

# **RULES OF THE ETHICS COMMISSION PROPOSED AMENDMENTS and/or DRAFTS**

**for the 2009 Legislative Session**

**[Section 257:1-1-1 et seq., 74 O.S. Supp. 2007, Ch. 62, App.]**

**for consideration at the April 18, 2008**

**Regular Meeting of the Ethics Commission<sup>1</sup>**

[incorporated into the Notice/Agenda by reference]

## **SYNOPSIS OF AMENDMENTS**

<b>Amendment</b>	<b>Section</b>	<b>Subject</b>
1.	257:1-1-2	[definition of “ anything of value” ] —amends Paragraph (P) making it a business meal  [definition of “ anything of value” ] —creates a new Paragraph (Q) to include as “ things of value” a ticket, pass, or coupon to a sporting event, concert, etc., including participation in a golf tournament fundraiser sponsored by a civic, business or charitable organization or as a fundraiser for a candidate, PAC or other political purpose  Paragraph (R) becomes former Paragraph (P)
	257:1-1-2	[definition of “ anything of value” ] —adds to Paragraph (2), Subparagraph (G) an exemption for a “ State Day” event at the State Capitol sponsored by a local Chamber of Commerce
	257:1-1-2	[definition of “ anything of value” ] —deletes former Paragraph (2), Subparagraph (S) exempting a meal or other food served at a meeting at which the state officer/employee is an invited guest; therefore, Subparagraph (T) becomes the new Subparagraph (S) and Subparagraph (U) becomes the new Subparagraph (T)
	257:1-1-2	[definition of “ anything of value” ] —adds a new Subparagraph (U) to Paragraph (2) and exempts regional or community meetings held to discuss the needs of a community when the costs are borne locally and not by a lobbyist or lobbyist principal or other person on their behalf
	257:1-1-2	[definition of “ anything of value” ] —adds a new Subparagraph (W) of Paragraph (2) exempting the cost of admission, food, beverage and amenities of little value on the premises of an event when attendance is required as part of official duty

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<sup>1</sup>Commission procedure is to receive oral or written comments on rule amendments at each regular meeting throughout the year, with formal public hearings held in November and December. A vote will then be taken on proposals at the January 2009 Regular Meeting.

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|----|---------------------|--|
|    | 257:1-1-2           | defines “ business meal”   |
|    | 257:20-1-9(c)       | lowers calendar year limit for elective officers from \$300 to \$200; maintains \$100 for all other officers/employees; adds persons seeking to influence executive or administrative action to those subject to limits; amends aggregate limit for a lobbyist or lobbyist principal to include a stockholder, partner, agent, affiliate, member, employee or officer of the lobbyist principal acting at the specific direction, and on behalf, of the lobbyist or lobbyist principal; specifies aggregation requirement does not apply to all lobbyist principals of a contract lobbyist   |
|    | 257:20-1-9(f)(3)    | amends present language to extend soliciting and receiving gifts from a charitable organization beyond just when serving as a member, officer or director attending a function on its behalf to include circumstances involving a catastrophic or life threatening accident, disease, illness or disability or a natural disaster suffered by the state officer/employee or for participation in a walk, run, etc. as a fundraiser for a charitable organization established to assist or do research for victims of a life threatening or catastrophic disease, illness, disability, poverty or natural disaster; deletes other Section 501(c) organizations which would include political and issue committees |
|    | 257:23-1-2(b)(c)    | deletes thresholds so that all things of value must be reported; conforms personal relationship to language in 257:20-1-9(c)(2)(A)(ii); conforms 501(c)(3) language to 257:20-1-9(f)(3); conforms aggregation requirement to 257:20-1-9(c)   |
|    | 257:23-1-3          | amends this section to limit giving things of value to \$200 to an elective officer and \$100 to other state officers/employees; conforms personal relationship to language promulgated in Sections 257:20-1-9(c)(2)(A)(ii) and 257:23-1-2(c)  |
| 2. | 257:10-1-2(c)(6)    | adopts a “ good faith effort” standard for obtaining a contributor statement; after making one effort [sets standards for effort], holds treasurer harmless from being out of compliance   |
| 3  | 257:10-1-14(a)(12)  | strikes the requirement for the description of expenditures but requires the name and address of persons to whom expenditures of more than \$50 during the reporting period are made and the purpose or category of the expenditure; like Alternative 1, it requires further categorization of debt payment, expenses for a future election campaign and surplus funds   |
| 4. | 257:10-1-2(a) & (c) | places an aggregate two-year contribution limit for individuals of \$50,000 on contributions to candidates or the authorized   |

committees of candidate for state office, and undetermined two-year limits for PACs and political parties to become effective 1/1/10; it would also add a declaration to the contributor statement, either [Alternative 1], that the contributor understands the contribution may or may not be expended consistent with his or her political views or in support of candidates he or she supports, or [Alternative 2], if the contribution is to a PAC or political party, that a portion may be expended on contribution(s) to candidates(s) he or she does not support

# ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

## RULE AMENDMENT

No. 1

\_\_\_\_\_  
\_\_\_\_\_  
(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:1-1-2 [definition of " anything of value" ] and 257:20-1-9(c)(d)(f)(g) and (h), 257:23-1-2(b)(c)(d)(e)(f)(g) and (k) and 257:23-1-3 as follows:

### **257:10-1-2. Definitions**

\* \* \*

#### **"Anything of value", "Thing of value" or "Things of value"**

(1) These terms, to the extent that consideration of equal or greater value is not received, include the following:

- (A) a pecuniary item, including money, or a bank bill or note;
- (B) a promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
- (C) a contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
- (D) a stock, bond, note, or other investment interest in an entity;
- (E) a receipt given for the payment of money or other property;
- (F) a right in action;
- (G) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel, except as provided in subparagraphs (C), (D) and (N) of Paragraph (2) of this definition;
- (H) a loan or forgiveness of indebtedness, except as otherwise provided in subparagraph (I) of Paragraph (2) of this definition;
- (I) a work of art, antique, or collectible;
- (J) an automobile or other means of personal transportation;
- (K) real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested in realty, a leasehold interest, or other beneficial interest in realty;
- (L) an honorarium or compensation for services, except as otherwise provided in subparagraph (M) of Paragraph (2) of this definition;

(M) a rebate or discount in the price of anything of value or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public, except as provided in subparagraph (J) of Paragraph (2) of this definition;

(N) a promise or offer of employment;

(O) transportation, lodging or entertainment;

(P) a business meal which shall not exceed fifteen dollars (\$15.00) for the noon meal or twenty-five dollars (\$25.00) for the evening meal;

(Q) any ticket, pass, or coupon granting admission to any sporting event, play, concert, show, ball or other similar social or entertainment event, or the cost of participation in golf tournaments or other fundraising event sponsored by or for the benefit of a civic, business or charitable organization, or which is conducted for the purpose of raising funds for a political candidate, a political action committee, or for any other political purpose; or

(R) any other thing of value not excluded by Paragraph (2) of this definition.

(2) These terms do not include:

(A) a campaign contribution properly received and reported;

(B) any books, written materials, audio tapes, videotapes, or other informational promotional material related to the performance of a state officer's or state employee's official duties;

(C) a gift that:

(i) is not used, and

(ii) no later than thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;

(D) a gift, devise, or inheritance from an individual's spouse, child, step-child, parent, step-parent, grandparent, step-grandparent, sibling, step-sibling, parent-in-law, sibling-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of that individual, if the donor is not acting as the agent or intermediary for someone other than a person covered by this subparagraph;

(E) a plaque or trophy with a value that does not exceed two hundred dollars (\$200);

(F) modest items of food and refreshments, such as soft drinks, coffee, and donuts, offered other than as part of a meal;

(G) food and beverage consumed on the occasion when participating in a charitable, civic, or community event, including "State Day" events at the State Capitol sponsored by a local Chamber of Commerce, or at any event to which all members of the Legislature are

invited, which bears a relationship to the state officer's or state employee's office and the officer or employee is attending in an official capacity;

(H) greeting cards and items with little intrinsic value, such as certificates, which are intended solely for presentation;

(I) loans from banks and other financial institutions on terms generally available to the public;

(J) opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all state government employees, whether or not restricted on the basis of geographic consideration;

(K) rewards and prizes given to competitors in contests or events, including random drawings, which are open to the public; rewards and prizes from contests or events which are not open to the public are also excepted if the state officer's or state employee's entry into the contest is required as part of his official duties;

(L) pension and other benefits resulting from participation in a retirement plan offered by an employer or former employer of a state officer or state employee;

(M) anything which is paid for by the state government or secured by the state government under state government contract;

(N) any gift accepted on behalf of the state of Oklahoma or a governmental entity by the Governor under Section 381 et seq. of Title 60 of the Oklahoma Statutes. In order to be deemed accepted, the Governor must be notified in writing of any gift received by a governmental entity, or person on behalf of a governmental entity, within ten (10) days of receipt of the gift. Notice of acceptance must be received from the Governor within the next thirty (30) days. Upon lack of a response from the Governor within the thirty (30) days of receipt of the notice, the gift is deemed rejected and must be returned to the donor;

(O) anything for which market value is paid or secured by written contract to be paid by the state officer or state employee no later than 30 days of receipt;

(P) transportation furnished to a state officer or state employee for the purpose of assisting the officer or employee in the performance of the officer's or employee's official duties and from which the officer or employee receives only incidental personal benefits ancillary to said purpose;

(Q) food, transportation or entertainment provided by a governmental agency or governmental enterprise of a foreign nation as a gesture of hospitality;

(R) prescription drugs or similar items given to the recipient for distribution to patients in need of treatment which are not used by the recipient;

~~(S) a meal or other food served at a meeting at which the state officer or state employee is an invited guest; and~~

~~(T) any gratuity provided at a meeting, conference, or seminar by sponsors, exhibitors, etc., the cost of which is not borne by a registrant to such meeting, conference, or seminar, and which is available to all registrants; and~~

~~(U) (T) any single item with a fair market value not exceeding Ten Dollars (\$10.00) provided to a state officer or state employee during a calendar year; provided, if a donor provides more than one such item to a state officer or state employee during a calendar year, any such additional items shall not be subject to this exception; and~~

(U) a regional or community meeting, including a reception, breakfast or dinner, at which local officials, chambers of commerce members, and residents meet with elected officials to discuss the needs of their communities, the costs of which are borne by local or regional civic entities or organizations, and not paid for by other lobbyists or lobbyist principals, or a stockholder, partner, agent, affiliate, member, employee or officer of other lobbyist principals acting on behalf of the lobbyist or lobbyist principal; and

(W) the cost of admission to an event, food and beverage served as part of the meal on the premises, and other amenities or items with little intrinsic value provided as part of the occasion when attendance at such event is required as part of the official duties of the state officer or state employee.

\* \* \*

“Business meal” means a meal or other food served at a business meeting at which the state officer or state employee, or an immediate family member of a state officer or state employee, is an invited guest, and when attendance at such meeting is directly related to the official duties of the state officer or state employee. For purposes of this definition, a noon meal is served from 11:00 o’ clock in the morning to 4:00 o’ clock in the afternoon and an evening meal is served from 4:00 o’ clock in the afternoon to midnight;

\* \* \*

**257:20-1-9. Restraints on solicitation or acceptance of anything of value-Disclosure**

\* \* \*

(c) **~~Calendar year limits~~ Limits on things of value**

(1) **Elective officers.** No elective officer, or an immediate family member of an elective officer shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive things of value in a calendar

year which, in the aggregate, are valued at more than ~~three~~ two hundred dollars ~~(\$300)~~ (\$200); and

(2) **Other state officers and state employees.** Except for an elective officer, no state officer, state employee or an immediate family member of such state officer or state employee shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive or agree to receive things of value in a calendar year which, in the aggregate, are valued at more than one hundred dollars (\$100);

(3) from a person who the state officer or state employee knows or, by the exercise of reasonable inquiry, should know:

(A) is a lobbyist or lobbyist principal, or a stockholder, partner, agent, affiliate, member, employee or officer of the lobbyist principal acting on behalf of the lobbyist or lobbyist principal, provided that the following shall not be subject to this subsection:

(i) things of value received as a result of or arising out of employment by, or doing business with, a lobbyist or lobbyist principal; and

(ii) things of value received from any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal if the donor is excepted in subparagraph (D) of Paragraph (2) from the definition of "anything of value" in Section 2 of Chapter 1 of this title, or if there exists between the recipient and the donor a close personal relationship of long standing in which the mutual exchange of gifts on special occasions, such as holidays or anniversaries, has become customary;

(B) is seeking to do business or doing business with the governmental entity of which the state officer's or state employee's office or employment is a part; ~~or~~

(C) has an economic interest in actions or matters before or affecting the governmental entity of which the state officer's or state employee's office or employment is a part; or

(D) is employed or retained by another for financial or other compensation to perform services that include promoting, opposing or attempting to influence any executive or administrative action by a governmental entity, including, but not limited to, the promulgation of rules and regulations and the setting of rates.

A thing or things of value given by a lobbyist; the lobbyist principal ~~or lobbyist principals~~ by whom the lobbyist is employed or retained; or a stockholder, partner, agent, affiliate, member, employee or officer of the lobbyist principal or lobbyist principals by whom the lobbyist is employed or retained are aggregated for purposes of the disclosure threshold and calendar year limits, regardless of how the thing or things of value are funded if, and only if, the thing or things of value are given at the specific direction, and on behalf of, the lobbyist principal. Lobbyists principals of contract lobbyists shall not be aggregated together for purposes of this provision. If

more than one lobbyist is retained or employed by a lobbyist principal, the disclosure and calendar year limits of the first lobbyist to register on behalf of the lobbyist principal for a calendar year are aggregated with each additional lobbyist, employed or retained by the same lobbyist principal.

\* \* \*

(f) **Exceptions for forms of compensation, gifts to state, and officers/directors of organizations.** Nothing in this section shall prohibit the acceptance or require the disclosure of:

(1) compensation, bonuses, dividends, interest payments, employee benefits, expense reimbursements or other forms of compensation or earnings on investments;

(2) anything of value which is accepted by the Governor on behalf of the state of Oklahoma or a governmental entity pursuant to Section 381 et seq. of Title 60 of the Oklahoma Statutes. In order to be deemed accepted, the Governor must be notified in writing of any gift received by a governmental entity, or person on behalf of a governmental entity, within ten (10) days of receipt of the gift. Notice of acceptance must be received from the Governor within the next thirty (30) days. Upon lack of a response from the Governor within thirty (30) days of receipt of the notice, the gift is deemed rejected and must be returned to the donor; or

(3) the solicitation or acceptance of anything of value for or from either:  
(A) a charitable organization or an organization described in Section 501 (c) of Title 26 of the United States Code, 26 U.S.C., Section 501 (c), as it currently exists or as it may be amended when the state officer or state employee is soliciting or receiving the thing or things of value

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(i) due to a catastrophic accident or life threatening disease, illness or disability or a natural disaster suffered by the state officer or state employee, or an immediate family member of the state officer or state employee; or

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(ii) for participation in a walk, run, or similar event as a fundraiser for a charitable organization established to assist victims of, or to conduct research to alleviate suffering or prevent, a life threatening or catastrophic disease, illness or disability or victims of poverty or a natural disaster; or

(B) a tax-exempt professional organization established by state statute or rules passed by the Oklahoma Supreme Court, ~~by a member; when the state officer or state employee, who is a member, officer or director of the organization, when and the~~ receipt of anything of value results from the member, state officer or state employee attending a function, meeting or seminar on behalf of, or as a representative of, the organization.

\* \* \*

(h) **Restrictions on honoraria.** Except for the compensation an elective officer is entitled to by law for the performance of official duties, no elective officer shall solicit or accept cash, check or cash equivalent compensation for an article, appearance or speech,

or for participation at an event, unless the article, appearance or participation is made as part of the normal course of business in the member's private occupation.

**257:23-1-2. Anything of value reporting by lobbyists – Preservation of accounts, books, etc.**

\* \* \*

(b) **Disclosure of ~~things of value~~ business meals.** The report shall be signed by the lobbyist, who shall attest to the report's accuracy and veracity, and the signature shall be notarized. The reports shall include the information specified in Subsection (d) of this section for things of value given to an elective officer or the immediate family member of an elective officer by the lobbyist or any lobbyist principal by whom the lobbyist is employed or retained, ~~the costs of which exceed fifty dollars (\$50) in the aggregate or things of value given to a state officer, excluding an elective officer, state employee, or the immediate family member of a state officer, excluding an elective officer, or a state employee, by the lobbyist or any lobbyist principal by whom the lobbyist is employed or retained, the costs of which exceed twenty-five (\$25) in the aggregate~~ during a six-month period beginning January 1 and ending June 30 or beginning July 1 and ending December 31.

(c) **Limits on things of value and exceptions.** Lobbyists or lobbyist principals shall not give things of value which, in the aggregate, are valued at more than ~~\$300~~ two hundred dollars (\$200.00) annually to any elective officer or the immediate family member of an elective officer, or things of value which are valued at more than \$100 annually to any other state officer or state employee, or the immediate family member of a state officer, excluding an elective officer, or a state employee, provided that the following shall not be subject to this subsection:

- (1) things of value given by a lobbyist or lobbyist principal as a result of or arising out of employment of, or the lobbyist or lobbyist principal doing business with a state officer or state employee or the recipient; and
- (2) things of value given to the recipient by any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal if the donor is excepted in subparagraph (D) of Paragraph (2) from the definition of "anything of value" in Section 2 of Chapter 1 of this title, or if there exists between the recipient and the donor a close personal relationship of long standing in which the mutual exchange of gifts on special occasions, such as holidays or anniversaries, has become customary.

A thing or things of value given by a lobbyist; the lobbyist principal ~~or lobbyist principals~~ by whom the lobbyist is employed or retained; or a stockholder, partner, agent, affiliate, member, employee or officer of the lobbyist principal or lobbyist principals by whom the lobbyist is employed or retained are aggregated for purposes of the disclosure threshold and calendar year limits, regardless of how the thing or things of value are funded if, and only if, the thing or things of value are given at the specific direction, and on behalf of, the lobbyist principal. Lobbyists principals of contract lobbyists shall not be aggregated together for purposes of this provision. If more than one lobbyist is retained or employed by a lobbyist principal, the disclosure and calendar year limits of the first lobbyist to register on behalf of the lobbyist

principal for a calendar year are aggregated with each additional lobbyist, employed or retained by the same lobbyist principal.

\* \* \*

(k) **Exceptions to reporting.** Nothing in this section shall prohibit the giving or require the disclosure of the giving of anything of value by:

(1) ~~a charitable organization or an organization described in Section 501 (c) of Title 26 of the United States Code, 26 U.S.C., Section 501 (c), as it currently exists or as it may be amended~~ when the state officer or state employee is soliciting or receiving the thing or things of value

(i) due to a catastrophic accident or life threatening disease, illness or disability or a natural disaster suffered by the state officer or state employee, or an immediate family member of the state officer or state employee; or

(ii) for participation in a walk, run, or similar event as a fundraiser for a charitable organization established to assist victims of, or to conduct research to alleviate suffering or prevent, a life threatening or catastrophic disease, illness or disability or victims of poverty or a natural disaster;; or

(2) a tax-exempt professional organization established by state statute or rules passed by the Oklahoma Supreme Court, ~~to a~~ when the state officer or state employee, ~~who is a member,~~ an officer or director of the organization, ~~when and the~~ receipt of anything of value results from the state officer or state employee attending a function, meeting or seminar on behalf of, or as a representative of, the organization.

**257:23-1-3. Things of value to state officers or state employees of regulatory governmental entities**

Any person who:

(1) is employed or retained by another for financial or other compensation to perform services that include promoting, opposing or attempting to influence any executive or administrative action by a governmental entity, including, but not limited to, the promulgation of rules and regulations and the setting of rates, other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services provided by such individual to the client;

(2) is seeking to do business or doing business with a governmental entity; or

(3) has *an economic* interest in actions or matters before or affecting a governmental entity;

shall not give a thing or things of value valued in excess of two hundred dollars (\$200.00) to an elective officer, or the immediate family member of an elective officer, nor more than one hundred dollars (\$100.00) to any other state officer or state employee, or the immediate family member of a state officer or state employee in the aggregate per calendar year. Such persons shall not give a business meal to a any

state officer or state employee, or the immediate family member of such state officer or state employee, valued at more than fifteen dollars (\$15.00) for the noon meal or twenty-five dollars (\$25.00) for the evening meal. Such persons shall be required to file, by paper form, the same report required to be filed by lobbyists by Section 2 of this chapter if, and only if, such person gives anything or things of value to a state officer or state employee, or the immediate family member of a state officer or state employee the cost of which exceeds fifty dollars (\$50.00) in the aggregate during a six-month period beginning January 1 and ending June 30 or beginning July 1 and ending December 31. This provision shall not apply, however, to things of value received as a result of or arising out of employment by, or doing business with, a lobbyist or lobbyist principal; and things of value received from any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal as a result of a close personal or casual relationship of long standing with the recipient in which the mutual exchange of gifts on special occasions, such as holidays or anniversaries, has become customary. Provided further, this provision shall not apply to things of value given to a public member when not given as a result of the public member's status as a public member.

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Commissioner John Raley

**Explanation:** This amendment would [See Synopsis of Amendments, Pages 1-4].

**Purpose:** The purpose of this amendment is to limit things of value which may be accepted from lobbyists or lobbyist principals (or persons acting on their behalf), vendors or persons seeking to do business with the state, or persons with an economic interest in matters before government.

**Person requesting amendment:** The drafting of this amendment was requested by Vice Chairman John Raley.

# ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

## RULE AMENDMENT

No. 2

\_\_\_\_\_  
\_\_\_\_\_  
(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-2(c) as follows:

**Rule 257:10-1-2. Contributions.**

\* \* \*

(c) **Contributor statement.** Within ten (10) business days of accepting a single contribution exceeding fifty dollars (\$50.00), or before accepting multiple contributions from a single source which exceed fifty dollars (\$50.00) in the aggregate, persons accepting contributions must obtain from each contributor a statement which shall include:

\* \* \*

(6) the signature of the contributor, or in the case of a committee, the treasurer or, in the treasurer's absence, the deputy treasurer of the committee.

Persons accepting contributions from contributors who contribute by payroll deduction, dues check-off, or similar process shall be required to obtain only one contributor statement annually or at such other times as a change is made in the deduction, check-off, or similar process.

If a contributor statement obtained pursuant to the provisions of this subsection is incomplete, the treasurer shall make at least one effort after acceptance of the contribution to obtain the missing information. Such effort shall consist of either a written or electronic request sent to the contributor. Such request must be made no later than thirty (30) days after acceptance of the contribution. The request shall not include material on any other subject or any additional solicitation, except that it may include language solely thanking the contributor for the contribution. The request must clearly ask for the missing information and must include an accurate statement of this rule regarding the collection and reporting of contribution identifications. All requests must include the statement in a clear and conspicuous manner. The request shall be accompanied by a pre-addressed return post card or envelope for the response material. If the treasurer makes such effort within the time period prescribed in this paragraph, the person accepting the contribution shall be deemed to be in compliance with the provisions of this subsection.

Submitted by

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Commissioner

**Explanation:** This amendment would [See Synopsis of Amendments, Pages 1-4]

**Purpose:** The purpose of this amendment would be to hold harmless treasurers from obtaining contributor statements if certain steps are taken.

**Person requesting amendment:** This amendment was submitted by H.J. Reed, Lobbyist, ConocoPhillips, and Lee Slater attorney.

# ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

## RULE AMENDMENT

No. 3

\_\_\_\_\_  
(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-14(a)(12) as follows:

### **257:10-1-14. Report contents**

(a) **Basic reporting form.** The campaign contributions and expenditures report shall include:

\* \* \*

(12) the following information about expenditures:

\* \* \*

(B) the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$50 during the reporting period is made by the committee to meet a candidate or committee operating expense, together with the amount, the date, and a brief description of what was purchased for each individual campaign expenditure in excess of fifty dollars (\$50.00) in the aggregate to one (1) entity made during the reporting period, and the purpose of the expenditure; which shall be categorized as follows:

\_\_\_\_\_  
(i) administrative/salary/overhead expenses,

\_\_\_\_\_  
(ii) travel expenses,

\_\_\_\_\_  
(iii) solicitation and fundraising expenses,

\_\_\_\_\_  
(iv) advertising expenses,

\_\_\_\_\_  
(v) polling expenses,

\_\_\_\_\_  
(vi) campaign materials,

\_\_\_\_\_  
(vii) campaign event expenses,

\_\_\_\_\_  
(viii) loan repayments,

\_\_\_\_\_  
(ix) refunds of contributions,

\_\_\_\_\_  
(x) payment of debts of a former election campaign, which shall be further categorized as specified in subparagraphs (i) through (ix) of this paragraph,

\_\_\_\_\_  
(xi) payment of expenses for use in a future election campaign, which shall be further categorized as specified in subparagraphs (i) through (ix) of this paragraph,

- 
- (xii) payment of expenses for political activity,
- 
- (xiii) payment of expenses for community activity,
- 
- (xiv) payment of nonreimbursed office related expenses, and
- 
- (xv) expenditure of surplus funds, which shall be further categorized as specified in paragraph (3) of subsection (a) or in paragraph (2) or (3) of subsection (b) of Section 20 of this chapter;

Disbursements to consultants, advertising agencies, and similar firms; credit card expenses; and candidate reimbursements shall be ~~itemized~~ categorized to permit a reasonable person to determine the ultimate intended purpose of the expenditure.

\* \* \*

Submitted by

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Vice Chairman Raley

**Explanation:** This amendment would strike the requirement for the description of expenditures but requiring the name and address of persons to whom expenditures of more than \$50 during the reporting period are made and the purpose or category of the expenditure; it would require further categorization of debt payment, expenses for a future election campaign and surplus funds.

**Purpose:** The purpose of this amendment would be to require disclosure of persons to whom expenditures are made and to categorize the expenditures.

**Person requesting amendment:** This drafting of this amendment was requested by Vice Chairman Raley.

# ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

## RULE AMENDMENT

No. 4

\_\_\_\_\_  
\_\_\_\_\_  
(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-2(a) and (c) as follows:

### **257:10-1-2. Contributions**

#### **(a) Limitations on contributions from an individual.**

(1) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than

(A) Fifty thousand dollars (\$50,000) to candidates for state office or to candidate committees authorized by such candidates;

(B) XXXXXXXXXX dollars (\$XX,XXX) to political action committees; and

(C) XXXXXXXXXX dollars (XX,XXX) to party committees.

This Paragraph (a) shall become effective January 1, 2010.

#### **(b) Limitations on contributions from a person.**

(1) No person or family may contribute more than five thousand dollars (\$5,000) to a political action committee or a party committee in any calendar year. No political action committee or party committee shall knowingly accept a contribution from a person or family in excess of five thousand dollars (\$5,000) in a calendar year. Contributions to be used for federal election activity, as defined in 2 U.S.C. § 431(20), and subject to the requirements of 2 U.S.C. § 441i, commonly referred to as "Levin Funds", shall not be aggregated with other contributions to a party committee.

(2) No person or family may contribute more than five thousand dollars (\$5,000) to a candidate for state office or to a candidate committee authorized by such a candidate to accept contributions or make expenditures on his behalf during a campaign as defined in Chapter 1, Section 2 and as provided in Paragraphs (4) and (5) of this subsection. No candidate or candidate committee shall knowingly accept a contribution in excess of five thousand dollars (\$5,000) from a person or family during a campaign.

(3) These restrictions do not apply to:

(A) a committee supporting or opposing a ballot measure; or

(B) a candidate making a contribution of his or her own funds, to his or her campaign; or

(C) a political party making a contribution according to the restrictions set forth in Subsection (b) of this section.

- (4) For purposes of this subsection, if a candidate:
- (A) begins a campaign for a specific state office;
  - (B) accepts one or more contributions for such campaign but prior to the election therefor chooses not to run for such office and becomes a candidate for a different office; and
  - (C) transfers all or any part of the contributions accepted for the first campaign to the second campaign;

the second campaign shall be deemed to have begun when the candidate began the first campaign.

- (5) For purposes of this subsection, if a candidate:
- (A) does not dissolve his or her candidate committee after the election at which the office at stake is decided;
  - (B) accepts one or more contributions for such committee after such election; and
  - (C) begins a campaign for the same or another office in a subsequent election cycle;

any contributions accepted within six (6) months prior to the beginning of the campaign for the same or another office in a subsequent election cycle shall be applied to the limit specified in Paragraph (2) of this subsection for such campaign.

- (6) The \$5,000 limitation is to be applied collectively and cumulatively so that any contribution made by the entities as set forth in the definition of "person" in Section 2 of Chapter 1 of this title, shall be allocated to the individuals owning such entities in their percentage of ownership. Once the limit of \$5,000 is reached, applying all sources to the individual or family, no further contributions can be made during the campaign or calendar year.

~~(b)~~ (c) **Limitations on contributions from a political party committee.** A candidate committee shall not accept contributions from a political party of more than:

- (1) fifty thousand dollars (\$50,000) per campaign in the case of a candidate for governor; and
- (2) twenty-five thousand dollars (\$25,000) per campaign in the case of a candidate for other non-federal statewide elective office.

**CAVEAT:** This provision, increasing the amount of contributions a political party may give to its statewide candidates, is inconsistent with Section 187.1 of Title 21 of the Oklahoma Statutes, which attaches a criminal penalty to contributions from any person or family to a state candidate in excess of \$5,000.

~~(c)~~ (d) **Contributor statement.** Within ten (10) business days of accepting a single contribution exceeding fifty dollars (\$50.00), or before accepting multiple contributions from a single source which exceed fifty dollars (\$50.00) in the aggregate, persons accepting contributions must obtain from each contributor a statement which shall include:

- (1) the date the contribution was given;
- (2) the name and address, occupation [e.g. "retail sales clerk"] and employer [e.g. "Dillard"], or principal business activity of the contributor; a contribution from a person other than an individual or a committee shall be reported by the name of the person or committee and not the individual who signed the check;

- (3) the amount; if in-kind, a description of the contribution and a good faith estimate of its fair market value;
- (4) a declaration that the contribution is for a campaign in the State of Oklahoma, and the contribution is freely and voluntarily given from the contributor's personal property, if an individual, or the person or committee's property, if other than an individual;
- (5) a declaration that the contributor has not been directly or indirectly compensated or reimbursed for the contribution, if an individual, and, if a person other than an individual or a committee, that the person or committee has not been compensated or reimbursed for the contribution by persons:
  - (A) other than those from whom contributor statements have been received and of whom disclosure has or will be made; or
  - (B) if from persons exempted from the definition of political action committee, by other persons; and

#### ALTERNATIVE 1

- (6) if an individual, a declaration, in the case of contributions to a political action committee or a political party, that the contributor understands that the contribution, or a portion thereof, may or may not be expended consistently with the contributor's personal political views or in support of candidates that the contributor supports; and

#### ALTERNATIVE 2

- (6) if an individual, a declaration, in the case of contributions to a political action committee or a political party, that the contributor understands that the contribution, or a portion thereof, may be expended on a contribution or contributions to a candidate or candidates that the contributor does not support; and
- (7) the signature of the contributor, or in the case of a committee, the treasurer or, in the treasurer's absence, the deputy treasurer of the committee.

Persons accepting contributions from contributors who contribute by payroll deduction, dues check-off, or similar process shall be required to obtain only one contributor statement annually or at such other times as a change is made in the deduction, check-off, or similar process.

#### ~~(d)~~(e) **Prohibitions and exceptions to corporate and labor organization contributions and expenditures.**

- (1) No corporation or labor organization shall contribute to any campaign fund of any party committee of this state or to any other person for the benefit of such party committee or its candidates, nor shall it, through any agent, officer, representative, employee, attorney, or any other person or persons, so contribute. Nor shall any such corporation or labor organization, directly or through such other person, make any loan of money or anything of value, or give or furnish any privilege, favor or other thing of value to any party committee, or to any representative of a party committee, or to any other person for it, or to any candidate upon the ticket of any political party.
- (2) A corporation or labor organization shall not make a contribution or an expenditure or an independent expenditure to, or for the benefit of, a candidate or committee in connection with an election or for any electioneering communication, except that this provision shall not apply to:

(A) a campaign or committee solely for or against a ballot measure or local question; or

(B) the establishment, administration, and solicitation of contributions to a political action committee to be utilized for political purposes by a corporation or labor organization.

(3) No candidate, candidate committee or other committee shall knowingly accept contributions given in violation of the provisions of Paragraphs (1) and (2) of this subsection.

(4) The provisions of this subsection shall not apply to a bank, savings and loan association or credit union loaning money to a candidate in connection with his own campaign which is to be repaid with interest at a rate comparable to that of equivalent loans for other purposes.

(5) The provisions of this subsection shall not apply to independent expenditures or electioneering communications made by a corporation that:

(A) has as an express purpose promoting social, educational, or political ideas and not to generate business income;

(B) does not have shareholders or other persons which have a financial interest in its assets and earnings; and

(C) was not established by a business corporation or other business entity, by a professional association, or by a labor organization and does not receive substantial revenue from such entities. Substantial revenue is defined as more than ten percent (10%) of total revenues or \$10,000, whichever is less, in a calendar year.

~~(e)~~ (f) **Prohibitions relating to committee solicitations and funds.** It shall be prohibited for:

(1) a political action committee to accept a contribution or make an expenditure by using anything of value secured:

(A) by physical force, job discrimination, financial reprisals, or threat of the same; or

(B) by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, unless the making of such contributions is authorized by the organization's members;

(2) a person to solicit a contribution from an employee in exchange for any advantage or promise of an advantage conditioned upon making a contribution, or reprisal or threat of reprisal related to the failure to make a contribution;

(3) a corporation or political action committee of a corporation to solicit contributions to the political action committee from a person other than its members, shareholders, directors, executive and administrative personnel, and their families; and

(4) corporate contributions to a committee or person for or against a ballot measure to be commingled with a fund established by such person or committee to contribute to candidate committees or committees which support or oppose candidates.

~~(f)~~ (g) **Prohibition on transfer of funds between committees.**

(1) A candidate committee shall not make a contribution to another candidate or make an independent expenditure on behalf of another candidate. The principal candidate committee or an authorized committee of a person, as such terms are defined in Section 431 of Title 2 of the United States Code, shall not make a contribution to a candidate or make an independent expenditure on behalf of a candidate. A candidate or candidate committee shall not accept such a contribution.

(2) This subsection shall not prohibit a candidate or any other person from making a contribution from the candidate's or person's personal funds to his or her own candidate committee or on behalf of his or her own candidacy or to the committee of another candidate for a different office.

(3) This subsection shall not prohibit a candidate committee from providing its surplus funds or material assets to the state or local central committee of a political party in accordance with the procedures for dissolution of a candidate committee under Sections 19 and 20 of this chapter.

~~(g)~~ (h) **Aggregation of contributions.** For purposes of the contribution limitations, the following apply:

(1) Two (2) or more political action committees or party committees are treated as a single entity if the committees:

- (A) share the majority of members on their boards of directors;
- (B) are owned or controlled by the same majority shareholder or shareholders;
- (C) are in a parent-subsidiary relationship; or
- (D) have by-laws so stating; or
- (E) are affiliated or connected entities.

(2) A candidate committee and a committee other than a candidate committee are treated as a single committee if the committees both have the candidate or a member of the candidate's immediate family as an officer.

~~(h)~~ (i) **Attribution and aggregation of family contributions.**

(1) Contributions by a husband and wife are aggregated.

(2) Contributions by children under eighteen (18) years of age shall be considered to be contributions made by their parent, parents or legal guardian and shall be attributed to the family limit specified in Subsection (a) of this section. In the case of a single custodial parent, the total amount of such a contribution shall be considered to be a contribution made by the single custodial parent.

~~(i)~~ (j) **Restrictions on loans.**

(1) A loan is considered a contribution from the lender, guarantor, and endorser of the loan and is subject to the contribution limitations of this section.

(2) A loan to a candidate or the candidate committee shall be by written agreement.

(3) The proceeds of a loan, regardless of the amount, made to a candidate:

- (A) by a commercial lending institution;
- (B) made in the regular course of business;

(C) on the same terms ordinarily available to members of the public;  
and

(D) which is secured or guaranteed solely by the candidate;

are not subject to the contribution limits of this section.

(4) A loan from one committee to another is prohibited.

~~(j)~~ (k) **Anonymous and earmarked contributions.**

(1) A person shall not make to a committee and a committee shall not accept an anonymous contribution in excess of fifty dollars (\$50). The recipient of an anonymous contribution in excess of fifty dollars (\$50) shall, within two (2) business days, remit the contribution to the Commission to be deposited with the State Treasurer to the credit of the General Revenue Fund.

(2) For purposes of the contribution limitations imposed by this section, all contributions made by a person, either directly or indirectly, to or for the benefit of a particular candidate committee, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate committee, shall be treated as contributions from such person to such candidate committee. It shall be prohibited for an intermediary or a conduit to make a contribution to a committee in his or her own name rather than the name of the original source of such contribution. For purposes of this paragraph, an intermediary or conduit means a person, who is not the treasurer, deputy treasurer or agent of a committee, but who is given a contribution by another with the understanding that it will be contributed to that committee. The reports shall show the correct name of the person actually making the contribution.

~~(k)~~ (l) **Reimbursement for contribution prohibited.** A person shall not, directly or indirectly, reimburse a person for a contribution to a candidate or committee.

~~(l)~~ (m) **Cash contributions.**

(1) An individual shall not make to a candidate committee or a committee supporting or opposing a ballot measure and a candidate committee or a committee supporting or opposing a ballot measure shall not accept a contribution of more than fifty dollars (\$50) in cash during a campaign as defined in Chapter 1, Section 2. Agents accepting and delivering cash shall deliver contributor statements disclosing cash contributions equal to the aggregate amount of cash delivered.

(2) A committee, or a person other than an individual, shall not make a contribution in cash.

~~(m)~~ (n) **Certain contributions required to be by written instrument.**

(1) An individual shall not make a contribution of more than fifty dollars (\$50), other than an in-kind contribution, except by written instrument containing the name of the contributor and the name of the payee during a campaign as defined in Chapter 1, Section 2.

(2) A committee, or a person other than an individual, shall not make a contribution, other than in-kind, except by written instrument containing the name of the contributor and the name of the payee.

~~(n)~~ (o) **Use of other funds.**

(1) Anything of value which is solicited from the public in the name of or for the benefit of an elective officer or candidate, and which is accepted by an elective officer or candidate, shall be subject to the reporting requirements of this chapter. This would include, but not be limited to, things of value given for an inauguration or renovation of public property. Anything of value accepted by an agent or representative of an elective officer or candidate or by a committee established by, in the name of, or for the benefit of, an elective officer or candidate shall be deemed to be accepted by such elective officer or candidate for purposes of this section.

(2) The use of such things of value shall be limited to the stated purpose or purposes for which such things of value were solicited.

(3) Any surplus things of value which are not needed for the stated purpose or purposes shall be returned to the donors pursuant to a formula by which no donor receives more than his or her original donation or deposited with the State Treasurer to the credit of the General Revenue Fund.

~~(o)~~ (p) **Auctions.** When an auction is held by a committee as a fundraiser, a contributor statement shall be required with respect to each person donating an item to be auctioned and shall include the fair market value of each item donated.

(1) If an item is sold for a price in excess of the established fair market value, the buyer thereof shall be deemed to have made a contribution in the amount of the price paid in excess of the established fair market value and the donor thereof shall be deemed to have made a contribution in the amount of the established fair market value.

(2) If an item is sold at the established fair market value, the donor thereof shall be deemed to have made a contribution in the amount of the established fair market value and the buyer thereof shall not be deemed to have made a contribution.

(3) If an item is sold at less than the established fair market value, the fair market value shall be reduced to the actual sale price and the donor thereof shall be deemed to have made a contribution in the amount of the sale price and the buyer thereof shall not be deemed to have made a contribution.

Submitted by

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Commissioner

**Explanation:** This amendment would [See Synopsis of Amendments, Pages 1-4]

**Purpose:** The purpose of this amendment would be to place an aggregate two-year limit for individuals of \$50,000 on contributions to candidates or the authorized committees of candidate for state office, and undetermined two-year limits for PACs and political parties to become effective 1/1/10; it would also add a declaration to the contributor statement, either [Alternative 1], that the contributor understands the contribution may or may not be expended consistent with his or her political views or in support of candidates he or she supports, or [Alternative 2], if the contribution is to a PAC or

political party, that a portion may be expended on contribution(s) to candidates(s) he or she does not support.

**Person requesting amendment:** This amendment was continued at the request of the Vice Chairman John Raley.