

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. 2008, Ch. 62, App.]

for consideration at the January 28, 2009

Public Hearing and Regular Meeting of the Ethics Commission¹

[incorporated into the Notice/Agenda by reference]

SYNOPSIS OF AMENDMENTS

Amendment	Section	Subject
		[Former Amendment #1 was withdrawn by its sponsor, Chairman Raley]
1.	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
2.	257:10-1-14(a)(12)	requires a description of the consideration, and an explanation of the purpose —which must permit a reasonable person to determine the reason for the purchase — of campaign expenditures of more than \$50 during the reporting period, the name and address of the person to whom the expenditure was made, the beneficiary of the expenditure, and the year to date total. Disbursements to consultants, advertising agencies, and similar firms; credit card expenses; and candidate reimbursements are required to be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose
3.	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

¹Commission 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.

4. 257:10-1-2(e) allows twice yearly solicitations of corporate employees who are not considered executive or administrative personnel
5. 257:27-1-9(f) allows solicitations and acceptance of things of value for 501(c)(3) charitable organizations only [defined in 257:1-1-2] for the purposes or mission of the organization; also would allow humanitarian efforts to assist state officers or state employees, or their immediate family members who are victims of a catastrophic accident or life-threatening disease, illness or disability or victims of a natural disaster or similar event, together with financial aid awards, tuition waivers, scholarships, and educational grants; the exception would no longer apply to 501(c)(4)'s [social welfare advocacy groups], 501(c)(5)'s [labor unions] or 501(c)(6)'s [trade associations and business leagues]; titles to Subsections (g) and (h) were added as clean-up by Staff
6. 257:20-1-9(i) creates a "gift list" [Alternative 1] or "no gifts list" [Alternative 2] whereby legislators can specify whether they will or will not accept things of value from lobbyists
7. 257:1-1-1(a)
257:1-1-6(m) would clean up and/or amend repetitive language on the intent of the Rules and Commission duties concerning education under the Rules
8. 257:20-1-9(c)
257:23-1-2(c) would clean up, in Sections 257:20-1-9(c) and 257:23-1-2(c), the former distinction between limits for elective officers and other state officers and state employees. Finally, it would further allow each lobbyist principal to designate one lobbyist to be responsible for its calendar year limits
9. 257:20-1-9(c)
257:23-1-2(c) - (j) would prohibit giving to state officers and state employees things of value from lobbyists and lobbyists principals, persons doing or seeking to do business with the governmental entity served, and persons with an economic interest in matters before or affecting the governmental entity served; would also prohibit state officers and state employees from receiving such things of value from these groups; and would thus eliminate the need for disclosure
10. 257:30-1-5(a)(1)
257:30-1- 6(a)(1)&(5) would limit the Commission to issuing one private reprimand only to a respondent and would require disclosure of the Respondent(s) of and allegation(s) contained within complaints initiated by the Commission OR the subject of information alleging violations of criminal law referred by the Commission to a law enforcement commission, officer, or prosecuting authority

11. 257:10-1-2(c) & (m) would require a contributor to tender a contribution of more than \$50 within 30 calendar days of the date of the written instrument
12. 257:10-1-19(c)
257:10-1-20(a)(3)(D) would require a candidate committee to dissolve by the end of the sixth month following the date of the General or Special General Election to fill the office for which the candidate filed a declaration of candidacy; it would not affect the committee's ability to transfer surplus or debt to a future election campaign
13. 257:10-1-10(d) A candidate seems to be liable for the conduct of a third party under the current language (a person who might be holding checks for a time). The 10-day rule would still apply, which should make the 5-day rule more easily removed. The current language is confusing, also, in that it apparently makes a candidate the same as an agent of his own committee. It also implies that a deputy treasurer must turn over contributions just because the treasurer is not around.
- 257:10-1-13(b)(4)
& (c)(1). If the purpose of filing campaign contributions and expenditure reports is to let voters know the source and amount of each candidate's campaign finances, then this amendment will continue to let that be done. However, an unopposed candidate in the general election shouldn't need to file reports prior to either the primary or run-off. Everyone will wind up on equal footing at the first report after the general election. Thus, there will be reports filed prior only to elections at which a candidate's name will appear on the ballot. This would eliminate a lot of paperwork and also save the staff time in processing it.
14. 257:10-1-2 [defn of Congressional district]
& 257:10-1-20(a)(3)
(H) defines congressional district, amends "local central" committee of a political party to its "county" or "congressional district" committees and clarifies that surplus funds of a candidate committee may not be transferred to an affiliated or connected entity of a political party
15. 257:10-1-9(d)(3) would lower the threshold for mandatory electronic filing from \$20,000 to \$10,000 during an active campaign for candidate committees and \$10,000 during the current or previous calendar year for all other committees
16. 257:10-1-17(a) would make sending notices 10 days before a report or statement is due by first class mail discretionary rather than mandatory

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 1

(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

Commissioner Don Bingham

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. 2

(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:

* * *

(A) the total of expenditures made during the reporting period and the year-to-date or campaign-to-date total;

(B) the amount, ~~the date, and~~ a brief description of the consideration, and an explanation of the purpose ~~—which must permit a reasonable person to determine the reason for the purchase~~ ~~—what was purchased for which each individual~~ campaign expenditure was made 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 the name and address of the person to which the expenditure was made, the beneficiary of the expenditure, and the year to date total. Disbursements to consultants, advertising agencies, and similar firms; credit card expenses; and candidate reimbursements must be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose.

(C) the total amount of all campaign expenditures not required to be reported in Subparagraph (B).

(D) Committees may file all expenditures in lieu of the additional bookkeeping requirement of grouping together all expenditures aggregating \$50 or less to one entity and all expenditures aggregating more than \$50 to one entity;

Provided, a committee shall not divide expenditures which would otherwise be made individually for the purpose of evading the reporting requirements of this paragraph;

* * *

Submitted by

Chairman John Raley

Explanation: This amendment would amend Section 257:10-1-14(a)(12) to require a description of the consideration, and an explanation of the purpose —which must permit a reasonable person to determine the reason for the purchase —of campaign expenditures of more than \$50 during the reporting period, the name and address of the person to whom the expenditure was made, the beneficiary of the expenditure, and the year to date total. Disbursements to consultants, advertising agencies, and similar firms; credit card expenses; and candidate reimbursements would be required to be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose.

Purpose: The purpose of this amendment would be to require disclosure of persons to whom expenditures are made what was purchased.

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

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 3

(Date)

Mr. Chairman:

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

~~(e)~~ (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) **Permissible use of corporate and labor organization funds for certain electioneering communications.** An electioneering communication shall satisfy Subparagraph (2) of this subsection if it meets the requirements of either Subparagraph (3)(A) or (3)(B) of this subsection:

(A) **Grassroots lobbying communications.** Any communication that:

(i) exclusively discusses a pending state legislative or executive matter or issue;

(ii) urges an officeholder to take a particular position or action with respect to the matter or issue, or urges the public to adopt a particular position and to contact the state officeholder with respect to the matter or issue;

(iii) does not mention any election, candidacy, political party, opposing candidate, or voting by the general public; and

(iv) does not take a position on any candidate's or officeholder's character, qualifications, or fitness for office.

(B) **Commercial and business advertisements.** Any communication that:

(i) exclusively advertises an elective officer's or state officeholder's business or professional practice or any other product or service;

(ii) is made in the ordinary course of business of the entity paying for the communication;

(iii) does not mention any election, candidacy, political party, opposing candidate, or voting by the general public; and

(iv) does not take a position on any candidate's or officeholder's character, qualifications, or fitness for office.

(C) **Reporting requirements.** Corporations and labor organizations that make an electioneering communication or series of electioneering communications under Paragraph (A) aggregating in excess of \$5,000 in a calendar year shall file statements and reports as required by Subsection (c) of Section 16 of this chapter.

(4) 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.

(5) 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.

(6) 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) **Candidate committee transfers.**

(A) A candidate committee shall not make a contribution or transfer to another candidate, or to a political action committee which supports or opposes candidates or ballot measures, nor shall it make an independent expenditure on behalf of another candidate or ballot measure. A political action committee which supports or opposes candidates or ballot measures shall not accept a contribution or transfer from a candidate committee. 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.

(B) 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.

(C) 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.

(2) **Political action committee transfers.** A political action committee shall not make a contribution to another political action committee. This subsection shall not prohibit a political action committee from making a transfer to its own affiliated or connected entity in accordance with the definition of contribution, Section 2, Paragraph (2), Subparagraph (B) of Chapter 1 of this title.

~~(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-subsidary 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

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 Chairman John 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(e) as follows:

257:10-1-2. Contributions

* * *

(e) Prohibitions relating to committee solicitations and funds.

(1) It shall be prohibited for:

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

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

(ii) ~~(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;

(B) ~~(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;

(C) ~~(3)~~ a corporation or political action committee of a such 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

(D) ~~(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.

(2) It shall not be prohibited for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make two (2) written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this paragraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot

determine who makes a contribution of fifty dollars (\$50) or less as a result of such solicitation and who does not make such a contribution.

* * *

Submitted by

Commissioner

Explanation: This amendment would amend Section 257:10-1-2(e) by allowing twice yearly solicitations of corporate employees who are not considered executive or administrative personnel.

Purpose: The purpose of this amendment would be to expand the involvement in the political process to all employees of a corporation who may want to voluntarily be involved in their employer's political action committee.

Person requesting amendment: This amendment was requested by the law firm of Rhodes, Hieronymus, Jones Tucker & Gable, P.L.L.C. as follows:

PETITION FOR RULE ADOPTION

Rhodes, Hieronymus, Jones, Tucker & Gable P.L.L.C. ("Rhodes Hieronymus") is an Oklahoma law firm representing clients who have corporate political action committees in Oklahoma.

Oklahoma's regulations concerning solicitation of contributions by corporate political action committees prohibit solicitation of contributions and follow the federal regulations. Compare OKLA. STAT. Tit. 74, Ch. 62, App. 257:10-1-2(e)(3) with 11 C.F.R. 114.5(g). Oklahoma law provides:

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

* * *

(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

OKLA. STAT. Tit. 74, Ch. 62, App. 257:10-1-2(e)(3). This section is virtually identical to the following exclusion under federal regulations:

A corporation or a separate segregated fund established by a corporation is prohibited from soliciting contributions to such fund from any person other than its stockholders and their families and its executive or administrative personnel and their families. A corporation may solicit the executive or administrative personnel of its subsidiaries, branches, divisions, and affiliates and their families.

11 C.F.R. § 114.5(g). Under both Oklahoma and federal law, a corporation's political action committee is prohibited from seeking solicitations from persons other than its stockholders, executive and administrative personnel, and their families. The federal regulations have much more thorough guidelines as to solicitations, and when exceptions to the general solicitation rules are allowable.

Twice a year, a corporation may expand its solicitation to include certain individuals outside its restricted class. Federal law provides:

(B) It shall not be unlawful for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of \$50 or less as a result of such solicitation and who does not make such a contribution.

2 U.S.C.A. §441b(4), and

(a) A corporation and/or its separate segregated fund may make a total of two written solicitations for contributions to its separate segregated fund per calendar year of its employees other than stockholders, executive or administrative personnel, and their families.

11 C.F.R. § 114.6. Thus, under federal law a corporate political action committee is allowed twice a year to solicit all its employees, including those not considered executive or administrative personnel. This is clear expression of an intention to expand the involvement in the political process to all employees of a corporation who may want to voluntarily be involved in their employer's political action committee.

In order to make Oklahoma law in congruence with federal law on the same issue, Rhodes Hieronymus requests that the Ethics Commission adopt the following rule, which would bring Oklahoma law in line with 2 U.S.C.A. § 441b(4)(B):

It shall not be unlawful for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make two (2) written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this paragraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of fifty dollars (\$50) or less as a result of such solicitation and who does not make such a contribution.

Respectfully submitted,

RHODES, HIERONYMUS, JONES, TUCKER & GABLE, P.L.L.C.

By: _____

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ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 5

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:27-1-9(f) as follows:

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

* * *

(f) **Exceptions for forms of compensation, gifts to state, gifts to charitable organizations, and officers/directors of professional organizations, humanitarian efforts for state officers and state employees and financial aid awards, tuition waivers, scholarships, educational grants.** 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 solicitation or acceptance is directly related to the purposes or mission of the organization; or
- (4) the solicitation or acceptance of anything of value for or from
 - (B) a tax-exempt professional organization established by state statute or rules passed by the Oklahoma Supreme Court, by a member, when a 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; or
- (5) the solicitation or acceptance of a thing or things of value by or on behalf of a state officer or state employee, or an immediate family of a state officer or state

employee, as a humanitarian effort to assist a victim of a catastrophic accident or life threatening disease, illness or disability, or a victim of a natural disaster or similar event;

(6) the acceptance or award of need-based or merit-based financial aid awards, tuition waivers, scholarships and educational grants, in any form, accepted or awarded to a state officer, a state employee or a family member of a state officer or state employee.

Provided, nothing in this subsection shall authorize the solicitation or acceptance of anything of value in violation of the provisions of Subsection (a) of this section.

(g) **Ban on borrowing from lobbyists.** No state officer or state employee shall directly or indirectly borrow money from a lobbyist, or an immediate family member of a lobbyist, or an entity controlled by or employing a lobbyist. This subsection shall not apply to:

(1) a loan of money made by a commercial lending institution, in the regular course of business, on the same terms ordinarily available to members of the public, and which is not secured or guaranteed by a lobbyist or lobbyist principal or any other person on behalf of a lobbyist or lobbyist principal; or

(2) a loan from a father, stepfather, father-in-law, mother, stepmother, mother-in-law, sister, step sister, brother, step brother, child, step child, adopted child or their spouses.

(h) **Ban on elective officers receiving cash or cash equivalent 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.

* * *

Submitted by

Chairman John Raley

Explanation: This amendment would allow solicitations and acceptance of things of value for 501(c)(3) charitable organizations only [defined in 257:1-1-2] for the purposes or mission of the organization; also would allow humanitarian efforts to assist state officers or state employees, or their immediate family members who are victims of a catastrophic accident or life-threatening disease, illness or disability, or victims of a natural disaster or similar event. The exception would no longer apply to 501(c)(4)'s [social welfare advocacy groups], 501(c)(5)'s [labor unions] or 501(c)(6)'s [trade associations and business leagues]. Titles to Subsections (g) and (h) were added as clean-up by Staff.

Purpose: The purpose of this amendment would be to allow solicitations for charitable organizations when related to their purposes or mission and humanitarian efforts for state officers and employees who are for victims of a catastrophic accident, disease, disability or natural disaster.

Person requesting amendment: This amendment was requested by Chairman John Raley.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 6

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:27-1-9(i) as follows:

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

* * *

Alternative 1: (Opt out)

(i) **No gifts list.** The Oklahoma Ethics Commission shall create and maintain a “ No Gifts List,” whereby legislators who do not want to receive things of value from lobbyists may voluntarily participate and be named on the list. No legislator whose name appears on this list can accept a thing of value from a registered lobbyist.

Alternative 2: (Opt in)

(i) **Gifts list.** The Oklahoma Ethics Commission shall create and maintain a “ Gifts List,” whereby legislators who want to receive things of value from lobbyists may voluntarily participate and be named on the list. Only legislators whose name appears on this list can accept a thing of value from a registered lobbyist.

* * *

Submitted by

Chairman John Raley

Explanation: This amendment would create a gift or no gifts list to inform lobbyists which legislators will or will not accept things of value.

Purpose: The purpose of this amendment would be to prevent legislators who do not wish to receive gifts from lobbyists from having gifts offered and the need to reject or return them.

Person requesting amendment: This amendment was requested by Dr. John Wood, Common Cause Oklahoma.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 7

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:1-1-1(a)(2) and (3) and 257:1-1-6(m) as follows:

257:1-1-1. General purpose and authority

(a) **Intent.** The Ethics Commission was instituted as the statutory administrator of the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes. It retains these powers and others, as enumerated herein. As a statement of its general purpose and authority, the Ethics Commission finds:

(1) That the commission is to promulgate rules of ethical conduct for campaigns for elective state office and for campaigns for elective state office and for campaigns for initiative and referendum and rules of ethical conduct for state officers and state employees;

(2) That the central function of this title is to prevent, rather than punish, unethical conduct. ~~That the Commission is committed to providing an effective and comprehensive ethics education program which will provide the means and the opportunity to learn and understand the rules and principles underlying the standards of conduct herein.~~ The Commission shall publish and make available to the public and to persons subject to this title explanatory information concerning this title, the duties imposed by it and the means of enforcing it. It shall also be the goal of the Commission to initiate and continue programs for the purpose of educating officers, employees, and citizens of this state on matters of ethics and government service.

(3) ~~That the commission has had proposed rules substantially similar to the current language since 1992, that since a close version of the rules has been available for more than two years, the need for effective rules to be in place overrides the need for further time to familiarize the public and those under the Commission's jurisdiction with their content.~~

257:1-1-6. Powers and responsibilities of Commission

(m) **Education.** ~~The Commission shall initiate and continue programs for the purpose of educating officers, employees and citizens of this state on matters of ethics and government service. The Commission shall publish and make available to the public and to persons subject to this title explanatory information concerning this title, the duties imposed by it and the means for enforcing it. The Commission may conduct~~

~~research concerning state governmental ethics and implement the educational programs it considers necessary to effectuate this title. The Commission may work with the Oklahoma Library for the Blind and Physically Handicapped toward rendering the rules in both Braille and on audio tape. Subject to staff and budgetary restraints, the Commission shall provide orientation courses on the requirements of this title.~~

Subsections (n), (o) and (p) of Section 257:1-1-6 shall be re-lettered as (m), (n) and (o).

* * *

Submitted by

Vice Chair Jo Pettigrew

Explanation: This amendment would clean up and/or amend repetitive language on the intent of the Rules and Commission duties concerning education under the Rules.

Purpose: The purpose of this amendment would be to clean up and/or amend repetitive language in the Rules and the Commission's obligations to educate.

Person requesting amendment: This amendment was requested by Vice Chair Jo Pettigrew .

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 8

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:23-1-2 and Rule No. 257:20-1-9 as follows:

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

* * *

(c) Calendar year 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 one hundred dollars (\$100); and~~

(2) Other state State officers and state employees. ~~Except for an elective officer, no 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);~~

* * *

257:23-1-2 Anything of Value Reporting by lobbyists—Preservation of accounts, books, etc.

* * *

(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 one hundred dollars (\$100) annually to ~~any elective officer or the immediate family member of an elective officer, or things of value which, in the aggregate, are valued at more than one hundred dollars (\$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:~~

* * *

A thing or things of value given by a lobbyist; the lobbyist principal 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~~ Lobbyist 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~~ each 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. Lobbyist principals retaining or employing more than one lobbyist may designate one lobbyist to file the reports required by this section. Such reports shall include all the information required for things of value given by all lobbyists, as well as by others who are giving on behalf of the lobbyist principal. If the single report method is used, other lobbyists representing the same lobbyist principal shall indicate on their reports the identity of the individual reporting on behalf of them for the lobbyist principal, but shall not list those items on their own report.

* * *

Submitted by

Vice Chair Jo Pettigrew

Explanation: This amendment would clean up, in Sections 257:20-1-9(c) and 257:23-1-2(c), the former distinction between limits for elective officers and other state officers and state employees. Finally, it would further allow each lobbyist principal to designate one lobbyist to be responsible for its calendar year limits.

Purpose: The purpose of this amendment would be to clean up, in Section 257:20-1-9(c) and 257:23-1-2(c) the former distinction between limits for elective officers and other state officers and state employees. Finally, it would further allow each lobbyist principal to designate one lobbyist to be responsible for its calendar year limits.

Person requesting amendment: This amendment was requested by Vice Chair Jo Pettigrew .

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 9

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:23-1-2 and Rule No. 257:20-1-9 as follows:

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

* * *

(c) ~~Calendar year limits~~ Prohibition 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 one hundred dollars (\$100); and~~

~~(2) **Other state State officers and state employees.** Except for an elective officer, no 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) as defined and subject to the exceptions enumerated in the definition of " anything of value" in Section 2 of Chapter 1 of this title;~~

from a person who the state officer or state employee knows or should know :

~~(A) (1)~~ is a lobbyist or lobbyist principal, provided that the following shall not be subject to this subsection:

~~(i) (A)~~ 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) (B)~~ 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)~~ (3) 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)~~ (4) 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.

~~A thing or things of value given by a lobbyist; the lobbyist principal 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.~~

* * *

257:23-1-2 Anything of Value Reporting by lobbyists–Preservation of accounts, books, etc.

* * *

(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 one hundred dollars (\$100) annually to any elective officer or the immediate family member of an elective officer, or things of value which, in the aggregate, are valued at more than one hundred dollars (\$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 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.~~

~~(d) — **Contents of reports.** The information to be reported pursuant to the provisions of Subsection (b) of this section shall be as follows:~~

- ~~(1) — The name and position of the state officer or state employee to whom the thing of value was given;~~
- ~~(2) — The date the thing of value was given;~~
- ~~(3) — The nature of the thing of value given;~~
- ~~(4) — The amount of the expenditure made by the lobbyist or lobbyist principal for the thing of value; and~~
- ~~(5) — The name of the lobbyist principal or lobbyist principals on whose behalf the thing of value was given, if any.~~

~~(e) — **Prohibition against dividing costs among lobbyist principals or other lobbyists.** For purposes of reporting things of value as required by this section, a lobbyist giving a thing of value on behalf of more than one lobbyist principal shall not divide the cost of the thing of value by the number of participating lobbyist principals. Nor may a lobbyist divide the cost of a thing of value with other lobbyists for any single expenditure.~~

~~(f) — **Presence of lobbyist—exception for nominal things of value.** A lobbyist who gives a thing of value to a state officer or state employee must be present when the thing of value is accepted by the recipient unless the thing of value is of no more than ten dollars (\$10) in value.~~

~~(g) — **Reporting of things of value given on behalf of lobbyist or lobbyist principal.** A lobbyist shall also report things of value when given by other persons on behalf of the lobbyist or the lobbyist principal at the specific direction of the lobbyist or lobbyist principal if they were made with the knowledge of the lobbyist. When other persons, including lobbyist principals, give things of value that the lobbyist is required to report, the other persons shall provide a full, verified account of such things of value to the lobbyist at least seven (7) days before the reports of the lobbyists are due to be filed. When exact values are not known and not ascertainable, a good faith estimate of the fair market value shall be reported.~~

~~(h) — **Exception for campaign contributions.** Any information required to be reported pursuant to the provisions of Chapter 10 of this title is not required to be reported pursuant to the provisions of Sections 2 and 3 of this chapter.~~

~~(i) — **Form for lobbyist reporting.** The form or computer diskette with form software~~

~~for reports of lobbyists shall be prescribed by the Ethics Commission.~~

~~(j) **Record-keeping requirements.** Each lobbyist shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the activity reports required to be made pursuant to this section for four (4) years from the date of filing of the reports containing the items.~~

~~(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; or~~

~~(2) a tax-exempt professional organization established by state statute or rules passed by the Oklahoma Supreme Court,~~

~~to a state officer or state employee, who is an officer or director of the organization, when 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.~~

Submitted by

Commissioner

Explanation: This amendment would prohibit giving to state officers and state employees things of value from lobbyists and lobbyists principals, persons doing or seeking to do business with the governmental entity served, and persons with an economic interest in matters before or affecting the governmental entity served. It would also prohibit state officers and state employees from receiving such things of value from these groups. It would thus eliminate the need for disclosure.

Purpose: The purpose of this amendment would be to prohibit things of value from the three groups listed above thus eliminating the need for disclosure.

Person requesting amendment: This amendment was requested by Dr. John Wood.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 10

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:30-1-5(a)(1) and Rule No. 257:30-1-6(a)(1) and (5) as follows:
werw

257:30-1-5. Settlement agreements

- (a) The Commission may resolve any possible violation of this chapter by the following:
- (1) after prior notice and an opportunity to be heard, issuing a private reprimand to ~~the~~ a Respondent one time only for an inadvertent violation;
 - (2) after prior notice and an opportunity to be heard, issuing a public reprimand to ~~the~~ a Respondent;
 - (3) electing to enter into a settlement agreement.

A public reprimand and a settlement agreement shall be a matter of public record.

(b) The Commission may, at any time, enter into a settlement agreement with the Respondent to resolve any complaint or investigation. A settlement agreement, unless violated, shall be a bar to any other action by the Commission on the violation or violations specifically covered by the settlement agreement.

- (c) A settlement agreement may include, but shall not be limited to:
- (1) a requirement that the Respondent pay a civil penalty in accordance with Section 11 of Chapter 1 of this title;
 - (2) a requirement that the Respondent's conduct be conformed to the requirements of this title;
 - (3) forfeiture of gifts, receipts or profits obtained through a violation of this title; or
 - (4) a combination of the above, as necessary and appropriate, consistent with this title.

257:30-1-6. Public inspection or confidentiality of actions and records relating to alleged violations

(a) **Confidential Commission actions and records.** The following Commission actions and records are confidential and not open for public inspection:

- (1) information received from any source alleging violations of this title, except as may be filed in district court;

- (2) deliberations which shall include discussion of ethics interpretations, investigations, complaints, settlement ranges or settlement offers, decisions, and recommendations, and discussions on pending litigation, all of which shall be held in executive sessions of the Commission; and
- (3) records and materials obtained or work products prepared by the Commission, its employees or independent contractors in connection with an investigation or complaint; and
- (4) communications between the Executive Director of the Commission and the Chief Justice in writing pertaining to the disqualification of a member of the Commission pursuant to Section 5 of Chapter 1 of this title; and
- (5) private reprimands for inadvertent violations.

(b) **Commission actions and records open for public inspection.** The following Commission actions and records are open for public inspection:

- (1) Respondents and allegations contained in any complaint initiated by the Commission and any other information as may be filed in district court; and
- (2) Respondents and allegations contained in any record transmitted by the Commission to a law enforcement commission, officer, or prosecuting authority.

(c) **Disclosure to a respondent or law enforcement authority.** Notwithstanding Subsection (a) of this section, the record of a matter that is the subject of an investigation shall be disclosed upon written request to:

- (1) a Respondent or the subject of an investigation, or the attorney for a Respondent or subject of an investigation; provided that disclosure of the record to the Respondent or the subject of an investigation or to an attorney for a Respondent or subject of an investigation record shall be limited to a copy of the complaint, a copy of all statements made by the Respondent, a copy of all sworn statements by persons other than the Respondent, and any and all exculpatory evidence; or
- (2) a law enforcement commission, officer, or prosecuting authority to fulfill the purposes of this title.

~~(e)~~ (d) **Disclosure when necessary in investigation.** Notwithstanding Subsection (a) and (b) of this section, a record or any part of a record may, in the discretion of the Commission, be disclosed upon written request when necessary in the course of an investigation to such persons as are material to the investigation.

~~(d)~~ (e) **Disclosure by staff or independent contractor in investigation.** Notwithstanding anything in this section, an employee or independent contractor of the Commission may, when necessary in the course of an investigation, disclose a record or any part of a record to such persons as are material to the investigation.

~~(e)~~ (f) **Disclosure upon referral for criminal prosecution.** Notwithstanding anything in this chapter, a record or any part of a record containing information indicating that a violation of criminal law, whether state or federal, has occurred, may be transmitted to a law enforcement commission, officer, or prosecuting authority.

Submitted by

Commissioner

Explanation: This amendment would limit the Commission to issuing one private reprimand only to a respondent and would require disclosure of the Respondent(s) of and allegation(s) contained within complaints initiated by the Commission OR the subject of information alleging violations of criminal law referred by the Commission to a law enforcement commission, officer, or prosecuting authority.

Purpose: The purpose of this amendment would be to limit private reprimands to one per respondent and require the disclosure of the respondent(s) and allegation(s) of complaints initiated by the Commission OR the subject of information alleging violations of criminal law referred by the Commission to a law enforcement commission, officer, or prosecuting authority.

Person requesting amendment: This amendment was requested by Jeff Packham, Legislative Services Coordinator, The Journal Record Publishing Company.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 11

(Date)

Mr. Chairman:

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

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:

(1) the date the contribution was ~~given~~ tendered to the payee which shall not be more than thirty (30) calendar days after the date of the written instrument;

* * *

(m) **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.

The date of the written instrument shall not be more than thirty (30) calendar days prior to tender of the contribution to the payee.

* * *

Submitted by

Commissioner

Explanation: This amendment would require a contributor to tender a contribution of more than \$50 within 30 calendar days of the date of the written instrument.

Purpose: The purpose of this amendment would be to avoid checks being reported by contributing committees long before being tendered to the payee committees.

Person requesting amendment: This amendment was requested by Representative Mike Reynolds.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

WITHDRAWN W/O PREJUDICE

No. 12

DECEMBER 11, 2009

(Date)

Mr. Chairman:

Withdrawn without prejudice: Ethics Commission Rule No. 257:10-1-19(c) and 257:10-1-20(a)(3)(D) as follows:

257:10-1-19. Dissolution procedures

* * *

(c) **Final report.** ~~Upon dissolution~~

(1) **Candidate committees.** By the end of the sixth month following the General Election or Special General Election to fill the office for which the declaration of candidacy was filed, a candidate committee shall file a final report.

(2) **Non-candidate committees.** Upon dissolution, a non-candidate committee shall file a final report.

A final campaign contributions and expenditures report ~~may~~ shall be filed, by paper form or electronically transmitted, at the time or before a scheduled filing is due. A final report and a quarterly report may be filed on the same form or the final report may be filed separately. A quarterly report, designated as a final report, shall include contributions or expenditures, if any, which occur from the end of the quarterly reporting period until the time the report is filed without changing the due dates of quarterly reports as provided in Subsection (a) of Section 13 of this chapter. The form or electronic transmittal must be marked or designated "final".

* * *

257:10-1-20. Use of campaign contributions and use of surplus funds

(a) **Candidate committees.**

* * *

(3) **Use of surplus funds.** The surplus funds may:

* * *

(D) be retained by the candidate or candidate committee for use in a future election for the same or a different office for a six-year six-month period following the General Election or Special General Election to fill the office for which the declaration of candidacy was filed ~~for the same or a different office;~~

* * *

Submitted by

Withdrawn Without Prejudice December 11, 2009

Explanation: This amendment would require a candidate committee to dissolve by the end of the sixth month following the date of the General or Special General Election to fill the office for which the candidate filed a declaration of candidacy. It would not affect the committee's ability to transfer surplus or debt to a future election campaign.

Purpose: The purpose of this amendment would be to require a candidate committee to dissolve by the end of the sixth month following the date of the General or Special General Election to fill the office for which the candidate filed a declaration of candidacy.

Person requesting amendment: This amendment was requested and withdrawn without prejudice by Representative Mike Reynolds.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 13

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-10(d) and Rule No. 257:10-1-13(b)(4) and (c)(1) as follows:

257:10-1-10. Campaign depositories and campaign accounts.

(d) All contributions, other than in-kind contributions, accepted by the committee, directly or indirectly, shall be deposited in a campaign account within ten (10) days after acceptance. ~~All contributions received by a deputy treasurer or agent of the committee, including the candidate, on behalf of a committee shall be provided to the treasurer or, in the treasurer's absence, the deputy treasurer not later than five (5) days after receipt.~~

Section 257: 10-1-13. Pre-election reports by all committees.

(b) **Pre-election reports by all committees.**

* * *

(4) The first quarterly report due after a General Election in which a committee supported or opposed candidates on the ballot shall cover a period beginning with the first day following the end of the reporting period of the pre-election report for the General Election and end with the last day of the quarter.

* * *

(c) **Exemptions**

(1) **Candidate committees.** A candidate whose name will not appear on the ballot at the next election following the pre-election report dates provided by this subsection shall not be required to file a pre-election report for that election. The next report filed by that candidate shall include information for all transactions beginning with the end of the last reporting period for which the candidate was required to file a report and ending on the date specified for the report to be filed.

* * *

Submitted by

Vice Chair Jo Pettigrew

Explanation and Purpose: The rationale for this amendment, as written by Commissioner Pettigrew, is:

257:10-1-10(d). A candidate seems to be liable for the conduct of a third party under the current language (a person who might be holding checks for a time). The 10-day rule would still apply, which should make the 5-day rule more easily removed. The current language is confusing, also, in that it apparently makes a candidate the same as an agent of his own committee. It also implies that a deputy treasurer must turn over contributions just because the treasurer is not around.

257:10-1-13(b)(4) and (c)(1). If the purpose of filing campaign contributions and expenditure reports is to let voters know the source and amount of each candidate's campaign finances, then this amendment will continue to let that be done. However, an unopposed candidate in the general election shouldn't need to file reports prior to either the primary or run-off. Everyone will wind up on equal footing at the first report after the general election. Thus, there will be reports filed prior only to elections at which a candidate's name will appear on the ballot. This would eliminate a lot of paperwork and also save the staff time in processing it.

Person requesting amendment: This amendment was requested by Vice Chair Jo Pettigrew.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 14

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:1-1-2 and 257:10-1-20(a)(3)(H) as follows:

257:1-1-2. Definitions

* * *

“Congressional district” means a territorial division of the state of Oklahoma entitled to elect one member to the United States House of Representatives.

257:10-1-20. Use of campaign contributions and use of surplus funds

(a) **Candidate committees.**

* * *

(3) **Use of surplus funds.** The surplus funds may:

* * *

(H) be transferred to the state, county or ~~local central~~ congressional district committee of a political party, not to include an affiliated or connected entity of a political party; or

* * *

Submitted by

Vice Chair Jo Pettigrew

Explanation: This amendment defines congressional district and amends “local central” committee of a political party to its “county” or “congressional district” committees; clarifies that candidate committees may not transfer surplus funds to an affiliated or connected entity of a political party.

Purpose: The purpose of this amendment to define congressional district, to amend “local central” committee of a political party to its “county” or “congressional district” committees and to clarify that surplus funds of a candidate committee may not be transferred to an affiliated or connected entity of a political party.

Person requesting amendment: This amendment was requested by Vice Chair Jo Pettigrew.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 15

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-9(d)(3) as follows:

257:10-1-9. Committee officers and agents

* * *

(d) **Duties of the treasurer/deputy treasurer.**

* * *

(3) The treasurer or, in the treasurer's absence, the deputy treasurer of a committee shall file, in a timely manner, the appropriate reports or statements on the forms prescribed by the Commission. Filing statements and reports by Internet access only shall be required, ~~beginning July 1, 2006,~~ of a candidate committee which has exceeded ~~\$20,000~~ \$10,000 in contributions or expenditures during an active campaign or a non-candidate committee which has exceeded ~~\$20,000~~ \$10,000 in contributions or expenditures during the current or previous calendar year.

* * *

Submitted by

Vice Chair Jo Pettigrew

Explanation: This amendment lowers the threshold for mandatory electronic filing from more than \$20,000 to more than \$10,000 in contributions or expenditures during an active campaign for a candidate committee or the current or previous calendar year for other committees.

Purpose: The purpose of this amendment to require electronic filing by committees exceeding \$10,000 in activity.

Person requesting amendment: This amendment was requested by Vice Chair Jo Pettigrew .

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 16

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-9(d)(3) as follows:

257:10-1-17. Committee officers and agents

(a) The Commission ~~shall~~ may send by first class mail a notice of obligation to file and appropriate paper forms for filing the necessary report or statement no less than ten (10) days before the first day a report is due for each period for which a committee is required to file or electronically transmit such statement or report. The Commission ~~shall~~ may notify each registered committee no less than ten (10) days before each filing date for a monthly or quarterly report. The Commission ~~shall~~ may send a notice of obligation to file a pre-election report to a committee if information provided on the statement of organization indicates probable involvement in a particular election.

* * *

Submitted by

Vice Chair Jo Pettigrew

Explanation: This amendment would make mandatory pre-notices of reports and statements discretionary.

Purpose: The purpose of this amendment to make sending notices of reports and statements 10 days before due dates discretionary rather than mandatory.

Person requesting amendment: This amendment was requested by Vice Chair Jo Pettigrew .