental ethics commission. With regard to expenditures for entertainment or hospitality which is primarily 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 (c), no lobbyist shall be responsible to report any expenditure by his or her employer of which he or she has no knowledge.

(c) All gifts, honoraria or payments, of value in excess of ten dollars (\$10) by the lobbyist to any state officer or employee.

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. [L. 1974, ch. 353, § 55; L. 1975, ch. 272, § 20; July 1.]

46-270. Name tags for registered lobbyists; dimensions and specifications; duties of secretary of state; tags to be worn in state capitol. The secretary of state shall obtain suitable name tags in two colors, of a size not smaller than two inches by three inches, to be fastened on the outside of the wearer's garment with lettering adequate in size and clarity to be readable at a distance of three feet by individuals of normal vision, bearing the name of the lobbyist, the names of the persons compensating or appointing the lobbyist and the year. The secretary of state shall present to each individual registering under sections 50 and 51 [46-264 and 46-265]

one such tag, and such tag shall be worn by the lobbyist when lobbying in the state capitol building. [L. 1974, ch. 353, § 56; March 28.]

46-271. Lobbying restrictions; gifts or contributions; hospitality; exceptions. No lobbyist shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of one hundred dollars (\$100) or more in any calendar year to any state officer or employee or candidate for state office with a major purpose of influencing such officer or employee in the performance of official duties or prospective official duties. Hospitality in the form of food and beverages are presumed not to be given to influence a state officer or employee or candidate for state office in the performance of official duties, except when a particular course of official action is to be followed as a condition thereon.

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 as amended [25-4101 *et seq.*]; or (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business. [L. 1974, ch. 353, § 57; L. 1974, ch. 354, § 2; April 8.]

46-272. Same; purchase or lease of property or acquisition of services from state officer or employee, candidate for state office or associated person. No lobbyist shall pay or agree to pay to any state officer or employee, candidate for state office or an association [associated] person thereof a price, fee, compensation or other consideration for the sale or lease of any property or the furnishing of services which is substantially in excess of that which other persons in the same business or profession would charge in the ordinary course of business. [L. 1974, ch. 353, § 58; March 28.]

Cross References to Related Sections:

Corresponding restrictions on state officers and employees and candidates for state offices, see 46-238.

46-273. Same; improper influence over state agency in representation case. (a) No lobbyist shall offer employment or employ any state officer or employee or associated person thereof for a representation case, with intent to obtain improper influence over a state agency.

(b) No lobbyist shall offer employment or employ any state officer or employee or

associated person to use or attempt to use threat or promise of official action in an attempt to influence a state agency in any representation case. [L. 1974, ch. 353, § 59; March 28.]

Cross References to Related Sections:

Corresponding restrictions on state officers and employees and associated persons, see 46-242.

46-274. Unlawful lobbying defined and classified as crime. Unlawful lobbying is (1) lobbying without being registered as provided by this act, or (2) lobbying when a current report under K. S. A. 1975 Supp. 46-268 and 46-269, has not been filed and is past due. Unlawful lobbying is a class B misdemeanor. [L. 1974, ch. 353, § 60; L. 1975, ch. 272, § 21; July 1.]

46-275. Giving false lobbying information defined and classified as crime. Giving false lobbying information is intentionally (1) making a false or incomplete statement on any registration paper under K. S. A. 1975 Supp. 46-265, or

(2) making a false or incomplete report under K. S. A. 1975 Supp. 46-268 and 46-269.

Giving false lobbying information is a class B misdemeanor. [L. 1974, ch. 353, § 61; L. 1975, ch. 272, § 22; July 1.]

46-276. Violations of certain sections classified as crimes. Violation of any provision of K. S. A. 1975 Supp. 46-232, 46-233, 46-235 to 46-238, inclusive, 46-240 to 46-242, inclusive, 46-267 and 46-271 to 46-273, inclusive, and amendments thereto, is a class B misdemeanor. [L. 1974, ch. 353, § 62; L. 1975, ch. 272, § 23; July 1.]

46-277. Intent required for act, action or conduct to constitute violation. No act, action or conduct of any person shall constitute a violation of this act which is actionable by complaint before the commission, or by criminal complaint, unless such act, action or conduct is intentionally violative of a provision of this act or intentionally violative of more than one provision of this act. [L. 1974, ch. 353, § 63; March 28.]

46-278. Severability. If any provision of this act or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this act which can be given effect without the invalid application or provision, and to this end the provisions of this act are declared to be severable. [L. 1974, ch. 353, § 64; March 28.]

46-279. Certain statutes inapplicable. The provisions of K. S. A. 75-4307 and K. S. A. 1975 Supp. 75-4301 to 75-4306, inclusive, and amendments thereto, shall not apply to persons to whom this act applies. [L. 1974, ch. 353, § 65; L. 1975, ch. 273, § 1; July 1.]

VII. General (Local) Conflict of
Interest Law: K.S.A. 1976
Supp. 75-4301 et seq., as
amended

GENERAL CONFLICT OF
INTERESTS LAW

STATE OF KANSAS



GOVERNMENTAL ETHICS COMMISSION

109 W. NINTH
TOPEKA, KANSAS 66612
PHONE: (913) 296-4219

GENERAL (LOCAL) CONFLICT OF INTEREST PROVISIONS
KANSAS STATUTES ANNOTATED
1975 SUPPLEMENT

(August 9, 1976)

**Article 43.—PUBLIC OFFICERS AND
EMPLOYEES**

CONFLICT OF INTERESTS

Revisor's Note:

Former law, see L. 1967, ch. 464, §§ 1 to 7; Repealed, L. 1970, ch. 366, § 22.

75-4301. Public officers and employees; conflict of interests; definitions. The following words and terms, when used in this act and the acts of which this act is amendatory, shall have the meanings respectively ascribed to them herein:

Substantial interest. The ownership by an individual or his spouse, either individually or collectively of a legal or equitable interest exceeding five thousand dollars (\$5,000) or five percent (5%) of any business, whichever is less, and also including the receipt by an individual or his spouse directly or indirectly of any salary, gratuity, other compensation or remuneration or a contract for or promise or expectation of any such salary, gratuity, other compensation or remuneration having a dollar value of one thousand dollars (\$1,000) or more in the current or immediately preceding or succeeding calendar year from any business or combination of businesses, and also including the holding of the position of officer or director of any business, irrespective of the amount of compensation or remuneration received by the person holding any such position. If a person's salary, compensation or other remuneration is a portion or percentage of a fee paid to a business or combination of businesses, a person shall have a substantial interest in any client who pays a fee to such business or combination of businesses from which fee such person receives one thousand dollars (\$1,000) or more in the current or immediately preceding calendar year.

Business. Any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income.

Public office. A position of public trust or agency, created by the Kansas constitution, by statute, by executive decree or by an ordinance or resolution of a municipal or quasi-municipal corporation passed in pursuance of legislative authority.

Public officer. Any person who holds public office in the state of Kansas, except that an attorney-at-law, acting only in his professional capacity, who holds no other public office shall not be construed to be a public officer for the purposes of this act, nor shall such term include any notary public or any person who holds an office in any political party and who holds no other public office.

Public employee. Any employee of the state of Kansas or any municipal or quasi-municipal corporation, except that an attorney-at-law, acting only in his professional capacity, who holds no other public employment shall not be construed to be a public employee for the purposes of this act.

Municipal corporation. Any city incorporated under the laws of the state of Kansas.

Quasi-municipal corporation. Any county, township, school district, drainage district, or any other governmental subdivision in the state of Kansas having authority to receive or hold public moneys or funds.

Contracts. Agreements including but not limited to sales and conveyances of real and personal property and agreements for the performance of services.

Acts. The exercise of power or authority or performance of any duty incident to public office or employment. [L. 1970, ch. 366, § 1; April 1.]

Source or prior law: L. 1967, ch. 464, § 1.

Revisor's Note:

Former 75-4301, repealed, L. 1970, ch. 366, § 22.

CASE ANNOTATIONS

1. Statute controlling as to facts private citizen must prove in order to maintain an action. *Linder v. Unified School District No. 259, Wichita, Kansas*, 314 F. Supp. 1187, 1196.

75-4302. Same; disclosure of substantial interest; supplemental disclosure; secretary of state to adopt rules and regulations prescribing manner and form of disclosure. (a) Every candidate for elective public office, at the time and place of filing his declaration of candidacy or at the time of his appointment as a candidate, shall file a written report disclosing all of his substantial interests. On or before July 1, 1970, every candidate for elective public office who filed his declaration of candidacy prior to the effective date of this act, and every elected public officer who has not filed a disclosure of substantial interests shall file in the office of the election officer with whom such officer is required to file his declaration of candidacy for public office, a written report disclosing all of his substantial interests. Within thirty (30) days after he takes office, any person who is appointed to fill a vacancy in an elective public office shall file, in the office where his predecessor filed his declaration of candidacy, a written report disclosing all of his substantial interests.

(b) At the time of his taking office, every public officer or employee appointed or employed to serve as a board member of, or

the head or executive officer of, any state agency, department, board, bureau, office, institution, council or commission in the executive, legislative or judicial branch of state government and every public officer or employee exercising supervisory authority over a primary division or subdivision thereof shall file in the office of the secretary of state a written report disclosing all of his substantial interests.

(c) On or before July 1, 1970, every appointive public officer or employee required to file a disclosure of interests at the time of his appointment, who has not filed such disclosure, shall file a written report disclosing his substantial interests in the manner prescribed by law.

(d) Whenever any change shall occur in the substantial interests of any person required by law to file a disclosure of such interests, he shall file a supplemental report disclosing this change within ten (10) days thereof.

(e) The secretary of state shall, by rules or regulations, prescribe the manner and form for filing the disclosures of substantial interests required by law. [L. 1970, ch. 366, § 2; April 1.]

Source or prior law: L. 1967, ch. 464, §§ 2, 3.

Revisor's Note:

Former 75-4302 repealed, L. 1970, ch. 366, § 22.

75-4303. [L. 1970, ch. 366, § 3; L. 1972, ch. 339, § 1; L. 1973, ch. 157, § 14; L. 1974, ch. 395, § 1; Repealed, L. 1974, ch. 396, § 2; April 8.]

Revisor's Note:

Former 75-4303 repealed, L. 1970, ch. 366, § 22.

Law Review and Bar Journal References:

New statutory enactments modifying common law and statutory contract principles discussed in survey of Kansas contract law, 21 K. L. R. 137, 155 (1972).

75-4303a. Same; advisory opinions on interpretation or application of conflicts of interest law; requests to secretary of state; filing; open to public inspection; administration of act; rules and regulations; abolishment of committee on governmental ethics; opinions of committee, effect. The governmental ethics commission shall render advisory opinions on the interpretation or application of the general conflict of interests law, as contained in K. S. A. 1973 Supp. 75-4301 to 75-4306, inclusive, and amendments thereto. Such opinions shall be rendered after receipt of a written request therefor by a public officer or employee or by any person who has filed as a candidate for elective public office. Any person who requests and receives such advisory opinion, and who acts in accordance with the provisions thereof, shall be

presumed to have complied with the provisions of the general conflict of interests law. A copy of any advisory opinion rendered by the commission shall be filed by it in the office of the secretary of state, and any opinion so filed shall be open to public inspection. All requests for advisory opinions shall be directed to the secretary of state who shall notify the commission thereof. The governmental ethics commission shall administer the act of which this section is a part and may adopt rules and regulations therefor. The committee on governmental ethics is hereby abolished on the effective date of this act and the powers and duties of said committee are hereby on said date transferred to and conferred upon said commission. Opinions of said committee issued prior to the effective date of this act shall continue to be effective until withdrawn or overruled by the commission to the extent that such opinions are not in conflict with 1974 Senate bills 656 [°] and 689 [°]. [L. 1974, ch. 396, § 1; April 8.]

* For location of statutory sections contained in SB's 656 and 689, see comparative table of sections under L. 1974, ch. 166, and L. 1974, ch. 353, respectively.

Source or prior law: 75-4303.

Cross References to Related Sections:

Establishment of governmental ethics commission, see, 25-4119.

75-4304. Public officers and employees prohibited from making certain contracts; exceptions; abstaining from action, effect; penalties. (a) No public officer or employee shall in his capacity as such officer or employee, make or participate in the making of a contract with any person or business by which he is employed or in whose business he has a substantial interest, and no such person or business shall enter into any contract where any public officer or employee, acting in such capacity, is a signatory to or a participant in the making of such contract and is employed by or has a substantial interest in such person or business. A public officer or employee does not make or participate in the making of a contract if he abstains from any action in regard to the contract.

This section shall not apply to the following:

(1) Contracts let after competitive bidding has been advertised for by published notice; and

(2) Contracts for property or services for which the price or rate is fixed by law.

(b) Any public officer or employee who is convicted of violating this section shall forfeit his office or employment. [L. 1970, ch. 366, § 4; L. 1974, ch. 397, § 1; March 22.]

Source or prior law: L. 1967, ch. 464, § 4.

Revisor's Note:

Former 75-4304 repealed, L. 1970, ch. 366, § 22.

75-4305. Public officers and employees to file report of interest in business affected by official acts; abstaining from action, effect. Any public officer or employee who has not filed a disclosure of substantial interests and who, while acting in his official capacity, shall pass upon any matter which will affect any business in which such officer or employee shall hold a substantial interest, shall, before he acts upon such matter, file a written report of the nature of said interest with the office of the secretary of state, if such person is a state officer or employee, or if such person is an officer or employee of a municipal or quasi-municipal corporation, with the county clerk of the county in which all or the largest geographical part of such municipal or quasi-municipal corporation is located. A public officer or employee does not pass or act upon any matter if he abstains from any action in regard to the matter. [L. 1970, ch. 366, § 5; L. 1974, ch. 397, § 2; March 22.]

Source or prior law: L. 1967, ch. 464, § 5.

Revisor's Note:

Former 75-4305 repealed, L. 1970, ch. 366, § 22.

CASE ANNOTATIONS

Annotation to L. 1967, ch. 464, § 5:

1. Section held unconstitutional as a violation of equal protection of the law and because of vagueness. *State v. Bogert*, District Court of Shawnee County, Kansas, No. 27,121, filed Jan. 29, 1970.

75-4306. Penalty for violations and failure to disclose substantial interest; severability. (a) Any person who violates any provision of section 3 or 4 [°] of this act, and any person who fails to make any disclosure of substantial interest required by law shall be guilty of a class A misdemeanor.

(b) If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section. [L. 1970, ch. 366, § 6; April 1.]

* Reference apparently should be to sections 4 or 5 [75-4304 and 75-4305].

Source or prior law: L. 1967, ch. 464, § 7.

Revisor's Note:

Former 75-4306 repealed, L. 1970, ch. 366, § 22.

75-4307. [K. S. A. 75-4307; Repealed, L. 1970, ch. 366, § 7; April 1.]

WHITE HOUSE SUMMARY OF PROVISIONS
OF UNIVERSAL VOTER REGISTRATION ACT

Following is a summary provided by the White House of the Universal Voter Registration Act (HR 5400 and S 1072) proposed by President Carter:

Section 1 -- Short Title. "Universal Voter Registration Act of 1977."

Section 2 -- Findings and Purpose. Authority is in Constitution for Congressional regulation of Federal elections; legislation would facilitate voter participation and remove unequal barriers to voting; purpose is to allow registration at the polling place and to assist states with improvement of voter registration and election administration.

Section 3 -- Definitions.

Section 4 -- Establishment and Administration. Creates positions of Administrator and Associate Administrator of Voter Registration within the Federal Election Commission, with responsibility for administering the provisions of the act under the direction of the Federal Election Commission (FEC).

Section 5 -- Duties and Powers. Administrator carries out voter registration program, gathers and publishes information on voter registration, assists states with their responsibilities and supervises necessary staff.

Section 6 -- Voter Registration. States must allow voter registration at the polling place for Federal elections. Only persons qualified to vote under state law may register and states may require persons to prove their identity and residence with proper identification or with the affidavit of a voter already registered. States may require each registrant to attest to his qualifications under oath and criminal penalty. If a state allows persons to vote who are waiting in line when the polls close, it also must allow them to register. Only one form of identification (such as a driver's license) would have to be shown by a registrant, provided that it met the state's requirements as approved by the FEC.

Section 7 -- Financial Assistance. The FEC makes grants to each state for each biennial and quadrennial Federal election. States are entitled to basic assistance of 20 cents times the number of voters in the last Presidential election. They qualify for a bonus of 20 cents times the number of voters in the election for which the grant is made if they allow election-day registration in state and local elections. These funds can be used to offset the costs of election-day registration itself, as well as for a broad range of purposes to increase voter turnout and improve the administration of registration and elections.

A state qualifies for an additional 20 cents times the number of voters in the election for which the grant is made if it implements a plan, approved by the FEC, for a voter outreach program to increase voter registration prior to election day. These funds can be used only for the outreach program. States receive part of the funds prior to each election and the balance following the election. States and localities not requiring voter registration are nevertheless eligible to receive Federal assistance. The total amount of the grants is estimated at about \$48-million every two years.

Atch. II

injunctive relief or other relief in Federal court against state and local officials who fail to comply with the act and to stop patterns of fraudulent registration and voting.

Section 9 -- Expedition of Actions. Federal courts are required to expedite cases brought under Section 8, as well as any challenge to the constitutionality of the act.

Section 10 -- Referral of Apparent Violations to the Attorney General. If the FEC determines that there is probable cause to believe that a criminal violation of the act has occurred or is about to occur, it shall refer the matter to the Attorney General. The Attorney General is required to report periodically to the FEC on the disposition of the case.

Section 11 -- Penalties. Fraudulent registration and voting, registering for the purpose of voting more than once, and attempts and conspiracies to do so are made a Federal felony punishable by imprisonment for not more than five years, a fine of not more than \$10,000, or both. Second and subsequent convictions carry a penalty of ten years imprisonment and/or a \$25,000 fine.

Section 12 -- Voter Lists. Use of voter registration lists for commercial activity is prohibited.

Section 13 -- Reports. The FEC is required to report annually to the President and Congress on the voter-registration program, as well as to provide the Congress with such information as it may from time to time require.

Section 14 -- Effect on Other Laws. The act is not to prevent any state from less restrictive registration and voting requirements. It is not to be construed as limiting in any way the Voting Rights Act, the Federal Voting Assistance Act or the Overseas Citizens Voting Rights Act.

Section 15 -- Severability.

Section 16 -- Authorization of Appropriations. Separate authorizations are provided for grants to the states and for the administrative costs of the FEC. The total cost is estimated at less than \$50 million every two years.

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UNIVERSAL VOTER REGISTRATION ACT:
How Much States Would Have Received If Act Had Been In Effect In 1976.

| States | 1972 Total Votes Cast* | Basic Assistance | 1976 Total Votes Cast* | With Bonus for State and Local Elections and with Outreach Programs | With Bonus for State and Local Elections and with Outreach Programs |
|--------------------------|---------------------------------|---------------------|---------------------------------|--|--|
| Alabama | 1,006 | \$ 201,000 | 1,183 | \$ 437,600 | \$ 674,200 |
| Alaska | 95 | 19,000 | 122 | 43,400 | 67,800 |
| Arizona | 654 | 131,000 | 743 | 279,600 | 428,200 |
| Arkansas | 648 | 130,000 | 767 | 283,400 | 436,800 |
| California | 8,368 | 1,674,000 | 7,862 | 3,246,400 | 4,818,800 |
| Colorado | 954 | 191,000 | 1,083 | 407,600 | 624,200 |
| Connecticut | 1,384 | 277,000 | 1,380 | 553,000 | 829,000 |
| Delaware | 236 | 47,200 | 236 | 94,400 | 141,600 |
| District of Columbia | 163 | 33,000 | 172 | 67,400 | 101,800 |
| Florida | 2,583 | 517,000 | 3,151 | 1,147,200 | 1,777,400 |
| Georgia | 1,175 | 235,000 | 1,467 | 528,400 | 821,800 |
| Hawaii | 270 | 54,000 | 291 | 112,200 | 170,400 |
| Idaho | 310 | 62,000 | 341 | 130,200 | 198,400 |
| Illinois | 4,723 | 945,000 | 4,729 | 1,890,800 | 2,836,600 |
| Indiana | 2,126 | 425,000 | 2,222 | 869,400 | 1,313,800 |
| Iowa | 1,226 | 245,000 | 1,279 | 500,800 | 756,600 |
| Kansas | 916 | 183,000 | 958 | 374,600 | 566,200 |
| Kentucky | 1,067 | 213,000 | 1,167 | 446,400 | 679,800 |
| Louisiana | 1,051 | 210,000 | 1,277 | 465,400 | 720,800 |
| Maine | 417 | 83,000 | 483 | 179,600 | 276,200 |
| Maryland | 1,354 | 271,000 | 1,432 | 557,400 | 843,800 |
| Massachusetts | 2,459 | 492,000 | 2,546 | 1,001,200 | 1,510,400 |
| Michigan | 3,490 | 698,000 | 3,664 | 1,430,800 | 2,163,600 |
| Minnesota | 1,742 | 348,000 | 1,950 | 738,000 | 1,128,000 |
| Mississippi | 646 | 129,000 | 769 | 282,800 | 436,600 |
| Missouri | 1,853 | 371,000 | 1,954 | 761,800 | 1,152,600 |
| Montana | 318 | 64,000 | 329 | 129,800 | 195,600 |
| Nebraska | 577 | 115,000 | 607 | 236,400 | 357,800 |
| Nevada | 182 | 36,000 | 202 | 76,400 | 116,800 |
| New Hampshire | 334 | 67,000 | 339 | 134,800 | 202,600 |
| New Jersey | 2,997 | 599,000 | 3,014 | 1,201,800 | 1,604,600 |
| New Mexico | 386 | 77,000 | 417 | 160,400 | 243,800 |
| New York | 7,162 | 1,432,000 | 6,668 | 2,765,600 | 4,099,200 |
| North Carolina | 1,519 | 304,000 | 1,679 | 639,800 | 975,600 |
| North Dakota | 281 | 56,000 | 297 | 115,400 | 174,800 |
| Ohio | 4,095 | 819,000 | 4,112 | 1,641,400 | 2,463,800 |
| Oklahoma | 1,030 | 206,000 | 1,092 | 424,400 | 642,800 |
| Oregon | 928 | 186,000 | 1,030 | 392,000 | 598,000 |
| Pennsylvania | 4,592 | 918,000 | 4,618 | 1,841,600 | 2,765,200 |
| Rhode Island | 411 | 82,000 | 411 | 164,000 | 264,000 |
| South Carolina | 674 | 135,000 | 803 | 295,600 | 456,200 |
| South Dakota | 307 | 61,000 | 301 | 121,200 | 181,400 |
| Tennessee | 1,201 | 240,000 | 1,476 | 535,200 | 830,400 |
| Texas | 3,471 | 694,000 | 4,072 | 1,508,400 | 2,322,800 |
| Utah | 478 | 96,000 | 541 | 204,200 | 312,400 |
| Vermont | 187 | 37,000 | 184 | 73,800 | 110,600 |
| Virginia | 1,457 | 291,000 | 1,697 | 630,400 | 969,800 |
| Washington | 1,471 | 294,000 | 1,556 | 605,200 | 916,400 |
| West Virginia | 762 | 152,000 | 751 | 302,200 | 452,400 |
| Wisconsin | 1,853 | 371,000 | 2,104 | 791,800 | 1,212,600 |
| Wyoming | 146 | 29,000 | 156 | 60,200 | 91,400 |
| United States | 77,734 | \$15,547,000 | 81,682 | \$31,883,400 | \$48,219,800 |

*Votes cast for President in thousands (unofficial figures).

Explanation: Under the Universal Voter Registration Act, a state could receive Federal funds as follows for each biennial and quadrennial election --

- 20¢ per voter in the previous Presidential election; plus
- 20¢ per voter in the election for which the grant is made, if the state allows election day registration in state and local elections; plus
- 20¢ per voter in the election for which the grant is made if the state carries out an approved preregistration outreach program.

Source: The White House

Attachment III
Gov't Ethics
5-24-

AGENCY 19

GOVERNMENTAL ETHICS COMMISSION

Permanent
Rules and Regulations*

ARTICLES:

- 19-1 General Provisions
- 19-2 Advisory Opinion Requests
- 19-3 Investigations
- 19-4 Noncompliance With Reporting Provisions
- 19-5 Complaints
- 19-6 Disclosure and Confidential Procedures
- 19-7 Proceedings
- 19-8 Action Subsequent to Final Report
- 19-9 Maintenance of Public Records
- 19-10
to
- 19-19 Reserved
- 19-20 Campaign Finance Act General Provisions
- 19-21 Candidates and Committees
- 19-22 Contributions and Other Receipts
- 19-23 Expenditures and Other Disbursements
- 19-24 In-Kind Contributions
- 19-25 Testimonial Events and Other Political Events
- 19-26 Receiving Contributions and Making Expenditures
- 19-27 Accounts and Records
- 19-28 Reporting Periods and Election Periods
- 19-29 Receipts and Expenditures Report
- 19-30 Contribution Limitations
- 19-31
to
- 19-39 Reserved
- 19-40 State Conflict of Interest Provisions
- 19-41 Statement of Substantial Interests
- 19-42 Representation Case Disclosure Statements
- 19-43
to
- 19-49 Reserved
- 19-50 Local Conflict of Interest Provisions
- 19-51 Disclosure of Substantial Interests
- 19-52
to
- 19-59 Reserved
- 19-60 Lobbying Regulation Provisions
- 19-61 Lobbying
- 19-62 Lobbyist Registration
- 19-63 Lobbyist Reporting Provisions

*Governmental Ethics Commission permanent rules and regulations 19-1-1 through 19-63-4; effective February 15, 1977.

Atch. III

ARTICLES:

19-1. GENERAL PROVISIONS

19-1-1. Definitions. Incorporated by reference are the definitions express or apparent in the relevant law. In addition, the following words mean:

(a) "Advisory Opinion" means a formal opinion issued by the commission as provided by relevant law.

(b) "Chairman" means the chairman of the governmental ethics commission duly designated by the governor or, in the event of his absence, the vice-chairman or such other commissioner as may be designated by the remaining members of the commission.

(c) "Commission" means the governmental ethics commission created by relevant law, or as the context indicates, any lesser number of members.

(d) "Commissioner" means one of the duly appointed and qualified members of the commission.

(e) "Commission's attorney" means an attorney designated to assist the commission to carry out the provisions of relevant law.

(f) "Complainant" means any person filing a complaint alleging a violation of relevant law with the commission.

(g) "Complaint" means a written statement made under oath and filed with the commission alleging any violation of relevant law.

(h) "Executive director" means the executive director employed by the commission.

(i) "Formal record" means all the filings and submittals in a matter or proceeding, any notice or agency order initiating the matter or proceeding, and if a hearing is held, the following: the designation of the presiding member, transcript of hearing if one is kept, all exhibits received in evidence, all exhibits offered but not received in evidence, offers of proof, motions, stipulations, subpoenas, proofs of service, and determinations made by the commission thereon, certifications to the commission, and anything else upon which action of the presiding member or commission may be based; but not including any proposed testimony or exhibits or the work product of the commission or its staff not offered or received in evidence.

(j) "Hearing commissioners" means the commissioners designated by the chairman to conduct a pre-hearing, hearing or rehearing, or to proceed with any matter before the commission.

(k) "Party" means the complainant, respondent, and any other person authorized by the commission to intervene in any proceeding.

(l) "Petitioner" means a person seeking relief, including advisory opinion, and not otherwise designated in this section.

(m) "Pleading" means any application, complaint, petition, answer, reply or other similar document filed with the commission.

(n) "Presiding member" means the chairman or any member of the commission, duly designated to preside at hearings or conferences or other proceedings.

(o) "Probable cause" means the presence of a reasonable ground for belief in the existence of the alleged facts of a violation of relevant law.

(p) "Relevant law" means K.S.A. 1975 Supp. 25-4101 et seq. and K.S.A. 1975 Supp. 46-215 et seq., including amendments and related supplemental legislation and rules and regulations relating thereto. In addition, in the context of requests for advisory opinions and related matters, "relevant law" shall include K.S.A. 1975 Supp. 75-4301 et seq., including amendments and related supplemental legislation and rules and regulations relating thereto.

(q) "Respondent" means any person against whom a complaint has been filed alleging an unlawful practice within the meaning of relevant law.

(r) "Treasurer" means an acting treasurer duly appointed under relevant law, and the treasurer of record at any particular point in time irrespective of whether the individual still serves as such. Only individuals, as opposed to non-natural persons, may serve as treasurers.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-2. Construction. These rules shall be liberally construed to accomplish the purposes of relevant law and the policies of the commission including the just and expeditious determination of the issues presented.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-3. Rules of order. Meetings of the commission shall be governed by Roberts Rules of Order, with the exception that the chairman may make motions, second motions already made and vote upon any matter.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-4. Exercise of executive functions. The commission may use the executive director as its agent in exercising its executive functions, powers and duties. The executive director may delegate any of the executive director's functions, powers and duties to a member of the commission's staff or such other individual as may be reasonable and necessary. Whenever it is necessary to appoint an acting executive director without delay, the chairman may make such appointment, subject to the ratification or rejection of the commission at the next meeting. The rejection of such appointment shall not affect any of the actions of the acting executive director in the interim.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-5. Communications and filings with the commission.

(a) General. All communications and pleadings shall be served by mail properly addressed with postage prepaid, on the commission at the office of the commission, shall clearly designate the file number, if any, designated by the commission, and shall state a document title where appropriate, the person's name, address and party represented. Service may also be made on the commission by personal delivery at the commission's office to a member of the commission or its staff.

(b) Noncompliance and rejection. In any proceeding when the commission finds a pleading or other matter tendered for filing does not comply with these rules or is otherwise insufficient, the commission may decline to accept the document for filing and may return it unfiled, or the commission may accept it for filing and make such corrections as are procedural in nature, or the commission may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected. The commission may order any redundant, immaterial, impertinent, or scandalous matter stricken from any document filed with it.

(c) Signature and effect. Each pleading, or other document, shall be signed by the party in interest, or by the party's attorney, and shall show the office and post office address of such party or attorney. The signature of the person subscribing any document filed constitutes a certificate by such individual that the person has read the document being subscribed and filed, and knows the contents thereof; that if executed in any representative capacity, the document has been subscribed and executed in the capacity specified upon the document with full power and authority so to do; that the contents are true as stated, except as to matters and things, if any, stated on information and belief, and that as to those matters and things, the person believes them to be true.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-6. Copies of pleadings. The party filing any pleading or other document shall file the original thereof with the commission. The commission may require the filing of such additional copies as it may need or desire.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-7. Docket and record. The commission shall maintain a docket and formal record of all proceedings in such form as it deems appropriate and may assign identification numbers to each proceeding. The commission shall also keep a record of its inquiries and investigations.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

nor a legal holiday. A part-day holiday shall be considered as other days and not as a holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-10. Representation.

(a) Appearance in person or by attorney. An individual may appear in the individual's own behalf. A member of a partnership may represent the partnership, a bona fide officer of a corporation, trust or association may represent the corporation, trust or association in presenting any matter to the commission. A person may be represented by an attorney who is a resident of Kansas and regularly admitted to practice before the supreme court of Kansas.

(b) Contemptuous conduct. Contemptuous conduct at any hearing shall be ground for exclusion from such hearing.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-11. Commission Decisions. Except as otherwise provided herein, all orders, opinions or reports issued by the commission shall be signed by the chairman. The decision of any panel of hearing commissioners shall be by majority vote. A concurring vote of six (6) members of the commission shall be required for any decision of the commission as a whole.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-12. Certification of documents and records. The chairman, or such other person as may be designated by the commission, is authorized to copy and certify all documents or records of the commission which may be released.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-1-13. Alternative Procedures. Upon finding in a specific proceeding that the just and expeditious determination of a matter requires simplification, alteration, or non-application of any or all of K.A.R. 19-1 to K.A.R. 19-8, inclusive, or the adoption of supplemental rules, the hearing commissioners may utilize such alternative procedures as are reasonable and necessary and consistent with the relevant law and which do not jeopardize the rights of any party. Except

nor a legal holiday. A part-day holiday shall be considered as other days and not as a holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation.

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when alternative procedures are adopted at a prehearing conference, hearing or rehearing with all parties or their representatives present, notice of the adoption of alternative procedures shall be served on the parties.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-2. ADVISORY OPINION REQUESTS

19-2-1. When Issued.

(a) The commission shall upon request of any person to whom the relevant law applies or to whom the relevant law could reasonably be expected to apply, or that person's authorized representative, render an opinion in writing on questions of interpretation of the relevant law so that the person requesting the opinion may have appropriate standards to guide his or her conduct.

(b) The commission may issue an opinion on its own initiative concerning the interpretation of K.S.A. 1975 Supp. 25-4101 et seq. and K.S.A. 1975 Supp. 46-215 et seq.

(c) The commission will not as a general rule issue opinions which relate to a possible violation of relevant law by an identifiable third party.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; K.S.A. 1975 Supp. 75-4303a; effective February 15, 1977.)

19-2-2. Form, Contents and Time of Requests. An advisory opinion request shall be in writing on any suitable paper and shall contain the full name and address of the petitioner, a statement of how petitioner may be subject to relevant law and description of the opinion requested in sufficient detail to allow an opinion to be expressed thereon. Advisory opinions shall be rendered within 45 days of receipt of the written request, unless the Commission finds that a longer period is necessary.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; K.S.A. 1975 Supp. 75-4303a; effective February 15, 1977.)

19-2-3. Amendment, Withdrawal and Denial. Advisory opinion requests may be amended and the advisory opinion petitioner may withdraw an advisory opinion request. If the commission finds that it lacks jurisdiction, the advisory opinion request shall be denied. If denied, the commission shall issue and

cause to be served upon the petitioner a copy of the order denying issuance of an advisory opinion and stating the grounds for such denial.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; K.S.A. 1975 Supp. 75-4303a; effective February 15, 1977.)

19-3. INVESTIGATIONS

19-3-1. General. The commission may investigate or cause to be investigated any matter required to be reported by any person under the relevant law, or any matter to which the relevant law applies irrespective of whether a complaint has been filed in relation thereto. Whenever an investigation does not disclose facts sufficient to file a complaint, the commission may, for good cause, issue to the person or persons investigated a report concerning the findings of the commission.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-3-2. Reviews and Audits. The executive director is authorized to conduct reviews and audits, employing generally accepted auditing standards and procedures as adapted to relevant law, of any matter which is required to be reported or filed under the provisions of relevant law. Such reviews and audits may include but shall not be limited to: identification of persons required to file reports or other documents; desk review of filed reports and documents; review or confirmation of receipts, expenditures, gifts, honoraria or payments; and audits of records and accounts required to be maintained or to be made available to the commission. If at the conclusion of an audit as herein authorized there appears to be a violation of relevant law, the executive director shall report the same to the commission or any subcommittee designated by the chairman to serve on its behalf in regard to such matters. The commission or subcommittee shall thereafter determine whether further investigation is required.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-3-3. Other Matters. Whenever any matter to which relevant law applies is brought to the attention of a member of the commission or the executive director which appears to raise an issue of a violation of the relevant law, said commission member or the executive director is authorized to conduct a preliminary inquiry on the issue of whether there are facts sufficient to support the appearance of a violation. At the conclusion of a preliminary inquiry, the executive director shall report to the commission or any subcommittee designated by the chairman to serve on its behalf in regard to such matters. The commission or subcommittee shall thereafter determine whether further investigation is required.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

3-4. NONCOMPLIANCE WITH REPORTING PROVISIONS

19-4-1. Campaign Finance Receipts and Expenditures Reports.

(a) Failure to file. The executive director shall as soon as practicable serve notice on any treasurer who has failed to file a Receipts and Expenditures Report on the date the report was required to be filed by K.S.A. 1975 Supp. 25-4108. A copy of the notice shall be promptly transferred to the office of the secretary of state for inclusion in the public record of the person whom the treasurer represents. Any treasurer shall within five (5) days of the date of service file the required report with the office of the secretary of state.

(b) Material errors or omissions.

(1) Notice. The executive director shall as soon as practicable serve notice on any treasurer whose Receipts and Expenditures Report required by K.S.A. 1975 Supp. 25-4108 contains material errors or omissions. A copy of the notice shall be promptly transferred to the office of the secretary of state for inclusion in the public record of the person whom the treasurer represents. Any treasurer shall within thirty (30) days of the date of service file an amended report correcting the material errors or omissions with the office of the secretary of state. The executive director may serve additional notices on any treasurer concerning such reports, or amendments thereto. The procedures set out herein for original notices shall control the process in regard to additional notices.

(2) Request for hearing. Upon service of such notice, the treasurer may contact the executive director for guidance or clarification concerning the material error or omission. If substantial issues remain unresolved after any such conference, the treasurer may within ten (10) days of the date of service request a hearing before the commission concerning the material errors or omissions. Any such hearing shall be conducted pursuant to K.A.R. 19-7 to the extent that section is applicable and within the thirty (30) day period for filing the amended report unless a continuance is granted by the hearing commissioners or presiding member. Notice of the date of hearing shall be served on the treasurer. The determination of the hearing commissioners shall be final. Failure to request such hearing or failure to attend the hearing without just cause shall constitute an admission of the validity of the determination of material errors or omissions.

(c) Compliance. The executive director may, upon the filing by a treasurer of a report as required by this article, notify the office of the secretary of state that the treasurer has complied with the requirements of any notice served upon the treasurer. Such notice shall be included in the public record of the person whom the treasurer represents. This notice shall not be construed as affecting any matter other than the matter to which it is addressed.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-4-2. Other reports, statements or affidavits. The executive director may as soon as practicable serve notice on any person who has failed to file on the appropriate date any other report, statement or affidavit required by relevant law. The executive director may also serve notice or notices on any person whose report, statement or affidavit or amendments thereto contains material errors or omissions. Any such notice may include a statement of the right or duty of the person served to amend the report, statement or affidavit.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-5. COMPLAINTS

19-5-1. Who may file.

(a) Filing and assistance. Any individual claiming to be a complainant may sign and file with the commission a verified complaint in writing. Assistance in drafting and filing complaints shall be available through the commission and its staff.

(b) By a commissioner. Any commissioner may file a complaint with the commission. If a commissioner files a complaint, that commissioner shall be disqualified from the commission's consideration of the complaint as a member thereof. The commission shall, however, have the rights, duties and liabilities of a party to a proceeding thus initiated.

(c) Following an authorized investigation. The executive director shall file a complaint following the completion of an investigation conducted pursuant to K.A.R. 19-3, if in the executive director's judgement there is probable cause to believe that a provision of relevant law has been violated.

(d) Noncompliance with reporting provisions. The executive director shall file a complaint when any treasurer has failed to file any report at the time and in the manner required by K.A.R. 19-4-1, unless the executive director finds that for good cause a complaint should not be filed. In either case the executive director shall report to the commission at its next meeting. The executive director, after ten (10) days written notice, may file a complaint against a person who has failed to file any other report, statement or affidavit required by K.A.R. 19-4-2 or who has failed to properly amend any such filing.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-5-2. Forms, Contents and Time. The complaint shall be in writing on a form obtained at the commission office. The original complaint must be signed and verified before a notary public or other person duly authorized by law to take acknowledgements. A complaint shall contain the full name and address of the complainant and the full name and address of the respondent. The complaint shall also contain simple and concise statements of the facts or information and belief on which the allegation of a violation is based, including where known the date and place of occurrences that are described and names of the participants and the section or sections of law which are alleged to have been violated. A complaint must be filed within two years after the date of occurrence of the alleged, unlawful action, unless the commission finds that for good cause an extension of time should be granted.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-5-3. Amendment and Withdrawal. The commission or the complainant shall have the power to reasonably amend the complaint as a matter of right at any time before hearing thereon, and thereafter at the discretion of the presiding member. The respondent and the complainant shall be notified of any such amendment in writing by the commission. The complaint may be withdrawn by the complainant at any time before a final determination of probable cause. After service of a notice of hearing, the complainant may request and the commission shall decide whether or not a complaint may be withdrawn.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-5-4. Service of complaint. A copy of the complaint and any amendments shall be promptly served by the commission on the respondent.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-5-5. Respondent's review of evidence. After a verified complaint has been filed with the commission, the respondent shall be entitled to examine and make copies of all evidence in the possession of the commission relating to the complaint, including the transcript of the probable cause determination, if any; provided however, that those matters which do not constitute evidence, including the work product of the commission or its staff, need not be provided to the respondent.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-5-6. Sufficiency of complaint. Upon acceptance of a complaint for filing, the commission shall determine whether the complaint alleges facts, directly or upon information and belief, sufficient to constitute a violation of relevant law. If the complaint is found to be sufficient, the commission shall promptly conduct or cause to be conducted a preliminary investigation of the alleged violation.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-5-7. Probable cause. At the conclusion of a preliminary investigation the commission shall determine whether probable cause exists for believing the allegations of the complaint. If the commission determines that probable cause does exist, the complaint and any amendments thereto shall become a public record and the commission shall fix a time for a hearing in the matter

which shall be not more than thirty (30) days after a final determination of probable cause is made. Notice of this determination shall be sent to all parties.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-5-8. Preservation of records. Books, papers, documents, or records of any form which are relevant to the scope of any investigation as defined in the complaint shall be preserved during the pendency of any proceedings by all parties to the proceedings unless the commission specifically orders otherwise.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-5-9. Dismissal before hearing.

(a) Dismissal. If the commission finds either on the fact of the complaint or after investigation, with respect to any respondent that it lacks jurisdiction or that probable cause does not exist, the complaint shall be dismissed with or without prejudice as to such respondent.

(b) Service. When a complaint is dismissed before hearing, the commission shall issue and cause to be served upon each party a copy of the order dismissing the complaint, and stating the grounds and conditions of such dismissal.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-6. DISCLOSURE AND CONFIDENTIAL PROCEDURES

19-6-1. Non-Disclosure and public record. Except as provided in K.A.R. 19-5-5 all records, complaints, documents, reports filed with or submitted to or made by the commission, and all records and transcripts of any investigations, inquiries or hearings of the commission under this act shall be confidential and shall not be open to inspection by any individual other than a member of the commission, an employee of the commission, or a state officer or employee designated to assist the commission; provided however, that nothing contained herein prohibits such disclosures as are reasonable and necessary to properly investigate any matter. The following shall be public records and open to public inspection: (1) a complaint and any amendments after a probable cause determination; (2) an answer and any amendments with the consent of the respondent; (3) all matters presented at a public hearing; and (4) all reports of the commission stating a final finding of fact. In addition, a person subject to an investigation or a respondent

may release any report or order issued pursuant to K.A.R. 19-3-1 or K.A.R. 19-5-9 and comment thereon. The confidentiality requirements of relevant law shall be observed by all members of the commission, its staff, and all parties to any proceedings.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-6-2. Executive session. The commission shall meet in executive session to consider those matters required by relevant law to be confidential. Attendance shall be limited to commission members, authorized staff, and such witnesses or other persons and their respective counsel as are allowed by the commission, at the time scheduled for their appearance. Any party may request at any time during the course of a public proceeding that the commission close the proceedings to the public. For good cause found within the meaning of the relevant law requiring confidentiality, the commission may adjourn into executive session for consideration of those matters required to be kept confidential. The commission upon its own motion for such purpose and upon such a finding may adjourn a public proceeding into an executive session.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-6-3. Communication with commission. Except as expressly permitted herein, parties and their representatives shall not initiate private communications with a commissioner in regard to the case involved.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7. PROCEEDINGS

19-7-1. Answer. The respondent against whom a verified complaint, as the same may have been amended, is filed and on whom a notice of hearing has been served, may file a written verified answer in person or through an attorney within ten (10) days from the service of the notice of hearing. The answer shall contain a general or specific denial of each and every allegation of the complaint controverted by the respondent or a denial of any knowledge or information thereof sufficient to form a belief and a statement of any matter constituting a defense. Any allegation in the complaint which is not denied or admitted in the answer in the above manner, shall be deemed admitted. The answer or any part thereof may be amended as a matter of right at any time prior to ten (10) days before a public hearing and thereafter in the discretion of the presiding member on application duly made therefore. The commission may proceed, notwithstanding any failure of the respondent to file an answer within the time provided

herein, to hold a hearing at the time and place specified in the notice of hearing and may make its findings of fact and enter its report and order upon the testimony taken at the hearing.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-2. Waiver of hearing. In any proceeding, if the parties waive hearing, the commission may forthwith dispose of the matter upon the basis of the pleadings or submittals and the investigation.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-3. Pre-hearing conference.

(a) General. In order to facilitate the hearing procedure, conferences may be held between the parties with the approval or at the direction of and before the presiding member as time and the nature of the proceeding permit. At any such conference, the following may be considered:

- (1) The simplification of the issues.
- (2) The exchange and acceptance of service of exhibits proposed to be offered into evidence.
- (3) The obtaining of admission as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.
- (4) The limitation of the number of witnesses.
- (5) The discovery or production of evidence.
- (6) Such other matters as may properly be dealt with to aid in expediting the orderly conduct and disposition of the proceeding.

Failure of a participant to attend such conference, after being served with due notice of the time and place thereof, shall constitute a waiver of all objections to the agreements reached, if any, and any order or ruling made at the pre-hearing conference.

(b) Authority of presiding member. The presiding member at any conference may dispose of by ruling, irrespective of the consent of the parties, any procedural matters which the presiding member is authorized to rule upon during the course of the proceeding, and which it appears may appropriately and usefully be disposed of at that stage. The rulings of the presiding member made at such conference shall control the subsequent course of the hearing, unless modified by the hearing commissioners.

(c) Refusal to make admissions or stipulate. If a party attending a conference convened pursuant to these rules refuses to admit or stipulate to the genuineness of any documents or the truth of any matters of fact and if the party requesting the admissions or stipulations thereafter proves the genuineness of any such

document or the truth of any such matter of fact, he may apply to the commission for an order requiring the other party to pay the reasonable expenses incurred in making such proof, including reasonable attorney's fees. Unless the hearing commissioners find that there were good reasons for the refusal to admit or stipulate or that the admissions or stipulations sought were not of substantial importance, the order shall be made.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-4. Hearings, appointment of presiding member.

(a) Who shall conduct, appointment of presiding member. Hearings and rehearings shall be conducted by hearing commissioners designated by the chairman, such commissioners may consist of the commission as a whole or a subcommittee thereof. If a subcommittee of hearing commissioners is appointed, it shall consist of not less than three members, of whom not more than a majority shall be of the same political party. One hearing commissioner shall be designated as presiding member by the chairman. The hearing commissioners and presiding member shall be designated when a final determination of probable cause is made or in a reasonable time thereafter. The commission or any member thereof may be assisted at a prehearing conference, hearing or rehearing by an attorney appointed by the commission who may serve as a "law officer" in advising the members of the commission relative to the proceeding, procedures and rulings thereon. The hearing commissioners shall have full authority to review and overrule any decision of the presiding member regarding the procedure of the pre-conference hearing, hearings, and rehearings, including decisions to admit or exclude testimony or other evidence, and to rule upon all motions and objections.

(b) Order of procedure. In hearings, the complainant, or other party having the burden of proof, as the case may be, shall open and close, unless otherwise directed by the presiding member. In proceedings where the evidence is peculiarly within the knowledge or control of another party or participant, the order or presentation may be varied by the presiding member.

(c) Presentation by the parties. Parties shall have the right of presentation of evidence, cross-examination, objection and motion. The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay. When objections to the admission or exclusion of evidence before the presiding member are made, the grounds relied upon shall be stated briefly. Formal exceptions are unnecessary and shall not be taken to rulings thereon.

(d) Oral examination. Witnesses whose testimony is to be taken shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

(e) Fees of witnesses. Witnesses subpoenaed by the commission shall be paid the same fees and mileage as are paid for like services in civil actions in the district court.

(f) Duties of the presiding member. Duties include but are not limited to the following: administer the oath, rule on proof, regulate the hearing, exclude

people from the hearing, hold conferences for simplification of issues, dispose of procedural requests, authorize and set times for filing of briefs, grant continuances, and take any other action consistent with the purpose of relevant law administered by the commission and consistent with these rules.

(g) Stipulations. Written stipulations may be introduced in evidence, if signed by the persons sought to be bound thereby, or by their attorneys. Oral stipulations may be made on the record at open hearings or rehearings.

(h) Waiver of objections. Any objection not timely made before the presiding member shall be deemed waived unless the failure or neglect to urge such objection shall be excused for good cause by the presiding member.

(i) Continuances and adjournments. The presiding member may postpone a scheduled hearing or continue a hearing from day to day or adjourn it to a later day or to a different place by announcement thereof at the hearing or by appropriate notice to all parties.

(j) Burden of proof. Affirmative findings of fact by the commission shall be based on clear and convincing evidence.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-5. Subpoenas.

(a) Issuance. Subpoenas for the attendance of witnesses or for the production of evidence, unless directed by the commission upon its own motion, will issue only upon application in writing to the commission or the presiding member, except that during a hearing, such application may be made orally on the record. Such applications shall specify as nearly as may be the general scope of the testimony or evidence sought, including as to evidence, specification as nearly as may be, of the documents desired. The presiding member shall sign subpoenas issued pursuant to this section or when convenient or necessary may direct the executive director to sign subpoenas on the presiding member's behalf.

(b) Service and return. If service of subpoena is made by a sheriff or like officer or his deputy, such service shall be evidenced by his return thereof. If made by another person, such person shall make affidavit thereof, describing the manner in which service was made, and shall return such affidavit. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service, a copy of the subpoena shall be exhibited to and left with the person to be served, or to a person of suitable age and discretion residing in that person's dwelling, house, or usual place of abode, or to an agent authorized by appointment or by law to receive service of process for the person to be served. The original subpoena, bearing or accompanied by the authorized return, affidavit or statement, shall be returned forthwith to the office of the commission or, if so directed on the subpoena, to the presiding member before whom the person named in the subpoena is required to appear.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-6. Depositions. The testimony of any witness may be taken by deposition by a party upon approval by the hearing commissioners or the presiding member any time before the hearing is closed. Unless notice is waived, no deposition shall be taken unless at least ten (10) days notice is given to all parties. The procedures utilized in district court per K.S.A. 60-226 shall be utilized herein except as modified by these rules. No part of a deposition shall constitute a part of the formal record in the proceeding, unless received in evidence. Deponents and the notarial officers taking such depositions shall be entitled to the same fees as are paid for like services in civil actions before the district courts, which fees shall be paid by the party at whose instance the depositions are taken. When the party at whose instance the depositions are taken is a member of the commission or its staff, the commission shall pay such fees. Upon written application requesting deposition by written questions, the presiding member may for good cause permit such a deposition according to such terms and scope as directed by said presiding member.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-7. Motions. All motions, except those made at a pre-hearing conference, hearing or rehearing shall be in writing. The presiding member is authorized to rule upon any motion except a motion made before or during a hearing which would involve or constitute a final determination of the proceeding or a motion pursuant to K.A.R. 19-1-13. A presiding member may refer any motion to the hearing commissioners or commission for ultimate determination.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-8. Evidence. In any proceeding before the hearing commissioners or a presiding member, relevant and material evidence shall be admissible, but there shall be excluded such evidence as is unduly repetitious or cumulative, or such evidence as is not of any probative value. The presiding member shall rule on the admissibility of all evidence, and shall otherwise control the reception of evidence so as to confine it to the issues in the proceeding. The production of further evidence upon any issue may be ordered. Direct testimony of any witness may be offered as an exhibit, or as prepared written testimony to be copied into the transcript. Cross examination of the witness presenting such written testimony or exhibit shall proceed at the hearing at which such testimony or exhibit is authenticated. Whenever in the circumstances of a particular case it is deemed necessary or desirable, the hearing commissioners or the presiding member may direct that testimony to be given upon direct examination shall be reduced to exhibit form or to the form of prepared written testimony.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-9. Briefs. Upon application to the presiding member, any party may as a matter of right file briefs. The presiding member shall set limits on the length of briefs, fix the time for the filing and service of briefs and set the order in which such briefs shall be filed, giving due regard to the nature of the proceeding, the magnitude of the record, and the complexity or importance of the issues involved. Briefs shall contain, where applicable: (1) a concise statement of the case; (2) an abstract of the evidence relied upon by the participant filing, preferably assembled by subjects, with references to the pages of the record or exhibits where the evidence appears; and (3) proposed findings and conclusions and, if desired, a proposed form of order together with the reasons and authorities therefore, separately stated.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-10. Recording and transcript.

(a) Recording of proceedings. Public hearings and executive sessions shall be recorded as directed by the commission. Such record shall be the sole official record of the hearing. Such recording and any transcripts therefrom shall include a verbatim report of the hearings and nothing shall be omitted therefrom except as is directed by the presiding member or hearing commissioners or by the commission.

(b) Copies. Parties desiring copies of a public portion of the record or such portion of the record from an executive session as the commission may specifically allow to a party relative to that party's participation in the executive session or consistent with K.A.R. 19-5-5, and consistent with the confidentiality requirement of relevant law, may obtain such copies from the official reporter upon payment of the reporter's fees or as allowed by the commission upon payment of the appropriate fee.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-11. Settlement. The parties may stipulate for settlement of the case and the commission may issue a report and order on such stipulation.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-12. Proposals by the parties. There may be presented by each of the parties, as allowed or directed by the presiding member, proposed findings and conclusions and, if desired, the reasons therefore, and proposed forms of orders.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-13. Recommended Report. If a hearing is held by a subcommittee of the commission, the presiding member thereof shall present as soon as practicable a recommended report adopted by a majority of the subcommittee to the commission as a whole. Copies of the recommended report shall be served on the parties. Dissenting recommendations may also be filed by a hearing commissioner.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-14. Appeal, briefs and oral argument to entire commission. Any party may make exceptions to the recommended report and by motion request an opportunity to present oral argument to the entire commission. Oral argument motion shall be filed within ten (10) days from the date of service of the recommended report. If oral argument is ordered, it shall be limited, unless otherwise specified, to matters properly raised by the briefs.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-15. Commission report and order. Upon receipt of a recommended report or when the commission as a whole hears a complaint, the commission shall as soon as practicable issue its report. All reports and orders of the commission shall, subject to application for rehearing, be final. A report of the commission shall set forth the findings and conclusions of the commission and may include an opinion containing the reasons for said decision. The report may be accompanied by a notice of the right to apply for a rehearing.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-16. Rehearing.

(a) General. Any party alleging any error in the original proceedings or report shall request a rehearing. An application for rehearing shall be filed with the commission at its office within ten (10) days after service of a commission report. Such application shall be made by motion, stating specifically the grounds relied on. A copy of such application shall be served on all parties in conformity with the service provisions of these rules, by the party making such application. An application for rehearing shall contain: (1) the docket number of the case for which such application is being made; (2) the name of the party making such application; and (3) such application shall state concisely and specifically the alleged errors in the report or proceedings of the commission. If a report is sought to be vacated, reversed, or modified by reason of matters which have arisen since the hearing and decision, the matters relied upon shall be identified in the application.

(b) Granting an application for rehearing. If the commission grants an application for rehearing, it shall so notify the parties in writing. The date an application for rehearing is granted shall be the date on which the commission makes such decision. The rehearing shall follow the same procedural rules as a hearing, except to the extent otherwise directed by the commission or a presiding member.

(c) Effect of failure to allege specific error. Failure to request a rehearing on specific allegation of error and provide the reasons therefore shall constitute a waiver of all objection to any matters not specifically alleged as error.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-8. ACTION SUBSEQUENT TO FINAL REPORT

19-8-1. Commission Action.

(a) Dismissal. The commission shall dismiss a complaint and all matters relative thereto if the final report concludes there has been no violation of relevant law.

(b) Report transmittal. If the final report concludes there has been a violation of relevant law, copies of the report shall be forthwith submitted to the attorney general and appropriate county or district attorney, and to the supreme court, legislature or governor as required by relevant law according to the particular violation found.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-8-2. Information release to government attorneys. Confidential portions of the formal record in any proceeding, or any other information relative thereto, may by resolution of the commission specifically authorizing such release upon a finding such information is material to a matter pending before the attorney general or a county or district attorney, be released to said government attorneys. Application by such government attorneys to the commission for information release shall provide such information to the commission as is necessary for the commission to make the required finding.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-21. CANDIDATES AND COMMITTEES

19-21-1. Candidates.

(a) General. A "candidate" is an individual who (1) appoints a treasurer or a candidate committee, or (2) makes a public announcement of intention to seek nomination or election to state office, or (3) makes an expenditure or accepts a contribution for the purpose of influencing his or her nomination or election to state office, or (4) files a declaration or petition to become a candidate for any state office. Whenever any of the above tests are met, an individual becomes a candidate on the date that test is met regardless of whether the other tests are then applicable. For the purpose of this section, an appointment does not take place until an agreement in the nature of an agency relationship is completed and the individual to be appointed takes significant action based on the relationship which is intended to influence the nomination or election to state office of the individual considering seeking such office. In addition, an announcement is not a public announcement unless it is intended to inform the general public that the individual is seeking nomination or election to state office. An individual makes a public announcement, or makes an expenditure or accepts a contribution if the individual does so directly, or directly or indirectly authorizes another to do so on the individual's behalf or directly or indirectly ratifies the action of another.

Example 1: Individual A makes a public announcement that he or she is seeking election as a member of a county commission. A is not a candidate as defined above since A is not seeking a state office. (For the definition of state office, see K.S.A. 1975 Supp. 25-2505.) Thus, the requirements of the Act relating to candidates do not apply to A.

Example 2: Individual A asks individual B to serve as A's treasurer should A decide to seek nomination or election to state office. B agrees to serve as A's treasurer but neither A or B take any action intended to influence the nomination or election of A until A files a declaration to become a candidate for state office. In this situation, A is not a candidate until the declaration is filed.

Example 3: Individual B makes a public announcement that individual A is seeking nomination to state office. A requested B to make the announcement. A is a candidate on the date B makes the announcement.

(b) Appointment of treasurer or candidate committee. Not later than ten (10) days after becoming a candidate, the candidate shall appoint a treasurer or in lieu thereof shall appoint a candidate committee. If the candidate chooses to appoint a treasurer, the treasurer's selection shall be reported to the secretary of state not later than ten (10) days after the appointment on forms prescribed and provided by the commission. A candidate may serve as his or her own treasurer. No more than one treasurer or one candidate committee may exist at the same time, provided however, that a prior treasurer or committee and a new treasurer or committee for a different candidacy may exist at the same time so long as the prior treasurer or committee does not serve in any capacity of an ongoing nature to advance the later candidacy and only to the extent necessary to close its affairs. (See K.A.R. 19-21-2 for the requirements if a candidate committee is appointed.)

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-7-13. Recommended Report. If a hearing is held by a subcommittee of the commission, the presiding member thereof shall present as soon as practicable a recommended report adopted by a majority of the subcommittee to the commission as a whole. Copies of the recommended report shall be served on the parties. Dissenting recommendations may also be filed by a hearing commissioner.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-14. Appeal, briefs and oral argument to entire commission. Any party may make exceptions to the recommended report and by motion request an opportunity to present oral argument to the entire commission. Oral argument motion shall be filed within ten (10) days from the date of service of the recommended report. If oral argument is ordered, it shall be limited, unless otherwise specified, to matters properly raised by the briefs.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-15. Commission report and order. Upon receipt of a recommended report or when the commission as a whole hears a complaint, the commission shall as soon as practicable issue its report. All reports and orders of the commission shall, subject to application for rehearing, be final. A report of the commission shall set forth the findings and conclusions of the commission and may include an opinion containing the reasons for said decision. The report may be accompanied by a notice of the right to apply for a rehearing.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-7-16. Rehearing.

(a) General. Any party alleging any error in the original proceedings or report shall request a rehearing. An application for rehearing shall be filed with the commission at its office within ten (10) days after service of a commission report. Such application shall be made by motion, stating specifically the grounds relied on. A copy of such application shall be served on all parties in conformity with the service provisions of these rules, by the party making such application. An application for rehearing shall contain: (1) the docket number of the case for which such application is being made; (2) the name of the party making such application; and (3) such application shall state concisely and specifically the alleged errors in the report or proceedings of the commission. If a report is sought to be vacated, reversed, or modified by reason of matters which have arisen since the hearing and decision, the matters relied upon shall be identified in the application.

19-9. MAINTENANCE OF PUBLIC RECORDS

19-9-1. Maintenance of Public Records. Each statement, report, affidavit, or other document which is required to be filed or is filed pursuant to K.A.R. 19-1 to K.A.R. 19-63 shall be kept and maintained by the office with which it is filed for a period of five (5) years from the date of filing. At the termination of the five (5) year period, any office wishing to destroy such documents shall notify the Commission in writing of its intent to destroy such documents sixty (60) days prior to destruction. Unless otherwise provided by law, the commission may at any time prior to the termination of the notice period serve upon the office written notice that it shall maintain such records or portions thereof for such additional periods of time as the commission may determine is reasonable and necessary.

(Authorized by K.S.A. 1975 Supp. 25-4119a; K.S.A. 1975 Supp. 46-253; K.S.A. 1975 Supp. 75-4303a; effective February 15, 1977.)

19-10 TO 19-19. RESERVED

19-20. CAMPAIGN FINANCE ACT GENERAL PROVISIONS

19-20-1. Scope. K.A.R. 19-20 to K.A.R. 19-30, inclusive, implement and interpret the campaign finance act, K.S.A. 1975 Supp. 25-4101 et seq., including amendments and supplemental legislation.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-20-2. Definitions. Incorporated herein by reference are the definitions express or apparent contained in the Act. The term "Act" means, unless the context requires otherwise, K.S.A. 1975 Supp. 25-4101 et seq., including amendments and supplemental legislation and rules and regulations relating thereto.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-20-3. Construction. K.A.R. 19-20 to 19-30, inclusive, shall be liberally construed to accomplish the purposes of the Act including the administration of fair and open elections.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

(3) Any contribution made by the employee is made and transferred in his or her name only; and

(4) The recipient candidate or committee is not made aware by the employer or his agents that the contribution was made as a part of any such fund or employer related activity.

A political committee may appoint such other-officers as it desires including co-chairpersons. The chairperson designated as such for the purpose of the Act shall make and file with the secretary of state on forms prescribed and provided by the commission a statement of organization not later than ten (10) days after establishment of such committee. In addition, any change in information previously reported in a statement of organization shall be reported on a supplemental statement of organization and filed not later than ten (10) days following the change.

(c) Content of statement of organization.

(1) General. The statement of organization shall include: (i) the name and address of the committee; (ii) the names and addresses of the chairperson and the treasurer of the committee; and (iii) the names and addresses of affiliated or connected organizations.

(2) Affiliated or connected organizations. An organization is affiliated or connected with a reporting political committee if it is: (i) an organization or group which founded or maintains the reporting committee with a major purpose of influencing the nomination or election of a candidate or candidates to state office; (ii) an organization or group which has as a major purpose the supporting of a reporting committee or committees; (iii) an organization or group whose membership is generally composed of the same individuals as the reporting committee where the reporting committee advances the political goals of the organization either directly or indirectly on behalf of the organization; or (iv) an organization or group, whether or not a reporting committee, which is substantially controlled directly or indirectly by a reporting committee or committees or the controlling persons thereof. In addition, an organization or group controlling an affiliated or connected organization is likewise an affiliated or connected organization of the group or organization which it controls.

(3) Exceptions. In the situation where a state-wide union or professional or trade association is considered to be an affiliated or connected organization of a particular political committee under any of the above tests, local units of such unions or associations shall be presumed not to be affiliated or connected organizations of the political committee so long as the state-wide entity is reported as such.

Example 1: A union or corporation or the officers thereof have formed a political action committee. The union or corporation constitutes an affiliated or connected organization and must be listed as such.

Example 2: A group of individuals have formed political committee A. The same persons indirectly control political committee B by means of employment of the officers thereof in a business or otherwise. A must list B as an affiliated or connected organization. In addition, B must list A as an affiliated or connected organization.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

an individual within the preceding twelve (12) months. Such statement shall be submitted to each treasurer receiving any contribution from such out-of-state combination of individuals or person other than an individual. Such statement shall be a part of an attached to the report required of such treasurer by K.S.A. 1975 Supp. 25-4108 ; or

(c) File a statement of organization as provided by K.S.A. 1975 Supp. 25-4104, establish a separate fund for the purpose of receiving contributions and making expenditures relating to any election for state office in this state and file statements and reports involving such fund in the manner provided by K.S.A. 1975 Supp. 25-4108, for political committees and party committees. Any transfer from another fund to the separate fund herein provided for shall be subject to the requirements of subsection (b).

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-22. CONTRIBUTIONS AND OTHER RECEIPTS

19-22-1. Contributions.

(a) General. A "contribution" is any advance, conveyance, deposit, distribution, gift, loan, or payment of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to state office. A transfer of goods and services, or the forgiving of a debt, or the rendering of a discount, does not constitute a contribution if the transaction is made in the ordinary course of business or complies with common trade practices and does not have as its purpose the influencing of the nomination or election of any individual to state office. In addition, the carryover of funds or inventory by a candidate, candidate committee, party committee or political committee from one election period to another or the transfer thereof to a bona fide successor committee or candidacy does not constitute a contribution.

Example 1: Business A offers to give a discount on its price of goods to candidate B if B's treasurer purchases in excess of a certain quantity. The discount is the same that A offers to normal commercial customers and A would offer the same discount to B's opponent. The discount does not constitute a contribution.

Example 2: Candidate A who ran for state office in the preceding election year wishes to use some bumper stickers left over from the prior campaign. The carryover of this inventory does not constitute a contribution to A's new campaign.

(b) Transfer of funds. Except as provided in subsection (a), the transfer of funds between any two or more candidates, candidate committees, party committees or political committees constitutes a contribution made to the recipient. (See K.A.R. 19-23-1(b) for the treatment of such transactions by the donor.)

(c) Candidate contributions. The transfer of a candidate's personal funds to the candidate's treasurer for use by the treasurer in the candidate's campaign constitutes a contribution made by the candidate.

Example: Candidate A transfers \$250 from his or her personal checking account to A's treasurer to be used by the treasurer in A's campaign. A has made a contribution of \$250.

19-21-2. Candidate Committees.

(a) General. A "candidate committee" is a committee appointed by a candidate to receive contributions and make expenditures for the candidate. A candidate appoints a committee if the candidate does so directly or if he or she directly or indirectly authorizes a group of individuals to receive contributions or make expenditures on the candidate's behalf, or ratifies the actions of such group. A candidate shall have no more than one candidate committee at any one time.

(b) Appointment of officers and structure. The candidate shall appoint one chairperson and one treasurer of the candidate committee for the purposes of the Act and the candidate may serve as treasurer. The committee may consist of such other officers as the candidate may desire including co-chairpersons. The designation of the chairperson and treasurer for the purposes of the Act shall be reported to the secretary of state not later than ten (10) days after the appointment on forms prescribed and provided by the commission. A candidate committee may be divided into regional and local subdivisions as long as such subdivisions are under the direct control of the chairperson and treasurer and such subdivisions otherwise comply with the terms of the Act.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-21-3. Political Committees.

(a) General. A "political committee" is any combination of two or more individuals or any person other than an individual, a major purpose of which is to support or oppose any candidate for state office, but not including any candidate committee or party committee. A major purpose of any such combination or person other than an individual is to support or oppose any candidate for state office if any one of its purposes, or by cumulative effect more than one of its purposes, is considerable in degree and is directed at attaining that end. The following factors among others will be considered in determining whether such combination or person other than an individual constitutes a political committee:

- (1) The intent of the combination or person;
- (2) The amount of time devoted to the support or opposition of one or more candidates for state office;
- (3) The amount of time devoted to the support or opposition of any other political committee or party committee;
- (4) The amount of contributions (as that term is defined by the Act) made to any candidate, candidate committee, party committee or political committee;
- (5) The amount of expenditures (as that term is defined by the Act) made on behalf of any candidate, candidate committee, party committee or political committee; or
- (6) The importance to any candidate, candidate committee, party committee or political committee of the activities in which the combination or person engage.

(b) Structure and filing statement of organization. Each political committee which anticipates receiving contributions or making expenditures must appoint one chairperson and one treasurer for the purposes of the act. A political committee structured similar to a payroll deduction plan will be presumed not to be anticipating receiving contributions or making expenditures if it meets all of the following tests:

- (1) The decision to make contributions to the fund by the individual employee is strictly voluntary;
- (2) The employee alone determines to whom his or her portion of the fund shall be distributed;

(d) In-kind contributions. An in-kind contribution constitutes a contribution. Those transactions which are excluded from the definition of in-kind contribution are likewise excluded from the definition of contribution. (See K.A.R. 19-24 for the definition of in-kind contribution.)

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-22-2. Other receipts. For the purpose of these rules and regulations, an "other receipt" is any money or thing of value which does not constitute a contribution or is not specifically exempted from the definition of contribution that is received by a treasurer in the treasurer's official capacity as such, provided however, that those receipts which are exempted from the definition of contribution under K.A.R. 19-25-2(a) shall constitute other receipts. Rebates and refunds given in the ordinary course of business constitute other receipts, as do the transfer of funds from an existing committee to its successor.

Example 1: Campaign worker A incurs expenses of \$35 which relate to the rendering of volunteer services by A pursuant to K.A.R. 19-24-4. Since those expenses are specifically exempted from the definition of contribution (see K.A.R. 19-22-1(d)), they are likewise excluded from the definition of other receipts. Thus, the treasurer need not report campaign worker A's expenditures.

Example 2: Political committee A holds a chili supper where the price of tickets does not constitute a contribution under K.A.R. 19-25-2. The total income from the sale of tickets constitutes an other receipt even though such sales are exempted from the definition of contribution.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-23. EXPENDITURES AND OTHER DISBURSEMENTS

19-23-1. Expenditures.

(a) General. An "expenditure" is any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value or contract therefore made for the purpose of influencing the nomination or election of any individual to state office. The carryover of funds or inventory by a candidate, candidate committee, party committee or political committee from one election period to another or the transfer thereof to a bona fide successor's committee or candidacy does not constitute an expenditure. In addition, expenditure does not include costs which are directly related to any communication by an incumbent elected state officer with one or more of the incumbent's constituents unless the primary purpose of such direct costs is to influence the nomination or election of the candidate. In addition, those indirect costs which facilitate such communications and are insubstantial in value per person are within the exclusion unless the primary purpose of such indirect costs is to influence the nomination or election of the candidate. Costs which relate to communications occurring 45 days after adjournment sine die of the legislature in an election year when the elected state officer is seeking office are presumed to be for the primary purpose of influencing the candidate's election. Costs related to a response by an incumbent

Example 3: Individual A is the sole proprietor of an office supply firm. A wishes to assist candidate B but does not have sufficient cash to make a monetary contribution. A, therefore, gives to B's treasurer paper supplies from A's stock which A purchased for \$250. The value of the supplies if purchased from A's store would be \$350. A's transfer of goods to B constitutes an in-kind contribution with a value of \$350 since that is the fair market value of the goods if sold in the ordinary course of business.

Example 4: Political committee A has decided to run an advertisement supporting candidate B. B's campaign manager assists committee A by providing it with a copy of materials used for prior ads by B. A pays the newspaper directly for the ad. Since B's campaign manager cooperated with political committee A in the placing of the ad, A's spending of the money to benefit B constitutes an in-kind contribution.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-24-2. Candidate in-kind contributions. The transfer or use by a candidate of any service or anything of value for the candidate's campaign and without charge or at a charge of less than the fair market value constitutes an in-kind contribution, provided however, that the payment by a candidate or the candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning does not constitute an in-kind contribution.

Example 1: Candidate A withdraws \$100 from his or her bank account and purchases campaign literature without first depositing the funds with A's treasurer. A has made an in-kind contribution in the amount of \$100. (See however K.A.R. 19-24-4.)

Example 2: Candidate A uses his or her personal automobile for a campaign trip. During the trip, A stays at several motels and incurs costs for meals. A pays from his or her own funds for the costs associated with the travel, meals or lodging. A has not made an in-kind contribution.

Example 3: Candidate A uses A's personal airplane for a campaign trip. The value of the use of the plane for the trip is \$200. A is not paid by A's treasurer for the fair market value of the use of the plane. A has made an in-kind contribution in the amount of \$200. (See however K.A.R. 19-24-4.)

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-24-3. Endorsements, voter registration drives and related matters. The costs associated with any news story, commentary, or editorial distributed in the ordinary course of business by a broadcasting station, newspaper or other periodical publication does not constitute an in-kind contribution. In addition, costs associated with nonpartisan activities designed to encourage individuals to register to vote or to vote do not constitute in-kind contributions. Finally, the costs associated with internal organizational communications of business, labor, professional or other associations which merely endorse a candidate do not constitute in-kind contributions.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

-21-4. Party Committees.

(a) General. "Party committee" means the state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated, or the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated or the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated. Party committees do not include committees authorized and regulated by K.S.A. 25-3803 or 25-3806. Such committees may, however, in appropriate circumstances constitute political committees (see K.A.R. 19-21-3).

(b) Structure and statement of organization. A party committee is subject to the same requirements as a political committee as set out in K.A.R. 19-21-3 (b) and (c), provided however, that county central committees shall not be deemed, for the purpose of this section, to be affiliated or connected organizations of their respective state committees.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-21-5. Other reporting persons. Every person, other than a candidate or a candidate committee, party committee or political committee, who makes independent contributions or expenditures other than by contribution to a candidate or a candidate committee, party committee or political committee, in an aggregate amount of one hundred dollars (\$100) or more within a calendar year shall make verified statements containing the information required by K.A.R. 19-29-2 on forms prescribed and provided by the commission, and file them in the office of the secretary of state so that each such statement is in such office on the day specified in K.A.R. 19-28-1. Reports made under this section need not be cumulative. For the purposes of this section "independent contributions and expenditures" means contributions or expenditures made without cooperation or consent of the candidate or committee intended to be benefited thereby and which expressly advocate the election or defeat of a clearly identified candidate.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-21-6. Out-of-state committees, businesses and organizations. Any combination of three (3) or more individuals or a person other than an individual, not domiciled in this state, which makes or intends to make a contribution or contributions to a candidate, candidate committee, party committee or political committee in this state shall either:

(a) Consider itself a political committee as defined by K.A.R. 19-21-3 and govern itself accordingly; or

(b) Prepare a verified statement containing (i) the names and addresses of the responsible individuals; (ii) the name and address of each person who has made one or more contributions to such out-of-state combination of individuals or person other than an individual in an aggregate amount in excess of ten dollars (\$10) within the preceding twelve (12) months, together with the amount and date of such contributions; and (iii) the aggregate amount of all other contributions to such out-of-state combination of individuals or person other than

official to inquiries from the public concerning any official matter before the incumbent do not fall within this presumption.

Example 1: Incumbent legislator A holds a meeting during a legislative session the primary purpose of which is to report to A's constituents on the progress of bills of interest to them. At the meeting A incurs costs of producing and distributing written material concerning the issues to be discussed. In addition, A provides coffee at the meeting. The costs associated with producing and distributing the written material are direct costs which are excluded from the definition of expenditure. The provision of coffee is an indirect cost which is insubstantial in value per person and therefore also excluded from the definition of expenditure.

Example 2: Incumbent legislator B sends a newsletter to his or her constituents 60 days after adjournment sine die of the legislature in a year when B is seeking reelection. The costs associated with the newsletter are presumed to be expenditures under the Act.

(b) Transfer of funds. Except as provided in subsection (a), the transfer of funds between any two or more candidates, candidate committees, party committee or political committees constitutes an expenditure made by the transferor, provided however that a transfer from one candidate or candidate committee to another and different candidate or candidate committee, or political committee or party committee, does not constitute an expenditure by the transferor when the funds thus transferred are not used for the transferor's benefit.

Example: Candidate A directs his or her treasurer to transfer \$200 to candidate B. The funds thus transferred are to be used entirely for B's campaign. A's treasurer has not made an expenditure. B has, however, received a contribution. (See K.A.R. 19-22-1(b) on the contribution issue; also see K.A.R. 19-23-2 concerning the treatment of the transfer as an other disbursement.)

(c) Filing fees. The payment of a candidate's filing fee constitutes an expenditure.

(d) Meeting the requirements of the Act. Costs associated with attending informational meetings of the commission or otherwise obtaining information from the commission do not constitute expenditures. In addition, costs associated with defending actions brought pursuant to the Act do not constitute expenditures. Costs associated with employing accountants, attorneys or other persons for advice concerning the requirements of the Act or to keep accounts and records do, however, constitute expenditures.

(e) Treasurer's payment of certain costs. The payment by the treasurer of a candidate or a candidate committee of costs incurred for the personal meals, lodging and travel by personal automobile of the candidate or the candidate's spouse does not constitute an expenditure.

Example: Candidate A's treasurer pays from campaign funds for the cost of A's campaign trip. The costs include those associated with the use by A of his or her personal automobile and meals and lodging. The treasurer's payments do not constitute expenditures. (See K.A.R. 19-23-2 for the treatment of such payments as other disbursements.)

(f) In-kind contributions. An in-kind contribution constitutes an expenditure. Those transactions which are excluded from the definitions of in-kind contributions are likewise excluded from the definition of expenditure. (See K.A.R. 19-24 for the definition of in-kind contribution.)

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-23-2. Other Disbursements. Any payment of money which does not constitute an expenditure constitutes an other disbursement. Other disbursements include but are not limited to: (1) the repayment of loans by a treasurer in his or her official capacity as such; (2) the disbursement of illegal contributions; (3) the payment of recoverable security deposits; and (4) transfers to other treasurers or to a successor committee which do not constitute expenditures.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-24. IN-KIND CONTRIBUTIONS

19-24-1. General.

(a) Defined. An "in-kind contribution" is a contribution of goods, services or anything of value to a candidate, candidate committee, party committee or political committee or any representative thereof without charge or at a charge of less than the fair market value to the recipient. "In-kind contribution" also includes the use of any goods, services or anything of value or the spending of any money for the benefit of any candidate, candidate committee, party committee or political committee when the use or expenditure is made in cooperation with or with the consent of the candidate, committee, or any representative thereof.

(b) Valuation. The value of an in-kind contribution is the fair market value of the item or service as if it had been purchased, sold or leased in the ordinary course of business. When a charge is made for an item or service which is less than the fair market value, then the excess of the fair market value over the charge is the value of the in-kind contribution. The donor of the item or service places the value on the in-kind contribution in the first instance. The treasurer questions the value thus derived if it appears unreasonable and revalues the in-kind contribution accordingly to a reasonable value.

Example 1: Individual A provides candidate B with clerical assistance by directing A's employees to work on B's behalf in A's campaign office. A pays the employees their normal salary during the time they work for B. A has made an in-kind contribution to B in the amount of the employees' normal salaries during the time they worked for B.

Example 2: Individual A provides candidate B with A's private airplane which B uses for a campaign trip. A has made an in-kind contribution in the value of the use of the plane.

19-24-6. General overhead and other costs.

(a) Party committees. Expenditures by a party committee for its own general overhead, salaries and supplies do not constitute reportable in-kind contributions to the candidates of the party. Other expenditures by a party committee which are intended to accrue to the equal benefit of its candidates do not constitute reportable in-kind contributions. In addition, costs associated with the provision of campaign materials and general advice by a party committee to its candidates do not constitute reportable in-kind contributions to the recipient except to the extent the materials are prepared for a specific candidate or the advice is of a specialized nature and the value thereof exceeds fifty dollars (\$50) in any allocable election period.

Example: Party committee A employs a political consulting firm to draft and produce a pamphlet concerning campaign techniques to be distributed to all of its candidates. In addition, the party committee directs the firm to provide special assistance to candidate B and pays for those services. The costs of the pamphlet do not constitute in-kind contributions to the party's candidates. The specialized advice to candidate B does constitute a reportable in-kind contribution to B to the extent it exceeds \$50 in value in any allocable election period.

(b) Affiliated or connected organizations of political committees. Expenditures by an affiliated organization of a political committee for the provision of office space to a political committee do not constitute reportable in-kind contributions to the political committee. The treasurer of a political committee shall, however, briefly describe on the committee's receipts and expenditures report the nature and location of such office space. Costs associated with the provision of supervisory personnel, clerical or secretarial assistance do constitute reportable in-kind contributions to the extent the costs exceed a value of fifty dollars (\$50) during an allocable election period. Where the supervisory personnel, clerks or secretaries volunteer their time and are not reimbursed therefore, no in-kind contribution exists. In addition, the provision of office supplies and telephone services by an affiliated organization to its political committee do constitute reportable in-kind contributions but only to the extent the value thereof exceeds fifty dollars (\$50) during an allocable election period.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-25. TESTIMONIAL EVENTS AND OTHER POLITICAL EVENTS

19-25-1. Testimonial events.

(a) General. A testimonial event is a dinner, luncheon, rally, barbecue, picnic or similar event which is held for the benefit of an individual who is a candidate to raise funds for the candidate's campaign. An event is held to raise funds if it is intended to do so, or if not intended to do so, if the effect is nonetheless attained.

9-24-4. Volunteer service. The value of volunteer services provided without compensation does not constitute an in-kind contribution. Costs to a volunteer which are related to the rendering of volunteer services which do not exceed a fair market value of \$50 during an allocable election period are also excluded from the definition of in-kind contribution. Once the \$50 limit is reached in any allocable period, the excess during that period constitutes an in-kind contribution. For the purpose of K.A.R. 19-24 a candidate shall be considered a volunteer.

Example 1: Individual A volunteers to do clerical work for candidate B and is not reimbursed by B or by anyone else. Even though a fair market value could be attributed to the services, A has not made an in-kind contribution as defined by the Act. Thus, the value need not be reported as an in-kind contribution.

Example 2: During the course of individual A's volunteer clerical service, A incurs a bill for use of his or her private telephone during the primary election allocable period of \$45. A has not made an in-kind contribution as defined by the Act.

Example 3: During the course of the general election allocable period, A incurs a phone bill for the use of his or her private phone in the course of rendering volunteer clerical services in the amount of \$100. A has made an in-kind contribution in the amount of \$50.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-24-5. Campaign worker expenditures. When a campaign worker is reimbursed for payments the worker has made during the same allocable election period in which the payment is made, the campaign worker has not made an in-kind contribution. Payments which are not reimbursed in the same allocable election period in which they are made constitute in-kind contributions.

Example 1: Campaign worker A, not in the course of a volunteer service, makes payments of \$500 allocable to the primary election period during the course of the worker's travel for candidate B. The payments are for meals, lodging and travel costs. A is reimbursed during the primary election period for all of the costs. A has not made an in-kind contribution. (See K.A.R. 19-23-1 for the treatment of the treasurer's payment as an expenditure.)

Example 2: Campaign worker C makes payments of \$500 during the primary election period under the same conditions as Example 1. C receives only \$200 in reimbursement during the primary election period. C has made an in-kind contribution in the amount of \$300.

Example 3: Campaign worker D in the course of rendering volunteer services makes payments related to such service in the amount of \$150 during the primary election period. D receives \$50 in reimbursement from the candidate's treasurer during the primary election period. D has made an in-kind contribution of \$50. (See K.A.R. 19-24-4 for the exclusion of the remaining \$50.)

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

a contribution of \$10. The treasurer may, however, for the purposes of reporting, consider the contribution to be \$15 per ticket. (If the treasurer elects to treat the value of each contribution as \$10, the remaining \$5 on each ticket constitutes an other receipt.)

(b) Donation of goods. The value of goods donated to political events and fund raisers which do not constitute testimonial events are treated in the same manner as donations to testimonial events. (See K.A.R. 19-25-1(c).)

Example: Individual A donates a painting to an auction to be held by a political committee. The painting has a fair market value of \$100 and is A's only donation to the event. An individual other than A purchases the painting for \$1,000. A made an in-kind contribution in the amount of \$90. The purchaser made a contribution in the amount of \$900. The treasurer may, however, for the purposes of reporting, consider the contribution to be \$1,000. (If the treasurer elects to treat the value of the contribution as \$900, the remaining \$100 constitutes an other receipt.)

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-26. RECEIVING CONTRIBUTIONS AND MAKING EXPENDITURES

19-26-1. Treasurer's Duty. All contributions or other receipts received and all expenditures or other disbursements made by or on behalf of a candidate shall be received or made by or through the treasurer of the candidate or his or her candidate committee. All contributions or other receipts received by and all expenditures or other disbursements made by or on behalf of a party committee or political committee shall be received by or made by or through the treasurer of the party committee or political committee. For a contribution or other receipt to be received or an expenditure or other disbursement to be made through a treasurer, it must be received or made by a person who is the agent of the treasurer either by prior approval or by ratification. In either case the treasurer is required to keep records of the transaction as if received or made by the treasurer.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-26-2. Solicitation of contributions. Solicitors of contributions on behalf of a particular candidate or committee shall be deemed a part of the candidate or committee and therefore will not be required to report the contributions on their own behalf so long as the following tests are met:

(a) Prior approval both to permit solicitation and the procedure to be used has been received by the candidate's or committee's treasurer;

(b) The treasurer has final discretion over the activities of the solicitors;

(c) Contributions are made payable to the candidate or committee and are turned over to the treasurer pursuant to subsection (c) of this section;

(d) All expenditures incurred in soliciting the contributions are reported to the treasurer in the same manner as provided in subsection (c) of this section; and

(e) The treasurer keeps and preserves all records of such contributions and expenditures as a part of the treasurer's accounts and records and reports when required by the Act.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-26-3. Reporting to the treasurer. Every person who receives a contribution or other receipt on behalf of a candidate or committee shall on demand of the treasurer thereof, or in any event within five (5) days after receipt of such contribution or other receipt remit the same and render to the treasurer an account thereof, including the amount, the name and address of the person, if known, making the contribution or other receipt and the date received. In addition, every person who makes an in-kind contribution to a candidate or committee or makes an expenditure on behalf of a candidate or committee shall report the same to the treasurer prior to the closing of the reporting period to which the in-kind contribution is allocated and render to the treasurer an account thereof including the date thereof, the amount or value, the goods or services included, the name and address of the payee and an invoice if one is or was obtainable.

Example: A group of individuals wishes to run an advertisement on behalf of a candidate and each contributes \$25 toward the cost of the advertisement. The group must remit the funds to the candidate's treasurer or establish itself as a political committee under the Act, appoint a treasurer, and remit the funds to him or her.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-27. ACCOUNTS AND RECORDS

19-27-1. Duty of treasurer. Each treasurer shall keep accounts and records of all contributions and other receipts received and all expenditures and other disbursements made by or on behalf of the treasurer's candidate or committee, as well as all other transactions relating thereto. A treasurer keeps such accounts and records if he or she does so directly or if another person does so under the treasurer's continuing supervision, authority and review. Whenever an individual vacates the position of treasurer, the individual shall verify the accuracy of his or her accounts and records to the succeeding treasurer on forms prescribed by the commission. The term "accuracy" shall mean true, complete and correct. The verification shall become a part of the succeeding treasurer's records.

(e) Expenditures to advertising agencies, public relations firms and political consultants. When expenditures are made by payments to advertising agencies, public relations firms and political consultants for disbursement to vendors, each treasurer shall obtain and keep the documentation required by subsection (c) of this section which documentation shall in turn contain the information required in subsection (a) of this section for each vendor to which disbursements are made by the advertising agency, public relations firm or political consultant.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-27-4. Maintenance, preservation and inspection.

(a) Maintenance. All accounts and records shall be kept current within a reasonable time of the receipt of a contribution or other receipt or the making of an expenditure or other disbursement by the treasurer except that all accounts and records shall be current as of the end of a reporting period. In addition, upon written notice by the commission, all accounts and records shall be made current up to and including the date set out therein.

(b) Preservation. All accounts and records required to be made and kept by this article (and all other accounts and records as a treasurer makes in the course of his or her official duties as a treasurer) shall be preserved for a period of six (6) years from the date the account or record is first kept by the treasurer. An individual who vacates the position of treasurer by reason of removal or resignation shall verify the accuracy of his or her accounts and records to the succeeding treasurer on forms prescribed and provided by the commission. Upon the dissolution of a committee or the position of a candidate's treasurer, the last treasurer of record is responsible for the preservation of the required accounts and records.

(c) Inspection. The commission may inspect a treasurer's accounts and records at any reasonable time and place.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-28. REPORTING PERIODS AND ELECTION PERIODS

19-28-1. When to report.

(a) General. Every treasurer, except as provided in K.A.R. 19-29-1(b) and (c) shall file a report with the secretary of state on forms prescribed and provided by the commission on or before each of the following dates:

(1) The seventh day preceding the primary election. This report is for the period beginning on December 1 of the preceding year and ending on the tenth day preceding the primary election, inclusive.

(2) The tenth day following the primary election. This report covers the period beginning nine days before the primary election and ending the date of

(b) Purchase of tickets or advertisements. The purchase of tickets or admission to, or advertisement in journals or programs for, testimonial events constitutes a contribution.

Example: Candidate A holds a barbecue to raise funds for A's campaign. Individual B purchases 5 tickets at a price of \$5 each. B has made a contribution in the amount of \$25.

(c) Donation of goods. The value of goods donated to a testimonial event constitutes an in-kind contribution, provided however, that the first \$10 in value of any such donation to any one event shall not constitute an in-kind contribution.

Example: Candidate A holds a barbecue to raise funds for A's campaign. Individual B donates \$5 worth of hamburger. Individual C donates \$100 worth of soft drinks. Neither B nor C are providing any volunteer service at the barbecue. B has not made an in-kind contribution since the \$10 figure has not been exceeded. C has made an in-kind contribution in the amount of \$90.

(d) Allocation among candidates. Where a testimonial event is held for the benefit of more than one candidate, except when an individual contributor dedicates a contribution to a particular candidate, the value of each contribution or in-kind contribution shall be attributed to each candidate in the same ratio as that by which the candidates share the profits from the event, or where there are no profits in the same ratio by which the candidates share the expenses of the event.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-25-2. Other Political Events.

(a) Purchase of tickets, goods or services. The purchase of tickets, goods or services at political events or fund raisers which do not constitute testimonial events constitute contributions when the price substantially exceeds the value of the goods or services received, provided however, that a bulk purchase of tickets, goods or services constitutes a contribution. A bulk purchase is made whenever a person purchases tickets in excess of that reasonably necessary for the person's personal use and that of his or her immediate family. The value to be attributed to a contribution which occurs when the price paid substantially exceeds the value of the goods or services is the difference between the price and the fair market value of the goods or services. A treasurer may if the treasurer so desires consider the price the value of the contribution. The value attributed to a contribution when a bulk purchase is made is the full value of the bulk purchase.

Example 1: Individual A purchases 5 tickets to a chili supper held by a party committee. The tickets cost \$2 each and the proceeds are not dedicated to any particular candidate. A takes his family to the dinner. A has not made a contribution.

Example 2: Individual A purchases 50 tickets to a chili supper held by a party committee and the proceeds are not dedicated to any particular candidate. The tickets cost \$2 each. A has made a contribution of \$100.

Example 3: Party committee A holds a \$15 a plate dinner where the fair market value of the meal is \$5. Each purchaser of a ticket has made

Example 1: Candidate A appoints treasurer B primarily because of B's name recognition. Individual C, in fact, keeps A's accounts and records. B does not continually supervise and review C's work. This procedure does not comply.

Example 2: Candidate A appoints B as A's treasurer. Individual C is employed by B to keep A's accounts and records. B reviews, in detail, weekly all of C's work and gives prior approval to C before C makes payments in excess of a minimal amount and otherwise retains supervision of C's work. This procedure does comply.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-27-2. Contributions and other receipts.

(a) Detailed record of contributions. Each treasurer shall keep an account of all contributions, including in-kind contributions, by individual contributors in alphabetical order, and shall keep a record of:

(1) The full name of an individual making the contribution and the full address of his or her principal place of residence, unless the contribution comes under the provisions of K.S.A. 1975 Supp. 25-4113;

(2) The full name and mailing address of a person, other than an individual;

(3) A description indicating whether the contribution was "cash" or "check" and whether it is a loan including information on the rate of interest and the guarantor and endorser, if any, or an in-kind contribution with a description thereof;

(4) The date received;

(5) The amount of the individual contribution; and

(6) The cumulative amount given by the individual contributor which is allocable to a particular primary election period or general election period as set out in K.A.R. 19-28.

(b) Detailed record of other receipts. Each treasurer shall keep an account of all other receipts, and, except in the case of receipts from the bona fide sale of political material, or the sale of tickets or admissions to fund raising events other than testimonial events in the amount of \$3 or less, shall keep a record of:

(1) The full name of an individual making the payment and the full address of his or her principal place of residence;

(2) The full name and mailing address of a person, other than an individual;

(3) A description of the receipt reflecting whether it is a rebate, refund, or other miscellaneous receipt with a description thereof;

(4) The date received; and

(5) The amount of the receipt.

(c) Photocopies of checks and access to depository records. Each treasurer shall photocopy each contribution (or "other receipt") check, money order, or similar instrument in an amount of \$25 or more and shall keep all deposit slips with the photocopies of the checks to which they relate. In the alternative, each treasurer shall, at the request of the commission, arrange with a depository or other person to provide the commission with such photocopies at the treasurer's expense. In addition, when necessary each treasurer shall arrange with his or her depository to permit the commission access to the depository's records of any contribution (or "other receipt") check, money order or similar instrument at the treasurer's expense.

(d) Receipts for cash and in-kind contributions. Cash contributions and other cash receipts in an amount of \$25 or more and all in-kind contributions shall be accounted for by written receipt, the original of which shall be kept by the treasurer. Such receipts shall include the full name and address as required in subsections (a) and (b) of this section of the person making the contribution or payment, the date and the amount. Each receipt shall be signed by the contributor or payer and the treasurer or the treasurer's agent. If the contribution is an in-kind contribution, a complete description shall be attached to the receipt.

(e) Payroll and dues plans. All treasurers of committees that maintain a payroll deduction, dues checkoff or comparable system for political contributions shall keep sufficient supporting documentation to fully substantiate each contribution or transfer to the committee.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-27-3. Expenditures and other disbursements.

(a) Detailed record of expenditures. Each treasurer shall keep an account of all expenditures, and shall keep a record of:

- (1) The full name and address of an individual to whom the expenditure is made and his or her principal place of residence;
- (2) The full name and mailing address of the person if other than an individual;
- (3) The purpose of the expenditure;
- (4) The date of the expenditure; and
- (5) The amount of the expenditure.

(b) Detailed record of other disbursements. Each treasurer shall keep an account of all other disbursements, and shall keep a record of:

- (1) The full name and address of an individual to whom the disbursement is made and his or her principal place of residence;
- (2) The full name and mailing address of the person if other than an individual;
- (3) The purpose of the disbursement;
- (4) The date of the disbursement; and
- (5) The amount of the disbursement.

(c) Receipted bills, invoices, and cancelled checks. Each treasurer shall obtain and keep a receipted bill from the person to whom an expenditure or other disbursement is made, which bill shall contain the information required in subsections (a) and (b) of this section. In lieu of a receipted bill the treasurer may keep the cancelled check(s) showing payment(s) and the bill, invoice, contract or other documentation of the transaction containing the information required in subsections (a) and (b) of this section.

(d) Bank depositories. When a bank depository is used, each treasurer shall keep all cancelled checks, void checks, cancelled deposit slips and bank statements in the order in which they are received.

(b) Contributions and other receipts. A contribution or other receipt made in cash, check or similar instrument is received on the date it is physically in the hands of the candidate, treasurer or the treasurer's agent, whichever occurs first.

(c) Expenditures and other disbursements. An expenditure is made on the date the actual payment is made or the expenditure contracted for, whichever occurs first. Other disbursements are made when the actual payment occurs.

(d) In-kind contributions. An in-kind contribution is received on the date the services or goods inure to the recipient's benefit.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-29. RECEIPTS AND EXPENDITURES REPORT

19-29-1. Who must file.

(a) General. Each treasurer except as provided in subsections (b) and (c) of this section shall file a receipts and expenditures report with the secretary of state on the dates set out in K.A.R. 19-28-1. Such reports shall be filed on forms prescribed and provided by the commission. Each treasurer shall complete every space contained on the report when the same is applicable and shall provide the information required by this article.

(b) Exceptions--Candidates.

(1) The treasurer of any candidate who:

(i) Intends to expend or have expended on his or her behalf an aggregate amount or value of less than five hundred dollars (\$500) including payment of filing fee in the primary election period;

(ii) Intends to receive or have received on his or her behalf (including amounts contributed by the candidate) contributions of an aggregate amount or value of less than five hundred dollars (\$500) in the primary election period;

(iii) Intends to expend or have expended on his or her behalf an aggregate amount or value of less than five hundred dollars (\$500) in the general election period;

(iv) Intends to receive or have received on his or her behalf (including amounts contributed by the candidate) contributions of an aggregate amount or value of less than five hundred dollars (\$500) in the general election period; and

(v) Who properly files an affidavit of such intent with the secretary of state on forms prescribed and provided by the commission upon filing for office or within ten (10) days thereafter, shall not be required to file the reports required by this article. Provided, however, if contributions are received or expenditures made in excess of any of the amounts set out above, the treasurer shall within three (3) days of the date of such excess file all past due reports and shall file all such future reports on the dates required by this article.

Example 1: Candidate A intends to receive contributions and make expenditures allocable to the primary of less than \$500. Candidate A does, however, intend to receive contributions and make allocable expenditures of greater than \$500 in the general election. Candidate A can not properly file the affidavit of exemption and must file all reports at the times required by K.A.R. 19-28-1 including those relating to the primary election.

the primary election, inclusive. In addition, this report shall include a supplement which shall show and identify all receipts and expenditures which are required to be allocated to the entire primary election period.

(3) The seventh day preceding the general election. This report is for the period beginning the day after the primary election and ending ten days before the general election, inclusive.

(4) December 3 of an election year. Two reports are due this day. One report covers the period beginning nine days before the general election and ending on the date of the general election, inclusive. In addition, this report shall include a supplement which shall show and identify all receipts and expenditures which are required to be allocated to the entire general election period. The second report is for the period beginning the day after the general election and ending on November 30, inclusive.

(5) December 3 of non-election years. This report covers the period beginning on December 1 of the preceding year and ending on November 30 of the year in which it is to be filed.

(b) Nomination by convention or caucus. For the treasurer of any candidate seeking nomination by convention or caucus or the treasurer of such candidate's committee or for any treasurer of a party committee or political committee of which the primary purpose is supporting or opposing the nomination of any such candidate, the date of such convention or caucus shall be considered the date of the primary election for the purposes of subsection (a) of this section.

Example: Candidate A is seeking nomination for state office by means of a party committee convention. The convention is to be held on June 15 of an election year. Candidate A's treasurer reports under K.A.R. 19-28-1(a)(1) seven (7) days before June 15 for the period beginning on December 1 of the preceding year and ending ten (10) days preceding June 15, inclusive. The reporting periods under the remaining provisions of K.A.R. 19-28-1(a) are modified in the same manner.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-28-2. Allocation of contributions and expenditures.

(a) General. All contributions and other receipts received and expenditures and other disbursements made from midnight on one general election date until the next ensuing primary election date at midnight shall be allocated to the primary election. All contributions and other receipts received and expenditures and other disbursements made from midnight on the date of the primary election period until midnight of the next ensuing general election shall be allocated to the general election. In addition, all contributions and other receipts received and expenditures and other disbursements made shall be allocated within each election period to the reporting period in which received or made. Contributions to or expenditures by a candidate seeking nomination by convention or caucus or by such candidate committee shall be allocated in the same manner as above except that the date of the convention or caucus shall be considered the primary election date.

Example: Candidate A begins receiving contributions the day after a general election for the purpose of paying off debts of the candidate's campaign. Such contributions are allocated to the primary election of the next election year.

(iv) Total gross sales of bona fide political materials;
(v) Total legal monetary contributions from unknown contributors;
(vi) Total other receipts to be derived from a supporting schedule;
(vii) Total receipts derived from adding numbers (ii) thru (vi) of this subsection; and

(viii) Total cash available during the period derived from adding numbers (i) and (vii) of this subsection.

(2) Disbursements and closing balance.

(i) Total expenditures required to be itemized to be derived from a supporting schedule;

(ii) Unitemized total of all expenditures of twenty-five dollars (\$25) or less;

(iii) Total of other disbursements to be derived from a supporting schedule;

(iv) Total disbursements derived from adding (i), (ii) and (iii) of this subsection; and

(v) Cash on hand at the close of the reporting period derived from subtracting (b)(2)(iv) of this subsection from (b)(1)(viii).

(3) Miscellaneous totals.

(i) Total in-kind contributions to be derived from a supporting schedule;

(ii) Total accounts and loans payable to be derived from a supporting schedule;

(iii) Total loans receivable to be derived from a supporting schedule.

(c) Supporting schedules.

(1) General. Each report shall contain the supporting schedules and reporting thereon as required by this subsection. For the purpose of the supporting schedules, the term "date" shall include the month, day and year, the term "name" shall mean the full name of an individual or entity and when the name is used more than once by any one treasurer, the same name shall appear throughout, and the term "address" includes the street address (or rural route), city, state and zip code. Each accompanying schedule shall include the name of the candidate or committee on whose behalf the report is filed. Whenever additional sheets are necessary to list the information required by any supporting schedule, each page of that schedule shall contain a space completed by the treasurer of the subtotal for that page.

(2) Itemized contributions. All contributions, except as otherwise provided for by the Act, shall be listed on this accompanying schedule. This schedule shall include the following columns: date, name and address of the contributor, description of contributions, value of in-kind contribution, amount of cash or check and cumulative amount. The date entry shall state the date when the contribution was received by the treasurer or the treasurer's authorized agent, whichever occurs first. The "description of contribution" column shall contain a description of whether the contribution was: a loan and show the interest rate if any and the name and address of each guarantor or endorser; an in-kind contribution with a brief description of the goods or services used or provided; a cash payment; or a check payment or similar instrument. The value of an in-kind contribution is the fair market value. The "cumulative amount" column shall contain an entry of the total amount contributed by the individual contributor including in-kind contributions since the date of the preceding election which figure need not be computed or entered by treasurers of party committees or political committees. This accompanying schedule shall also include a space for the total amount of contributions by cash or check during the reporting period which figure shall be derived from the sum of the entries in the "amount of cash

Example 2: Candidate B meets all of the above tests for exemption from filing the reports but fails to file the affidavit until the date the first report for the primary election is due. B must file all reports since the affidavit was not filed in a timely manner.

(2) Any treasurer of a candidate whose office is not on the ballot in a specific election year need only file during that year the annual report required by K.A.R. 19-28-1(a)(5), provided however, that if the treasurer makes contributions from the candidate's campaign funds to any other candidate, candidate committee, party committee or political committee, then the report required for the reporting period when such contribution is made shall be filed. In addition, the treasurer shall, if the contribution thus made is composed of contributions dedicated to any other candidate or committee, report for any reporting period when a dedicated contribution was received.

(c) Exceptions--Political Committees.

(1) The treasurer of any political committee (not including party committees) whose political committee:

(i) Intends to expend an aggregate amount or value of less than five hundred dollars (\$500) during a calendar year;

(ii) Intends to receive contributions in an aggregate amount or value of less than five hundred dollars (\$500) during a calendar year;

(iii) Intends to receive no contributions in an aggregate amount or value in excess of ten dollars (\$10) from any one contributor; and

(iv) During such calendar year, at any time prior to the date the first report required for that year pursuant to K.A.R. 19-28-1, files an affidavit of such intent with the secretary of state on forms prescribed and provided by the commission, shall not be required to file the reports required by this article. Provided however, if contributions are received or expenditures made in excess of any of the amounts set out above during the calendar year to which an affidavit applies, the treasurer shall within three (3) days of the date of such excess file all past due receipts and expenditures reports and shall file all such future reports on the dates required by this article.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-29-2. Contents of receipts and expenditures report.

(a) General. Each report shall contain: (1) the full name and address of the candidate, party committee, or political committee; (2) in the case of candidates the office sought, and in the case of committees a designation as to type; (3) the period covered by the report; (4) a designation, when applicable, that the report is an amended and/or termination report; and (5) a verification as to completeness and accuracy by the treasurer.

(b) Summary section. Each report shall contain a summary section for the reporting period which shall include space for and the reporting of the following:

(1) Beginning balance and receipts.

(i) Cash on hand at the beginning of the period;

(ii) Total monetary contributions required to be itemized to be derived from a supporting schedule;

(iii) In the case of party and political committees, the unitemized total of all contributions of ten dollars (\$10) or less per person during the calendar year;

for the total amount of other disbursements made during the reporting period which figure shall be derived from the sum of entries in the amount column and shall be carried forward to the other disbursements part of the summary section. Whenever a treasurer makes an other disbursement which constitutes a contribution to another candidate or committee and the other disbursement is made up in whole or in part of dedicated funds, the treasurer shall disclose the names and addresses of those persons who dedicated the funds in reporting any such other disbursement and shall in transferring any such contributions report to the recipient the same information.

(6) Accounts and loans payable. Except as otherwise provided for by the Act, all accounts and loans outstanding at the close of a reporting period shall be disclosed on this supporting schedule. This schedule shall include the following columns: date, name and address, nature of account or loan payable, and balance at close of period. The date entry shall show the date the debts or loans were contracted for. The name refers to the person to whom the debt or loan is owed. The nature of account or loan payable shall include a description of the goods or services subject to debt or a description of the terms of the loan. This schedule shall also contain a space for the total amount of accounts or loans outstanding at the close of the reporting period which figure shall be derived from the sum of entries in the "balance" column and shall be carried forward to the appropriate title of the summary section.

(7) Loans receivable. Except as otherwise provided by the Act, all loans receivable outstanding at the close of the reporting period shall be disclosed on this supporting schedule. This schedule shall include the following columns: date, name and address, nature of loan, and balance at close of the period. The date entry shall reflect the date the loan agreement was completed. The name refers to the person to whom the funds were loaned. The nature of the loan entry shall show the purpose and terms of the loan. This schedule shall also contain a space for the total amount of loans receivable at the close of period which shall be derived from the sum of entries in the "balance" column and shall be carried forward to the appropriate title of the summary section.

(d) Election period supplement. Reports which are required pursuant to K.A.R. 19-28-1 to include a cumulation of transactions allocable to an election period shall include an election period supplement. This supplement shall be completed by each treasurer to whom it applies and shall contain sufficient titles and spaces to list or cumulate any entry from any prior report which is necessary to reach a cumulative figure, beginning figure or closing figure for the reporting period of any matter required to be reported by the Act.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-29-3. Material errors and omissions. Giving due regard to the number of errors or omissions, the dollar value involved, the percentage of error, the magnitude of the contributions and expenditures of the particular candidate or committee, and the importance of presentation of a true public record, and professional accounting judgement, the following shall be considered material errors and omissions:

(a) General.

- (1) Failure to use forms prescribed by the commission.
- (2) Incomplete identification of the candidate or committee.
- (3) Failure of treasurer to sign report.
- (4) Omission of notarization.
- (5) Illegibility.

or check" column and shall be carried forward to the contribution part of the summary and a space for the total in-kind contributions which shall be derived from the totals in that column and carried forward to the corresponding title on the summary section. Whenever a treasurer receives a contribution which is dedicated in whole or in part to be used for or transferred to another candidate or committee, the treasurer shall report the name of the candidate or committee to whom the funds or services are dedicated. Whenever a treasurer receives a contribution transferred to him or her made up in whole or in part of dedicated funds or services, the treasurer shall report the contribution in the name of the person who initially dedicated the funds with a notation of the name of the intervening source. Any contribution thus received by a treasurer of a candidate or candidate committee shall be cumulated with all other contributions made directly to the treasurer since the last election by the person dedicating the contribution.

(3) Other receipts. All other receipts except as otherwise provided for by the Act shall be listed on this accompanying schedule. This schedule shall include the following columns: date, name and address, description of receipt, and amount. The date entry shall state the date when the other receipt was received by the treasurer or the treasurer's authorized agent, whichever occurs first. The name refers to the person from whom the receipt was received. The description of receipt shall reflect whether the receipt is a rebate, refund, illegal contribution, or a miscellaneous receipt with a description thereof. This accompanying schedule shall also include a space for the total amount of other receipts during the reporting period which figure shall be derived from the sum of the entries in the "amount" column and shall be carried forward to the other receipts part of the summary section.

(4) Itemized expenditures. All expenditures to any person in an aggregate amount of over \$25 during the reporting period shall be itemized on this supporting schedule. This schedule shall include the following columns: date, name and address, purpose of expenditure and amount this period. The date entry shall state the date or dates the payee was actually paid during the reporting period. The name refers to the person to whom payment was made. The purpose of expenditure entry shall reflect whether the expenditure was for office space, bumper stickers, payroll tax, a contribution to another, etc. The amount this period entry shall reflect the aggregate amount of payment to the payee on the date of the entry. This accompanying schedule shall also contain a space for the total amount of expenditures during the reporting period which figure shall be derived from the sum of entries in the "amount" column and shall be carried forward to the itemized expenditures part of the summary section. When an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditures shall show in detail the name of each such vendor and the information required on this schedule with regard to each such expenditure. Whenever a treasurer makes an expenditure which constitutes a contribution to another candidate or committee and the expenditure is made up in whole or in part of dedicated funds, the treasurer shall disclose the names and addresses of those persons who dedicated the funds in reporting any such expenditures and shall in transferring any such contributions report to the recipient the same information.

(5) Other disbursements. All other disbursements, except as otherwise provided for by the Act, shall be listed on this schedule. The schedule shall include the following columns: date, name and address, purpose of disbursement and amount. The date entry shall state the date or dates when the payment was made by the treasurer. The name refers to the person to whom payment was made. The purpose entry shall briefly describe the goods, services or matter to which the payment relates. The amount entry shall reflect the amount of the payment on the date of the entry. This accompanying schedule shall also contain a space

19-30-2. Exceptions. The contribution limitations contained in K.A.R. 19-30-1 do not apply to contributions by party committees of funds which when received were not dedicated directly or indirectly to a specific candidate. In addition, any candidate for state office or such candidate's spouse or the two of them may contribute to such candidate's campaign in any amount.

Example: Party committee A, from its general fund which is made up of undedicated contributions, contributes during the primary \$5,000 to candidate B who is seeking election to a state office elected from the state as a whole. This contribution does not violate the contribution limitations.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-30-3. Loans. For the purposes of this section, the face value of a loan at the end of the period of time allocable to the primary or general election is the amount subject to the limitations of this section. A loan in excess of the limits herein provided may be made during the allocable period if such loan is reduced to the permissible level, when combined with all other contributions from the person making such loan, at the end of such allocable period.

Example: Individual A makes a loan to candidate B's committee in the amount of \$5,000 during the primary election period to be used in B's campaign. B is seeking election to an office elected by the state as a whole. In addition, A makes a cash contribution in the amount of \$1,000 during the same period. So long as B repays at least \$3,500 of the loan during the primary election period, A's contributions would comply with this section.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-30-4. Change in office sought. When during an election period a candidate decides to seek state office other than that originally anticipated or sought in the preceding election, all contributions received during the election period shall be attributed to the individual's contribution limits for the office finally sought. In the situation where an individual is a candidate with a deficit from a prior election year and during the primary election period decides to seek state office with a lower contribution limitation, the candidate may accept contributions up to the higher contribution limitation until the earlier debts are paid off, but any person who exceeds the lower contribution limitation for the office finally sought in this manner shall not make further contributions during the election period when the excess occurred.

Example 1: Candidate A initially decides to seek nomination to the House of Representatives. Individual B makes a contribution of \$100 to candidate A. A then decides instead during the same election period to seek nomination to the senate. Individual B may not make additional contributions to A in excess of \$400 during that election period.

- (b) Summary page.
(1) Failure to complete or incorrect or omitted totals.
- (c) Accompanying schedules.
(1) Dates inadequate, incorrect or omitted.
(2) Full name inadequate, incorrect or omitted.
(3) Address inadequate, incorrect or omitted.
(4) Description or purpose inadequate or omitted.
(5) Amount incorrect or omitted.
(6) Failure to report transaction on proper report.
(7) Transaction not reported or reported on wrong schedule.
(8) Transaction reported on correct schedule, but improperly.
(9) Total(s) for schedule incorrect or omitted.
(10) Contribution cumulative amount column incorrect or not completed.
(11) Detail provided for expenditures to advertising agencies, public relations firms, or political consultants inadequate or omitted.
(12) Disposition of accounts payable from previous report(s) inadequate or omitted.
- (d) Election period supplement.
(1) Failure to complete or incorrect or omitted totals.
- (e) Other. Any other material error or omission not specifically covered herein.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-30. CONTRIBUTION LIMITATIONS

19-30-1. General. The aggregate amount contributed, including in-kind contributions, to a candidate and such candidate's committee and to all party committees or political committees and dedicated to a particular candidate's campaign, by any person shall not exceed the following:

- (a) For the pair of offices of governor and lieutenant governor and for other state officers elected from the state as a whole \$2,500 for each primary election and \$2,500 for each general election;
- (b) For the office of state senator, member of house of representatives, district judge, district attorney or member of the state board of education, \$500 for each primary election and \$500 for each general election.

Example: Individual A makes a contribution directly to candidate B's committee in the amount of \$2,500. Candidate B is seeking election to a state office elected from the state as a whole. Individual A also makes a contribution in the amount of \$1,000 to political committee C during the same allocable election period with the intent that C expend the money on behalf of B or transfer it to B's committee. A has violated the above contribution limitation.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

(a) Business. "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income. The definition of business does not contemplate the state and its political subdivisions. Nor are strictly charitable and non-profit organizations included within this definition. Nonetheless, the fact that a corporation is entitled a "not for profit corporation" does not control as to whether it meets the definition of business. In those situations where a major purpose of a not for profit corporation is to engage in business pursuits, that corporation meets the definition of business regardless of its technical legal title.

(b) Combination of businesses. "Combination of businesses" means any two or more businesses owned or controlled directly or indirectly by the same interests.

(c) Compensation. "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by such person or another.

(d) Description of interest. "Description of interest" means the type of ownership interest held such as common stock, preferred stock, limited partnership, etc.

(e) Person. "Person" means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, group, or corporation, whether or not operated for profit, or a governmental agency unit or subdivision.

(f) Type of business. "Type of business" means the nature of the business activity in which the entity engages such as construction, retailing, manufacturing, etc.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-41-2. Who must file and when.

(a) General. Except as provided in subsection (f) of this section, whenever any one of the following provisions are applicable, the state officer or employee or candidate therefore, shall file a statement of substantial interests pursuant to K.S.A. 1975 Supp. 46-229, 46-247, and 46-248 with the secretary of state by the time set out below on forms prescribed and provided by the commission. If none of the following provisions are applicable to a state officer or employee, he or she need not file the statement.

(b) Candidates for state office. Candidates for nomination or election to the legislature or an elected office in the executive branch, including the state board of education and district attorneys, shall file the statement on the date of filing their declaration to become a candidate or if they become a candidate by other means, then within ten (10) days of becoming a candidate, unless within such period the candidacy is officially declined or rejected. Persons seeking nomination or election to fill a vacancy in an office pursuant to K.S.A. 1975 Supp. 25-3901 et seq. need not file until the time of appointment to office.

Example 2: Individual A ran for election in one election year for an office with an individual contribution limitation of \$2,500. In the primary election period of the next election year, A had debts outstanding from A's prior candidacy. A accepts a contribution from individual B of \$1,000. A decides during that primary election period to seek state office with a contribution limitation of \$500. The contribution of \$1,000 by B does not violate B's individual contribution limit for the primary election period so long as it is used to pay off debts from A's prior campaign, but B may not make further contributions during the primary election period.

(Authorized by K.S.A. 1975 Supp. 25-4119a; effective February 15, 1977.)

19-31 TO 19-39. RESERVED

19-40. STATE CONFLICT OF INTEREST PROVISIONS

19-40-1. Scope. K.A.R. 19-40 to K.A.R. 19-42, inclusive, implement and interpret K.S.A. 1975 Supp. 46-215 et seq., including amendments and supplemental legislation. (Hereafter referred to as the "Act".)

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-40-2. Construction. K.A.R. 19-40 to K.A.R. 19-42, inclusive, shall be liberally construed to accomplish the purposes of the Act.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-40-3. Definitions. Incorporated herein by reference are the definitions express or apparent contained in the Act.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-41. STATEMENT OF SUBSTANTIAL INTERESTS

19-41-1. Definitions. For the purposes of this article, the following words and phrases mean:

(a) Identification of reporting person. The statement shall include the name, address, phone and zip code of the individual filing. And if any matter disclosed relates to the interest of the spouse alone, then the name and address of his or her spouse. In addition, each statement shall disclose the office held, office for which a candidate, position of employment, or position to which the individual was appointed.

(b) Ownership interests. The ownership by an individual or spouse, either individually or collectively, of a legal or equitable interest exceeding five thousand dollars (\$5,000) or five percent (5%) of any business, whichever is less. Only the name of the business and its address, not the number of shares or their value in the case of a corporation nor the net worth in the case of a proprietorship or partnership need be disclosed. The value or percentage of a business interest is to be determined as of the time of the required filing. The value assigned to a holding is the fair market value. For the purposes of this provision, certificates of deposit, bank savings or checking accounts, passbook accounts in a savings and loan, shares in a credit union, life insurance policies, annuities, notes, bonds, debentures and mortgages do not constitute "legal or equitable interests" and therefore need not be disclosed under this provision. The disclosure under this provision shall include the type of business, description of the interest, and a description of how the interest is held as between the state officer and employee and his or her spouse.

(c) Receipt of compensation. The receipt in the preceding calendar year by a state officer or employee or spouse individually or collectively of compensation which is or will be required to be included as taxable income on Kansas income tax returns of such individual and spouse in an aggregate amount of one thousand dollars (\$1,000) from any business or combination of businesses. The receipt of rent, interest, dividends and mineral royalties does not constitute "compensation" as the term is defined and those matters need not be reported under this provision. The disclosure under this subsection shall include the name and address of the business or combination of businesses, the type of business and a description of who received the compensation as between the state officer and employee and his or her spouse.

(d) Certain gifts and honoraria. The receipt in the preceding calendar year by the state officer or employee of gifts or honoraria having an aggregate value of five hundred dollars (\$500) or more from any person other than a relative of such individual. For the purposes of this provision, the term "gift" includes the provision of hospitality in the form of food and beverage. The disclosure under this subsection shall include the name and address of the donor.

(e) Receipt of fees and commissions. If the state officer or employee's compensation is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, such individual shall disclose any client or customer who pays fees or commissions to such business or combination of businesses from which fees or commissions such individual received an aggregate of one thousand dollars (\$1,000) or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses and the amount of any fee need not be listed. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. The disclosure under this subsection shall include the name of the client or customer and the address.

(c) State office holders. Legislators and individuals holding elected offices in the executive branch, including members of the state board of education and district attorneys, shall file the statement on January 31 so long as K.S.A. 1975 Supp. 46-247 applies to such individuals.

(d) State officers and employees receiving certain compensation. State officers and employees receiving compensation from the state at a rate of \$15,000 or more per year shall file this statement on the date of appointment to state office or accepting employment and annually thereafter on January 31 so long as the Act applies to such individuals. For the purposes of this subsection, "state officer and employee" means those individuals defined as such under K.S.A. 1975 Supp. 46-221, but does not include unclassified "state officers and employees" of institutions under the State Board of Regents whose principal duties are teaching. An individual's duties are principally teaching if greater than fifty percent (50%) of the individual's time devoted to duties as a state officer or employee is devoted to teaching and directly related matters such as preparation for class, conferences with students, and grading examinations but not including administrative duties or research. When a state officer or employee begins earning compensation at a rate of \$15,000 during a year while serving in the same position as that of January 31 of that year, he or she need not file the statement until the next January 31. If, however, the state officer or employee receives a promotion or transfer with the state and due to such change commences earning at a rate of \$15,000, he or she shall file on the date the promotion or transfer becomes effective and annually thereafter on January 31 so long as K.S.A. 1975 Supp. 46-247 applies to such individuals.

(e) Appointed state officers and employees. Individuals whose appointment as a state officer and employee is subject to confirmation by the senate shall file the statement on the date when the appointment is submitted to the senate and annually thereafter commencing on the next succeeding January 31 so long as K.S.A. 1975 Supp. 46-249 applies to such individuals. (See however subsection (f)(3) of this section.)

(f) Exceptions. The following individuals are not required to file the statement of substantial interests required by this section:

(1) any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch;

(2) any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch; or

(3) any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 1975 Supp. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-41-3. Interests Disclosed. Each statement which must be filed pursuant to K.A.R. 19-41-2 shall disclose the following:

19-42. REPRESENTATION CASE DISCLOSURE STATEMENTS

19-42-1. Definitions. For the purposes of this article, the following words and phrases mean:

(a) Compensation. "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by such person or another.

(b) Contract. "Contract" means any agreement including but not limited to sales and conveyances of real and personal property and agreements for the performance of services.

(c) Legislator. "Legislator" means a member or member-elect of the legislature.

(d) Representation case. "Representation case" means the representation of any person, client, principal or third person, with compensation, in any matter before any state agency, except participation in providing goods and services to the state, where the action or non-action of the state agency involves the exercise of substantial discretion; but representation case does not mean or include (1) any communication initiated by a legislator on behalf of a constituent or other member of the public for which no compensation is received or to be received, or (2) preparation and filing of tax returns or other governmental forms, or (3) participation in tax audit negotiations, or (4) any activity of a state officer or employee in carrying out the duties of his office or employment, or (5) a preliminary inquiry by any person into a matter before a state agency.

Example: State officer A, who is an attorney, is retained to appear in a civil or criminal matter in district court. Such appearances do not constitute representation cases since the judicial department of state government does not constitute a "state agency" for the purposes of this Act. (See K.S.A. 1975 Supp. 46-224 and the statutory history thereof.)

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-42-2. Who must file and when. Whenever any of the following provisions are applicable to an individual, he or she shall file a representation case disclosure statement with the secretary of state on forms prescribed and provided by the commission.

(a) Representation cases. Any state officer or employee (including a legislator) who is employed in a representation case must file not later than ten (10) days after the acceptance of employment for such case or on the first appearance before the state agency involved, whichever occurs first. A person is "employed" in a representation case if the person will receive compensation from the case and actually communicates with the state agency or an employee thereof concerning the representation case or personally appears before the state agency.

(f) Officer or director of a business. The holding at the time of filing of the position of officer or director of any business, irrespective of the amount of compensation received by the individual holding such position. Holding the position of administrator or executor of an estate is not reportable under this provision. The disclosure under this subsection shall include the name and address of the business and the position held.

(g) Other positions held in certain entities. Each statement shall disclose any corporation, professional organization or individual professional practice in which the state officer or employee was an officer, director, associate, partner, or proprietor at the time of filing. The phrase "professional organization" refers to entities that engage in actual professional practice and not to professional associations such as the National Education Association or the American Bar Association. In addition, churches and fraternal organizations are not generally included within the definition of "corporation". However, in cases where a church or fraternal organization engages in a business, those officers who oversee the functioning of such business are required to list that information. The disclosure under this subsection shall include the name and address of the entity in which the position is held, and a description of the type of business or practice.

(h) Declaration and signature. Each statement shall contain a declaration substantially in the nature of that required by K.S.A. 1975 Supp. 46-249 and shall be signed and dated thereafter by the person filing the statement.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-41-4. Material errors and omissions. The following shall be considered material errors and omissions on any statement of substantial interests filed pursuant to this article:

(a) General.

- (1) Failure to use form prescribed by the commission.
- (2) Incomplete identification of person filing.
- (3) Inadequate identification of office or employment.
- (4) Failure to sign or date statement.
- (5) Illegibility.

(b) Disclosure sections.

- (1) Substantial interest omitted.
- (2) Name inadequate or omitted.
- (3) Address inadequate or omitted.
- (4) Description or type of business inadequate or omitted.
- (5) Description of interest inadequate or omitted.
- (6) Holder or receiver unidentified.
- (7) Position held omitted.

(c) Other. Any other error or omission which leads to less than full disclosure as required by this article.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

(c) Contractual situation filings. Each statement which is filed pursuant to K.A.R. 19-42-2(b) shall include the name, address and zip code of the agency contracted with. In addition, such statements shall include a brief description of the purpose of the contract and the method of determining and computing the individual's income therefrom.

(d) Signature. Each representation case disclosure statement shall be signed and dated by the individual filing the statement.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-43 TO 19-49. RESERVED

19-50. LOCAL CONFLICT OF INTEREST PROVISIONS

19-50-1. Scope. K.A.R. 19-50 to K.A.R. 19-51, inclusive, implement and interpret K.S.A. 1975 Supp. 75-4301 et seq., including amendments and supplemental legislation. (Hereafter referred to as the "Act".)

(Authorized by K.S.A. 1975 Supp. 75-4303a; effective February 15, 1977.)

19-50-2. Construction. K.A.R. 19-50 to K.A.R. 19-51, inclusive, shall be liberally construed to accomplish the purposes of the Act.

(Authorized by K.S.A. 1975 Supp. 75-4303a; effective February 15, 1977.)

19-50-3. Definitions. Incorporated herein by reference are the definitions express or apparent contained in the Act except to the extent the same have been expressly or by implication modified by K.S.A. 1975 Supp. 46-215 et seq., or rules and regulations relating thereto. In addition, for the purpose of K.A.R. 19-50 to K.A.R. 19-51, inclusive, the following words and phrases mean:

(a) Business. "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income. The definition of business does not contemplate the state and its political subdivisions. Nor are strictly charitable and non-profit organizations included within this definition. Nonetheless, the fact that a corporation is entitled a "not for profit corporation" does not control as to whether it meets the definition of business. In those situations where a major purpose of a not for profit corporation is to engage in business pursuits, that corporation meets the definition of business regardless of its technical legal title.

(b) Combination of businesses. "Combination of businesses" means any two or more businesses owned or controlled directly or indirectly by the same interests.

Example 1: State officer A is an accountant and is in a partnership with individual B. Business C retains B to appear with it before the State Board of Tax Appeals. A assists B in the preparation of B's presentation but does not communicate with any employees of the Board of Tax Appeals or appear before it concerning this matter. Under these circumstances, B would not be required to file the representation case disclosure statement since B is not a state officer or employee. Under the circumstances of this example, A need not file the statement since A did not communicate with the state agency involved or appear before it concerning the representation case.

Example 2: State officer A is an attorney and is retained by business B to aid in the representation of B concerning an application for a rate increase before the Kansas Corporation Commission. A does not actually appear before the Commission but does communicate with the Commission personally concerning the representation case. Even though A does not actually appear before the Commission, A is considered to be "employed" in this representation case due to A's communications with agency personnel. A is required to file the statement in this situation.

(b) Contractual situations.

(1) Any individual while a legislator or within one (1) year after the expiration of a term as a legislator who contracts to perform any service for a state agency other than the legislature must file within ten (10) days after the acceptance of such contract.

(2) In addition, no individual may while a legislator or within one (1) year after the expiration of a term as a legislator be interested pecuniarily, either directly or indirectly in any contract with the state, which contract is funded in whole or in part by any appropriation or is authorized by any law passed during such term, unless they file a representation case disclosure statement within ten (10) days after the acceptance of any such contract. This provision does not apply to contracts let after competitive bidding has been advertised for by published notice or to contracts for property or services for which the price or rate is fixed by law.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-42-3. Contents of statement.

(a) Identification of reporting person. Each statement required by K.A.R. 19-42-2 shall contain the name, address, phone number and zip code of the individual filing the statement. If the individual is a state officer or employee other than a legislator, the identification shall include the title or position of the person and the state agency by which the person is employed. If the individual is a present or former legislator, the statement shall disclose whether the individual is or was a member of the House of Representatives or of the Senate and whether the individual is currently a member thereof or is an individual whose term expired within the past year.

(b) Representation case filings. Each statement which is filed pursuant to K.A.R. 19-42-2(a) shall include the name, address, phone number and zip code of the employee and the name, address and zip code of the state agency before which the appearance will be made. In addition, such statements shall include a brief description of the purpose of the employment including the objective or goal sought by the employer and the method of determining and computing the compensation for the employment.

(a) Every candidate for elective public office, except candidates for state office as defined by K.S.A. 1975 Supp. 25-2505, shall file this statement at the time and place of filing his or her declaration of candidacy or at the time of his or her appointment as a candidate.

(b) Every person appointed to fill a vacancy in any elected public office as described above shall file this statement within thirty (30) days after taking office in the office where his or her predecessor filed his or her declaration of candidacy.

(c) Every public officer or employee who has not filed this statement and who, while acting in such capacity, shall pass upon any matter which will affect any business in which he or she holds a substantial interest, shall file this statement or one of a similar nature before acting upon such matter. In such cases the statement is filed with the county clerk of the county in which all or the largest geographical part of the municipal or quasi-municipal entity on which he or she serves is located. Any person filing under this requirement need only disclose the nature of the particular substantial interest held in the business which will be affected by the contemplated official act and the manner in which it will or might be affected, but need not disclose unrelated substantial interests. Additionally, note that K.S.A. 1975 Supp. 75-4304 prohibits participating in one's official capacity in the making of contracts with any business in which one holds a substantial interest or by which one is employed regardless of whether this statement is filed.

(d) Whenever any change shall occur in the substantial interest of any person required to file this form, a supplemental report disclosing such change must be filed within ten (10) days of the change in the same office as the initial filing.

(e) Exceptions. The following individuals are not required to file the disclosure of substantial interests statement required by this section:

(1) any individual who is a state officer or employee by definition of K.S.A. 1975 Supp. 46-221 and is not otherwise a public officer or public employee;

(2) any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch;

(3) any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch; or

(4) any appointed member of a state advisory council, commission or board who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 1975 Supp. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board.

(Authorized by K.S.A. 1975 Supp. 75-4303a; effective February 15, 1977.)

(c) Description of interest. "Description of interest" means the type of ownership interest held such as common stock, preferred stock, limited partnership, etc.

(d) Municipal corporation. "Municipal corporation" means any city incorporated under the laws of the state of Kansas.

(e) Person. "Person" means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, group, or corporation, whether or not operated for profit, or a governmental agency unit, or subdivision.

(f) Public office. "Public office" means a position of public trust or agency, created by the Kansas constitution, by statute, by executive decree or by an ordinance or resolution of a municipal or quasi-municipal corporation passed in pursuance of legislative authority except state offices and employments and the exceptions therefrom set out in K.S.A. 1975 Supp. 46-221.

(g) Public officer. "Public officer" means any person who holds public office in the state of Kansas, except that an attorney-at-law, acting only in his professional capacity, who holds no other public office shall not be construed to be a public officer for the purposes of these rules and regulations, nor shall such term include any notary public or any person who holds an office in any political party and who holds no other public office.

(h) Public employee. "Public employee" means any employee of any municipal or quasi-municipal corporation, except that an attorney-at-law, acting only in his professional capacity, who holds no other public employment shall not be construed to be a public employee for the purposes of these rules and regulations.

(i) Type of business. "Type of business" means the nature of the business activity in which the entity engages such as construction, retailing, manufacturing, etc.

(j) Quasi-municipal corporation. "Quasi-municipal corporation" means any county, township, school district, drainage district, or any other governmental subdivision in the state of Kansas having authority to receive or hold public moneys or funds, except those defined as "state agencies" by K.S.A. 1975 Supp. 46-224 or the judicial department of state government.

(Authorized by K.S.A. 1975 Supp. 75-4303a; effective February 15, 1977.)

19-51. DISCLOSURE OF SUBSTANTIAL INTERESTS

19-51-1. Who must file, when and where. Except as provided in subsection (e), whenever any one of the following provisions is applicable, the public officer or employee or candidate therefore, shall file a disclosure of substantial interests statement by the time and at the place set out below on forms provided by the secretary of state.

(e) Officer or director of a business. The holding by the public officer or employee or candidate therefore at the time of filing of the position of officer or director of any business, irrespective of the amount of compensation received by the individual holding any such position. Holding the position of administrator of executor of an estate is not reportable under this provision. The disclosure under this subsection shall include the name and address of the business and the position held.

(f) Signature. Each statement shall be signed and dated by the person filing the statement.

(Authorized by K.S.A. 1975 Supp. 75-4303a; effective February 15, 1977.)

19-52 TO 19-59. RESERVED

19-60. LOBBYING REGULATION PROVISIONS

19-60-1. Scope. K.A.R. 19-60 to K.A.R. 19-63, inclusive, implement and interpret K.S.A. 1975 Supp. 46-219, 46-222, 46-224, 46-225, 46-265, 46-266, 46-268, 46-269 and 46-270, including amendments and supplemental legislation. (Hereafter referred to as the "Act".)

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-60-2. Construction. K.A.R. 19-60 to K.A.R. 19-63, inclusive, shall be liberally construed to accomplish the purposes of the Act including providing for the greatest disclosure of lobbying expenditures possible while not hindering citizen involvement in the political process.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-60-3. Definitions. Incorporated herein by reference are the definitions express or apparent contained in the Act. In addition, the following words and phrases mean:

(a) Bona fide personal or business entertaining or gifts. "Bona fide personal or business entertaining or gifts" means entertainment or gifts provided to state officers or employees or their spouses which are based solely on a business or personal relationship totally unrelated to the state officer or employee's duties as such. The following factors, among others, will be taken into consideration in determining whether a specific entertainment or gift falls within this definition:

- (1) The intent of the parties.
- (2) The length of time a business or personal relationship has existed.

-51-2. Interests disclosed. Each statement which must be filed pursuant to K.A.R. 19-51-1 shall, except as otherwise provided in subsection (c) thereof, disclose the following:

(a) Identification of reporting person. The statement shall include the name, address, phone and zip code of the individual filing. And if any matter disclosed relates to the interest of the spouse alone, then the name and address of his or her spouse. In addition, each statement shall disclose the office held, office for which a candidate, position of employment, or position to which the individual was appointed.

(b) Ownership interests. The ownership by an individual or spouse, either individually or collectively, of a legal or equitable interest exceeding five thousand dollars (\$5,000) or five percent (5%) of any business, whichever is less. Only the name of the business and its address, not the number of shares or their value in the case of a corporation nor the net worth in the case of a business interest is to be determined as of the time of the required filing. The value assigned to a holding is the fair market value. For the purposes of this provision, certificates of deposit, bank savings or checking accounts, passbook accounts in a savings and loan, shares in a credit union, life insurance policies, annuities, notes, bonds, debentures and mortgages do not constitute "legal or equitable interests" and therefore need not be disclosed under this provision. The disclosure under this provision shall include the type of business, description of the interest, and a description of how the interest is held as between the state officer and employee and his or her spouse.

(c) Receipt of compensation. The receipt by an individual or his spouse directly or indirectly of any salary, gratuity, other compensation or remuneration or a contract for or promise or expectation of any such salary, gratuity, other compensation or remuneration having a dollar value of one thousand dollars (\$1,000) or more in the current or immediately preceding or succeeding calendar year from any business or combination of businesses. For the purposes of this subsection, the terms "salary", "compensation" or "remuneration" mean any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered by such person or another. The receipt of rent, interest, dividends and mineral royalties do not fall within this definition and therefore need not be reported. In addition, the term "gratuity" means gifts or honoraria and includes the provision of hospitality in the form of food and beverage. The disclosure under this subsection shall include the name and address of the business or combination of businesses, the type of business and a description of who received the compensation as between the public officer and employee and his or her spouse.

(d) Receipt of fees and commissions. If the public officer or employee's, or candidate's therefore, salary, compensation or other remuneration is a portion or percentage of a fee paid to a business or combination of businesses, such individual shall disclose any client who pays fees to such businesses or combination of businesses from which fees such individual received an aggregate of one thousand dollars (\$1,000) or more in the current or immediately preceding calendar year. The word "client" relates only to businesses or combination of businesses but the amount of any fee need not be listed. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a straight salary as opposed to portions of fees is generally not required to report under this provision. The disclosure under this subsection shall include the name of the client and the address.

(3) Exceptions. "Expenditure" does not include a payment or contract therefore (i) for the preparation of proposals, position papers and similar documents, (ii) to employ another to lobby on one's behalf, (iii) for personal travel and subsistence of an individual engaged in lobbying, (iv) which is reported in compliance with the campaign finance act, (v) associated with any news story, commentary, or editorial distributed in the ordinary course of business by a broadcasting station, newspaper or other periodical publication, or (vi) of contributions to membership organizations, associations or similar entities where the funds are used to make expenditures attributable to the entity or its representatives.

Example 1: Lobbyist A and his spouse take state officer B and his or her spouse to dinner as part of A's lobbying program. Only that portion of the total bill for the food and beverage which is associated with the meals of B and his or her spouse constitute expenditures. In other words, the costs of A's meal and that of A's spouse do not constitute expenditures.

Example 2: Members of a special interest association hold a banquet and invite selected state officers and employees to attend as guests. Each member pays for his or her own meal as well as a state officer or employee for whom they are serving as host. The association initiates the planning for the event, sets the date the event is to be held and its authorized agents attend the event. The "expenditures" associated with the event are deemed to be made by the special interest association and are not attributable to each member.

Example 3: An organization wishing to convey its views on a legislative matter to legislators incurs several costs for research, compilation of data, and drafting of a legislative proposal. These costs do not constitute "expenditures" since they involve the preparation of proposals. When the preparation is completed the organization incurs the costs for mass production and distribution of the proposal. These costs do constitute "expenditures".

(d) Gift.

(1) Defined. "Gift" means the transfer of money or anything of value unless legal consideration of a reasonably equal or greater value is received in return. The value of a gift shall be the fair market value or a reasonable estimate thereof. Where a transfer is made for less than reasonable consideration, the amount by which the value of the transfer exceeds the value of the consideration shall be deemed a gift.

(2) Exceptions. "Gift" does not include (i) the provision of hospitality in the form of food and beverage, (ii) any bona fide personal or business gift or entertainment, or (iii) any contribution reported in compliance with the campaign finance act.

Example 1: Lobbyist A, as part of A's employer's lobbying program, takes state officer B to dinner and to a football game. The value of the ticket to the football game constitutes a gift. The value of the food and beverage does not constitute a gift. (See, however, K.A.R. 19-60-3(c) for the inclusion of the costs of the state officer or employee's meals as an expenditure.)

- (3) The topics of discussion.
- (4) The setting.
- (5) The persons attending.
- (6) Whether the person providing the entertainment or gift is reimbursed by an organization which engages in lobbying.
- (7) Whether the person providing the entertainment or gift, or his or her principal, deducts or could deduct the expenditures as lobbying expenditures.

Example 1: Individual A is a member of a special interest association. A takes state officer B to dinner and is reimbursed by the special interest association. Even if A and B are long-time personal friends, the provision of dinner in this manner does not constitute bona fide personal or business entertaining.

Example 2: Individual A is a member of a special interest association and has been a lifetime friend of state officer B. A and B and their families have exchanged birthday gifts of minimal value for several years. A purchases a gift from A's own funds and transfers the gift to B at a birthday party held by the two families. A's gift constitutes a bona fide personal gift.

Example 3: Individual A is a member of a special interest association and owns business B. State officer C owns business D which contracts with business B in the ordinary course of business. A sends C a small gift which is the same type of gift given to all of business B's customers. A's gift constitutes a bona fide business gift.

(b) Employer. "Employer" means a person who employs another person in considerable degree for lobbying, or who formally appoints a person as the primary representative of an organization or other persons to lobby in person on state-owned or leased property, or on whose behalf a person otherwise registers or is required to register as a lobbyist. If a lobbyist has more than one employer those provisions of K.A.R. 19-60 to K.A.R. 19-63, inclusive, which relate to employers shall apply independently to each of the lobbyist's employers.

(c) Expenditure.

(1) Defined. "Expenditure" means the payment or contract therefore (i) for the provision of hospitality in the form of food and beverage to any state officer and employee or spouse, except bona fide personal or business entertaining; (ii) for the giving of any gift, honoraria or payment to any state officer or employee or spouse, except bona fide personal or business gifts, honoraria or payments; (iii) directly related to the production and communication of lobbying information to any state officer or employee by any person other than an individual; or (iv) directly related to the production and communication of mass media communications, letter writing campaigns and similar transactions which explicitly promote or oppose a clearly identified legislative matter, rule and regulation or case and urges or requests the recipient to communicate directly with state officers or employees in regard thereto.

(2) Allocation. A person makes an expenditure if the person does so directly or if another person does so on the person's behalf. In addition, in the case of membership organizations, associations, or similar entities, the entity is deemed to make any "expenditure" associated with membership events when the entity plays an integral role in initiating, planning, or operating such membership events.

(b) Exceptions. The communication of factual material which is not intended to promote or oppose action or non-action on a legislative matter and which is not accompanied by active advocacy does not constitute lobbying. In addition, the preparation of legislative proposals or recommendations or merely monitoring the legislative process does not constitute lobbying.

Example 1: Individual A is an expert in a technical field which is being studied by a legislative committee. A is asked by the committee to provide it technical information and A provides the information not intending to promote or oppose any particular view. A has not engaged in lobbying.

Example 2: A special interest association has one of its employees monitor the activities of a legislative committee. The employee merely takes notes and reports back to the employer. Neither the employer or employee have engaged in lobbying.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-61-2. Agency rules and regulations.

(a) General. Promoting or opposing in any manner the adoption or non-adoption of any rule and regulation by any state agency constitutes lobbying. Rules and regulations means such rules and regulations as are required by law to be filed with the revisor of statutes and does not include those adopted by the judicial branch or any court. Any communication which is intended to advocate action or non-action by any state agency on the adoption or non-adoption of any rule and regulation, including communications with other persons with the intent that such other persons communicate with agency personnel in regard thereto constitutes lobbying. The provision of entertainment or gifts, except those provided as bona fide personal or business entertainment or gifts, to any state officer or employee when the state officer or employee is involved in the adoption or non-adoption of rules and regulations and when provided in a situation where it can reasonably be attributed to contemplated or completed rules and regulations constitutes lobbying. (The fact that a particular activity constitutes "lobbying" does not necessarily mean that an individual must register as a lobbyist. See K.A.R. 19-62 on the issue of registration.)

(b) Exceptions. The communication of factual material which is not intended to promote or oppose the adoption or non-adoption of rules and regulations and which is unaccompanied by active advocacy does not constitute lobbying. In addition, the preparation of proposed or recommended rules and regulations or the monitoring of the adoption process does not constitute lobbying. (See K.A.R. 19-61-1(b) for pertinent examples.)

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-61-3. Cases before state agencies.

(a) General. The provision of entertainment, gifts, honoraria or payments by any person or his or her representative in an aggregate value of one hundred dollars (\$100) or more in any calendar year to any one state officer or employee

Example 2: Lobbyist A, as part of A's employer's lobbying program, provides state officer B with hotel accommodations and travel to a seminar held by the employer. B does not provide a bona fide service at the seminar. A has made a gift in the value of the accommodations and travel.

(e) Hospitality. "Hospitality in the form of food and beverage" means the provision and consumption of food and beverage in the company of the donor or the donor's authorized agent. The provision of food and beverage in any other manner constitutes a gift. In addition, the provision of food and beverage which is conditioned on a course of official action constitutes a gift for the purposes of these rules and regulations.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-61. LOBBYING

19-61-1. Legislative matters.

(a) General. Promoting or opposing in any manner action or non-action by the legislature on any legislative matter constitutes lobbying. Legislative matters include any bills, resolutions, nominations, or other issues or proposals pending before the legislature or any committee, subcommittee, or council thereof. An issue or proposal is pending before any such body if it is being directly considered by such body, if it has been communicated to such body or a member thereof even if not directly considered by it, or if it is an issue subject to continuing review by any such body. Any communication which is intended to advocate action or non-action by the legislature on a legislative matter, including communications with other persons with the intent that such persons communicate with legislators in regard thereto constitutes lobbying. The provision of entertainment or gifts to any state officer or employee involved in the action or non-action by the legislature on any legislative matter, except those provided as bona fide personal or business entertainment or gifts, constitutes lobbying. (The fact that a particular activity constitutes "lobbying" does not necessarily mean that an individual must register as a lobbyist. See K.A.R. 19-62 on the issue of registration.)

Example 1: Individual A represents a special interest association which is concerned with maintaining in their present form certain laws which relate to the association. The laws are subject to continuing review by a committee of the legislature, although the committee is not currently considering the laws of interest to the association. Individual A communicates to a legislator on the committee the association's concern that the laws in question remain unchanged. A has engaged in lobbying.

Example 2: Individual A is employed by a special interest association and wishes to make the association's viewpoint known to the legislature in regard to a bill pending before the legislature. In the form of a newsletter, A sends to several private citizens the association's views and requests the recipients to contact their legislators to express those views. A has engaged in lobbying.

(b) Appointed lobbyists. Any person formally appointed as the primary representative of an organization or other person to lobby on state-owned or leased property shall register as a lobbyist regardless of whether the person receives compensation therefore. The degree of formality required to fall within this provision may take the form of election to a specific office or designation to a specific post where the members of the organization or appointing person recognize such election or designation to include the right and/or duty to lobby as its primary representative on state-owned or leased property. Generally, where an organization or other person has an employed lobbyist, members thereof lobbying on behalf of the organization will not be deemed the primary representative of the organization or other person for the purposes of this registration provision. Where an appointment is made in conjunction with an employment status as set out in subsection (a) of this section, the provisions of that subsection shall control on whether the employed person must register as a lobbyist.

Example 1: Individual A is appointed chairman of a committee of a special interest association which is established to prepare a legislative proposal for the association. In this capacity it is understood that A will meet with selected legislators in their local communities but not in person on state owned or leased property. A is not required to register as a lobbyist under this provision.

Example 2: Individual A is chairman of a special interest association committee dealing with legislative proposals. The association has an employed lobbyist. Generally, when A appears as a legislative witness he is accompanied by the lobbyist. On infrequent occasions A may appear alone. A is not required to register under this provision since A would not be deemed to be the primary representative of the organization.

Example 3: Individual A is an employee of a business enterprise and is appointed by it to be a witness for the organization in regard to legislative matters of concern to the organization. The provisions of this subsection do not apply to this situation. Instead, since A's lobbying relates to his position as an employee of another, subsection (a) of this section would be applied to this situation to determine whether A must register as a lobbyist.

(c) Persons making lobbying expenditures. Any person who makes "expenditures" (as defined in K.A.R. 19-60-3(c)) in an aggregate amount of one hundred dollars (\$100) or more in any calendar year for lobbying shall register as a lobbyist.

(d) Exceptions.

(1) Those persons covered by K.S.A. 1975 Supp. 46-222(b) shall not be required to register as lobbyists.

(2) When an individual accepts a limited number of bona fide invitations from a state agency or subdivision thereof to appear before it for the purpose of providing information to such agency, the individual shall not be required to register as a lobbyist under subsections (a) and (b) of this section solely on account of such appearances. Subsection (c) of this section nonetheless applies to such situations.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-62-2. When and where to register. Every person required to register as a lobbyist shall register with the secretary of state on a form prescribed and provided by the commission. The registration shall be filed in each calendar year prior to lobbying in that calendar year. Whenever any new lobbying position is accepted by a registered lobbyist, the lobbyist shall file an additional registration in the same manner as the original.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-63. LOBBYIST REPORTING PROVISIONS

19-63-1. Who must report.

(a) General. Each registered lobbyist or any person who should be registered as a lobbyist shall file a report with the secretary of state on forms prescribed and provided by the commission for any reporting period when either of the following occurs:

(1) The lobbyist and/or the lobbyist's employer, individually or collectively, makes expenditures in an aggregate amount or value in excess of \$50 to any one vendor or other person. If the employer has more than one lobbyist, only the portion of that employer's expenditures with which each lobbyist is most directly connected shall be attributable to each specific lobbyist.

Example 1: Employer A makes expenditures of \$30 during a reporting period to a vendor. Lobbyist B, who is A's only lobbyist, makes expenditures of \$30 during the same reporting period to the same vendor. B is required to report during the reporting period since the aggregate amount of expenditures collectively made to one vendor exceed \$50.

(2) The lobbyist and/or the lobbyist's employer, individually or collectively, makes gifts, honoraria or payments in an aggregate amount or value in excess of ten dollars (\$10) to any one state officer or employee. If the employer has more than one lobbyist, only the portion of that employer's gifts, honoraria or payments with which each lobbyist is most directly connected shall be attributable to each specific lobbyist.

Example 1: Employer A makes a gift valued at \$5 to state officer B during the reporting period. Lobbyist C, who is A's only lobbyist and knew of the initial gift, makes separate gifts of \$3 and \$4 to B during the reporting period. C is required to report during the reporting period since the aggregate value of gifts made collectively by A and C exceed \$10.

If neither of the tests set out above in this subsection occur during a reporting period, then the lobbyist need not file a report for that period.

(b) Connection with expenditures, gifts, honoraria and payments. A lobbyist is most directly connected with an expenditure if the lobbyist incurs the debt regardless of how actual payment is made. A lobbyist is most directly connected with a gift, honoraria or payment if the lobbyist reaches the agreement for its acceptance regardless of how the underlying debt is paid.

Example 1: Lobbyist A incurs a debt for lobbying with a vendor in the amount of \$75 in December. A pays the vendor in January of the next year. A allocates the expenditure to the October 1 to December 31 reporting period since the amount of the debt was incurred and known in December and reports it on or before January 10.

Example 2: Lobbyist A offers state officer B tickets to 10 basketball games which are valued at \$7 each. A states that he will give the tickets to each game to B on the day preceding the game. B agrees to accept the tickets in September and the first ticket is received in December. A allocates the total value of the gift (\$70) to the reporting period of October 1 to December 31 and reports the gift on or before January 10.

Example 3: Lobbyist A incurs debts during the month of January at a private club and charges the amount by signing the bills. The total bill is received by the lobbyist on February 15 and amounts to \$100. Lobbyist A also during the month of January made cash payments for lobbying of \$30 and \$40 to two other vendors but no other payments in excess of \$50 to any one vendor. A must report the entire \$170 on the report due March 10.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-63-3. What to report.

(a) General. Where applicable, each report shall include the full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid expenses of lobbying by the lobbyist.

(b) Expenditures. If a report is required to be filed by K.A.R. 19-63-1(a)(1), the lobbyist shall report the aggregate amount of all individual expenditures of one dollar (\$1) and over made by the lobbyist and by the lobbyist's employer if the lobbyist is the lobbyist most directly connected therewith, according to the following categories:

- (1) Expenditures for hospitality provided in the form of food and beverage.
- (2) Expenditures for gifts, honoraria or payments to state officers and employees.
- (3) Expenditures for mass media communications.
- (4) Other reportable expenditures.

The name and address of the lobbyist's employer shall be listed for all reportable expenditures.

Example 1: Lobbyist A makes an expenditure at vendor B's for a gift to be given to state officer C. The cost of the gift is \$20 and the lobbyist makes no other expenditures during

who serves in a state agency before which during that year the donor or the person represented has a case constitutes lobbying.

(b) Case. "Case" means any matter before a state agency where the action or non-action of the state agency involves the exercise of substantial discretion except participation in providing goods and services to the state.

(c) Exceptions. The provision of bona fide personal or business entertaining or gifts shall not be taken into consideration in determining the applicability of this section.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-62. LOBBYIST REGISTRATION

19-62-1. Who must register.

(a) Employed lobbyists. Any person employed in considerable degree for lobbying shall register as a lobbyist. A person is employed if the person receives compensation for or in direct relation to lobbying regardless of the technical legal definition of the relationship between the principal and the lobbyist. An executive of an organization who as part of his or her duties only incidentally lobbies is not required to register under this subsection. However, where a person is employed in substantial degree to lobby, it is irrelevant that the lobbying employment is not a substantial amount of his or her overall business. In determining whether an individual is employed in considerable degree for lobbying that portion of the employment which relates to preparation for lobbying shall be taken into consideration.

Example 1: Individual A is an executive for corporation B and as part of his employment contacts legislators in regard to legislative matters only a few times a year. A is not required to register as a lobbyist under this provision.

Example 2: Individual A is an attorney who is retained by a special interest association to lobby on its behalf. Even though the specific employment is not a substantial portion of A's business during the year, A is required to register as a lobbyist.

Example 3: Individual A is an executive director of a special interest association. As part of A's duties he spends a substantial amount of time preparing the association's legislative program and spends time lobbying for the program during the legislative session. A is required to register as a lobbyist under this provision.

the month. Lobbyist A is not required to report the expenditure under this subsection since he has not made an expenditure to any one vendor in excess of \$50. (See the following subsection to determine whether the gift is reportable thereunder.)

Example 2: Lobbyist A makes an expenditure at vendor B's of \$60 for hospitality in the form of food and beverage during the reporting period and therefore is required to report. During the same reporting period, A's employer makes expenditures of \$10 to vendor C for gifts to state officers and of \$20 to vendor D for hospitality in the form of food and beverage. A reports a lump sum of \$80 as expenditures for hospitality in the form of food and beverage and a lump sum of \$10 as expenditures for gifts, honoraria or payments.

(c) Gifts, honoraria and payments. All gifts, honoraria and payments made by the lobbyist to any one state officer or employee during the reporting period in an aggregate value in excess of ten dollars (\$10) shall be reported. Gifts, honoraria and payments made by the lobbyist's employer shall be reported by the lobbyist if, by themselves or when cumulated with gifts, honoraria or payments made by the lobbyist, the ten dollars (\$10) aggregate value is exceeded and if the lobbyist is the lobbyist of the employer most directly connected therewith. The report shall include the name and address of the recipient as well as the type of gift, or purpose of the honoraria or payment, and the value thereof. The name and address of the lobbyist's employer shall be listed for each reportable gift, honoraria or payment.

Example: Lobbyist A gives state officer B a gift valued at \$9 during the reporting period. In addition, at a totally distinct and separate occasion during the same reporting period, A gives B an additional gift valued at \$9. A is required to report all gifts given to B since they aggregate to a value in excess of \$10 for the reporting period.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)

19-63-4. Material errors or omissions. The following shall be considered material errors or omissions on any report required by this article:

(a) General.

- (1) Failure to use form prescribed by the commission.
- (2) Incomplete identification of person filing.
- (3) Failure to show correct period covered.
- (4) Failure to sign or date statement.
- (5) Illegibility.

(b) Disclosure sections.

- (1) Name inadequate or omitted.
- (2) Address inadequate or omitted.
- (3) Description or purpose inadequate or omitted.
- (4) Amount incorrect or omitted.

- (5) Failure to report any reportable expenditure.
- (6) Failure to report any reportable gift, honoraria or payment.
- (7) Failure to report person compensating or paying for lobbying expenses.

(c) Other. Any other error or omission which leads to less than full disclosure as required by this article.

(Authorized by K.S.A. 1975 Supp. 46-253; effective February 15, 1977.)