

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

**for the 2011 Legislative Session**

**[Section 257:1-1-1 et seq., 74 O.S. Supp. 2010, Ch. 62, App.]**

**for consideration at the January 21, 2011**

**Public Hearing and 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 [defn of "anything of value" ] & 257:10-1-20(a) 257:10-1-2(m)	<p><b>ALTERNATIVE A</b> would exempt from " anything of value" partisan or non-partisan events limited to those for which the proceeds are not used for the support or opposition of state candidates but are donated to a charitable organization and would allow the surplus of " other funds" solicited in the name of or for the benefit of an elective officer or candidate to be contributed to a charitable organization</p> <p><b>ALTERNATIVE B</b> would exempt from " anything of value" the Speaker' s Ball, the Governor' s Inaugural Ball, those to meet and hear candidates for federal office or federal officeholders or candidates for state office or state officeholders from states other than Oklahoma and similar type events, provided the cost of the ticket does not include funds used for campaign purposes by the recipient</p>
2.	257:10-1-2(c)	would prohibit corporations and labor organizations from making an electioneering communication pertaining to a candidate for district judge, associate district judge or corporation commissioner if the corporation or labor organization is a party in interest to a case being adjudicated by that candidate or an opponent of the candidate or was a party to such a case within the previous four years
3.	257:10-1-2(b)	would require a contribution of more than \$50, for which no contributor statement was obtained, to be returned within 30 days of completing a 30-day effort but failing to obtain the contributor statement
4.	257:20-1-4(a)	would remove the prohibition against threatening to misuse office and would require intent and action to prove an attempt was made to misuse office

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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 may be taken at any regular meeting but no later than the January 2011 Regular Meeting.

5. 257:10-1-2(e)(2) would exempt from the ban on PAC-to-PAC transfers those made to ballot measure committees and committees formed solely to make independent expenditures or electioneering communications; it would also strike application of the ban to out-of-state and federal committees
6. 257:1-1-2 (defns) and 257:10-1-2(a)(c)&(d) would amend definitions and remove any prohibition against, and limit on, individuals, corporations and labor organizations making independent expenditures or electioneering communications or contributing to political action committees formed solely to make independent expenditures or electioneering communications
7. 257:10-1-14(a)(12) & (a)(13) & 257:10-1-16(a) & (b) would require 24-hour reporting of independent expenditures and reporting of independent expenditures, amended to include "electioneering communications", on Form C-1R in order to balance out contributions against expenditures

**SUBSTITUTE PROPOSED RULE AMENDMENT #7**

- 257:10-1-14(a)(12) & (a)(13) & 257:10-1-16(a) & (b) would require the same itemization of independent expenditures by committees as is currently required on Form C-5R [Last Minute Report of Independent Expenditures]. The \$500 figure, which appears in this provision, matches the threshold required in the Last Minute Report of Independent Expenditures; Rule 257:10-1-16(a) and (b) sets the disclosure threshold at that amount
8. 257:1-1-2 (defn of "substantial financial interest" ) would redefine "substantial financial interest" in light of today's economy

**ETHICS COMMISSION**  
**STATE OF OKLAHOMA**

DISPOSITION BY COMMISSION

**RULE AMENDMENT**

No. 1

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

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:1-1-2 [definition of " anything of value" ] and 257:10-1-20(a) as follows:

**ALTERNATIVE A. STAFF' S DRAFT**

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

\* \* \*

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

\* \* \*

(2) These terms do not include:

\* \* \*

(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;

(U) 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

(V) a ticket to the Speaker' s Ball or like events, the proceeds of which are not used to support or oppose state candidates, but are donated to a charitable organization. Events to meet and hear candidates for federal office or federal officeholders shall not be subject to the requirement to donate the proceeds to a charitable organization.

\* \* \*

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

(a) **Candidate committees.**

(1) **Use of campaign contributions.** Contributions accepted by a candidate committee may not be converted by any person to any personal use, but shall be used, together with any interest income earned on such contributions, to

defray any campaign expenditures or any ordinary and necessary nonreimbursed expenses incurred by the person in connection with his duties as a holder of the state office, including, but not limited to:

- (A) payment of debts of a former election campaign of the same candidate,
- (B) payment of expenses for use in a future election campaign of the same candidate,
- (C) for political activity,
- (D) for community activity or
- (E) for nonreimbursed office related expenses, or
- (F) or tickets for the Speaker's Ball or like events, the proceeds of which are not used to support one or more state candidates, but are donated to a charitable organization. Events to meet and hear candidates for federal office or federal officeholders shall not be subject to the requirement to donate the proceeds to a charitable organization.

Said contributions shall not be used for any other purposes except as permitted in Paragraph (3) of this subsection.

(2) **Designation of use of surplus funds.** A candidate whose candidate committee has an unexpended balance of funds not otherwise obligated for the purposes specified in Paragraph (1) of this subsection shall designate how the surplus funds are to be distributed. Uses are limited to those included in Paragraph (3) of this subsection and shall be set forth on the committee's statement of organization. Surplus funds may not be expended for any other purpose. The designated use or uses for surplus funds may be changed by the candidate committee by filing an amended statement of organization, provided that no contributions received prior to the date the amended statement of organization is filed with the Commission may be used for the amended use or uses.

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

- (A) be deposited with the State Treasurer to the credit of the General Revenue Fund;
- (B) be returned to the contributors pursuant to any formula approved by the candidate; provided, any amount returned to a contributor shall not exceed the amount of the original contribution;
- (C) be contributed to a charitable organization;
- (D) be retained by the candidate or candidate committee for use in a future election for a six-year period following the General Election for the same or a different office;
- (E) be used to defend legal actions or proceedings arising out of the campaign, election, or the performance of the candidate's official duties as a state officer; provided that such funds shall not be used to defend criminal charges;

- (F) be used for a community activity;
- (G) be used for political activity.;
- (H) be transferred to the state, county or congressional district committee of a political party, not to include an affiliated or connected entity of a political party;
- (I) be distributed using a combination of these options; or
- (J) be used for tickets for the Speaker's Ball or like events, the proceeds of which are not used to support one or more state candidates, but are donated to a charitable organization. Events to meet and hear candidates for federal office or federal officeholders shall not be subject to the requirement to donate the proceeds to a charitable organization.

\* \* \*

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

\* \* \*

(m) **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:
  - (A) returned to the donors pursuant to a formula by which no donor receives more than his or her original donation; ~~or~~
  - (B) deposited with the State Treasurer to the credit of the General Revenue Fund; or
  - (C) donated to a charitable organization.

Submitted by

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Commissioner

**ALTERNATIVE B. REPRESENTATIVE DORMAN' S DRAFT**

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

\* \* \*

**“Anything of value”, “Thing of value” or “Things of value”**

\* \* \*

(2) These terms do not include:

\* \* \*

(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) 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

(V) a ticket to the Speaker' s Ball, the Governor' s Inaugural Ball, events to meet and hear candidates for federal office or federal officeholders or candidates for state office or state officeholders from states other than Oklahoma and similar type events, **provided the cost of the ticket does not include funds used for campaign purposes by the recipient.**

\* \* \*

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

(a) **Candidate committees .**

(1) **Use of campaign contributions .** Contributions accepted by a candidate committee may not be converted by any person to any personal use, but shall be used, together with any interest income earned on such contributions, to defray any campaign expenditures or any ordinary and necessary nonreimbursed expenses incurred by the person in connection with his duties as a holder of the state office, including, but not limited to,

(A) payment of debts of a former election campaign of the same candidate,

(B) payment of expenses for use in a future election campaign of the same candidate,

(C) for political activity,

(D) for community activity, ~~or~~

(E) for nonreimbursed office related expenses, or

(F) for tickets for the Speaker' s Ball, the Governor' s Inaugural Ball, events to meet and hear candidates for federal office or federal

officeholders or candidates for state office or state officeholders from states other than Oklahoma and similar type events, provided the cost of the ticket does not include funds used for campaign purposes by the recipient.

Said contributions shall not be used for any other purposes except as permitted in Paragraph (3) of this subsection.

(2) **Designation of use of surplus funds.** A candidate whose candidate committee has an unexpended balance of funds not otherwise obligated for the purposes specified in Paragraph (1) of this subsection shall designate how the surplus funds are to be distributed. Uses are limited to those included in Paragraph (3) of this subsection and shall be set forth on the committee's statement of organization. Surplus funds may not be expended for any other purpose. The designated use or uses for surplus funds may be changed by the candidate committee by filing an amended statement of organization, provided that no contributions received prior to the date the amended statement of organization is filed with the Commission may be used for the amended use or uses.

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

(A) be deposited with the State Treasurer to the credit of the General Revenue Fund;

(B) be returned to the contributors pursuant to any formula approved by the candidate; provided, any amount returned to a contributor shall not exceed the amount of the original contribution;

(C) be contributed to a charitable organization;

(D) be retained by the candidate or candidate committee for use in a future election for a six-year period following the General Election for the same or a different office;

(E) be used to defend legal actions or proceedings arising out of the campaign, election, or the performance of the candidate's official duties as a state officer; provided that such funds shall not be used to defend criminal charges;

(F) be used for a community activity;

(G) be used for political activity;

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

(I) be distributed using a combination of these options; or

(J) be used for tickets for the Speaker's Ball, the Governor's Inaugural Ball, events to meet and hear candidates for federal office or federal officeholders or candidates for state office or state officeholders from states other than Oklahoma and similar type events, provided the cost of the ticket does not include funds used for campaign purposes by the recipient.

Submitted by

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Commissioner

**Explanation:** Alternative A would require exemptions to “anything of value” for partisan or non-partisan events to be limited to those for which the proceeds are not used for the support or opposition of state candidates but are donated to a charitable organization. It would also allow the surplus of “other funds” solicited in the name of or for the benefit of an elective officer or candidate under 257:10-1-2(m) to be contributed to a charitable organization.

Alternative B is to exempt from “anything of value” the Speaker’s Ball, the Governor’s Inaugural Ball, those to meet and hear candidates for federal office or federal officeholders or candidates for state office or state officeholders from states other than Oklahoma and similar type events, provided the cost of the ticket does not include funds used for campaign purposes by the recipient.

**Purpose:** The purpose of Alternative A is to eliminate the possibility that the proceeds of a political event which is an exemption to “anything of value” or for which campaign funds are donated to a charitable organization and to allow other funds solicited in the name of or for the benefit of an elective officer or candidate to be contributed to a charitable organization.

The purpose of Alternative B is to exempt from “anything of value” the Speaker’s Ball, the Governor’s Inaugural Ball, events to meet and hear candidates for federal office or federal officeholders or candidates for state office or state officeholders from states other than Oklahoma and similar type events, provided the cost of the ticket does not include funds used for campaign purposes by the recipient.

**Person requesting amendment:** Consideration of both alternatives to this amendment was requested by Representative Joe Dorman.

**ETHICS COMMISSION**  
**STATE OF OKLAHOMA**

DISPOSITION BY COMMISSION

**RULE AMENDMENT**

No. 2

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

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:10-1-2(c) as follows:

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

**(c) 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 to, or for the benefit of, a candidate or committee in connection with an election, 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) A corporation or labor organization shall not make an electioneering communication pertaining to any candidate for District Judge, Associate District Judge or Corporation Commissioner if the corporation or labor organization is a party to a case being adjudicated by that candidate or an opponent of that candidate, or was a party to such a case within the previous four (4) years.

(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.

~~(4)~~ (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.

\* \* \*

Submitted by

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Commissioner

**Explanation:** This amendment would prohibit corporations and labor organizations from making an electioneering communication pertaining to a candidate for district judge, associate district judge or corporation commissioner if the corporation or labor organization is a party in interest to a case being adjudicated by that candidate or an opponent of the candidate or was a party to such a case within the previous four years.

**Purpose:** The purpose of this amendment is to prevent expenditures by parties in interest before adjudicatory officials.

**Person requesting amendment:** This amendment was requested by Lynn Howell, on behalf of Common Cause Oklahoma.

**ETHICS COMMISSION**  
**STATE OF OKLAHOMA**

DISPOSITION BY COMMISSION

**RULE AMENDMENT**

No. 3

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

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:10-1-2(b) as follows:

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

\* \* \*

(b) **Contributor statement.** Within ten (10) business days of accepting a single contribution exceeding fifty dollars (\$50.00), or 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
- (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 no contributor statement has been obtained within ten (10) days after a contribution is accepted, or if a contributor statement obtained pursuant to the provisions of this subsection is incomplete, the treasurer shall make at least three efforts after acceptance of the contribution to obtain the missing information. Such efforts shall consist of either a mailed or electronic request sent to the contributor. All three separate requests must be made no later than thirty (30) days after acceptance of the contribution. The requests shall not include material on any other subject or any additional solicitation, except that they may include language solely thanking the contributor for the contribution. The requests must clearly ask for the contributor statement or 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. In the case of mailed requests, the requests shall be accompanied by a pre-addressed return post card or envelope for the response material. In the case of electronic requests, the requests shall include specific instructions for submitting the contributor statement or missing information. If the treasurer makes such effort within the thirty (30) day time period prescribed in this paragraph, the person accepting the contribution shall be deemed to be in compliance with the provisions of this subsection. Thereafter, the treasurer must return the contribution within thirty (30) days.

\* \* \*

Submitted by

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Commissioner John Raley

**Explanation:** This amendment would require a contribution of more than \$50, for which no contributor statement was obtained, to be returned within 30 days of completing a 30-day effort but failing to obtain the contributor statement.

**Purpose:** The purpose of this amendment is to require the return of a contribution if no contributor statement is received.

**Person requesting amendment:** This amendment was requested by Lynn Howell, on behalf of Common Cause Oklahoma.

**ETHICS COMMISSION**  
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

**RULE AMENDMENT**

No. 4

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

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:20-1-4(a) as follows:

**257:20-1-4. Misuse of office**

(a) No state officer or state employee shall use, or attempt to use ~~or threaten to use~~ his or her official position to solicit or secure special privileges, exemptions or compensation for himself, herself or others, except in the performance of his or her duties or as may be allowed by law. “Attempt” shall mean that the state officer or state employee intended to violate this section and performed an act toward accomplishing the violation of this section. Such prohibited activity, except as provided by statute, shall not include: ...

\* \* \*

Submitted by

\_\_\_\_\_  
Vice Chair Karen Long

**Explanation:** This amendment would remove the prohibition against threatening to misuse office and would require intent and action to prove an attempt was made to misuse office.

**Purpose:** The purpose of this amendment is to eliminate the prohibition for threatening to misuse office and require intent and action to prove an attempt to misuse office.

**Person requesting amendment:** This amendment was requested by Speaker of the House Chris Benge.

**ETHICS COMMISSION**  
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

**SECOND SUBSTITUTE RULE AMENDMENT** \_\_\_\_\_

No. 5

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

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:10-1-2(e)(2) as follows:

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

\* \* \*

**(e) Prohibition on transfer of funds between committees.**

\* \* \*

(2) **Political action committee transfers.** A political action committee, ~~including an out-of-state committee also registered in another state or states and a committee also registered under the laws of the United States,~~ shall not make a contribution to another political action committee as specified herein. A political action committee, ~~including an out-of-state committee also registered in another state or states and a committee also registered under the laws of the United States,~~ shall not accept a contribution from another political action committee as specified herein. This subsection shall not prohibit:

(i) a political action committee, including an out-of-state committee also registered in another state or states and a committee also registered under the laws of the United States, from making a transfer to a ballot measure committee;

(ii) a political action committee from making a transfer to a committee formed solely to make independent expenditures or electioneering communications; or

(iii) 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.

\* \* \*

Submitted by

\_\_\_\_\_  
Commissioner John Raley

**Explanation:** This amendment would exempt from the ban on PAC-to-PAC transfers those made to ballot measure committees and SuperPACs – committees formed solely to make independent expenditures or electioneering communications. It would also strike application of the ban to out-of-state and federal committees.

**Purpose:** The purpose of this amendment is to allow transfers from PACs to ballot measure committees and SuperPACs and not to ban transfers to or from out-of-state or federal committees.

**Person requesting amendment:** This amendment was requested by Commissioner John Raley.

**ETHICS COMMISSION**  
**STATE OF OKLAHOMA**

DISPOSITION BY COMMISSION

**RULE AMENDMENT**

No. 6

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

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:1-1-2 (definitions of contribution, expenditures and political action committee) and 257:10-1-2(a), (c) and (d), 257:10-1-14(a)(12) and (13) and 257:10-1-16(a) as follows:

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

\* \* \*

**"Contribution"**

(1) means and includes:

(A) a gift, subscription, loan, guarantee or forgiveness of a loan, conveyance, advance, payment, distribution, or deposit of money or anything of value made to and with the knowledge and for the benefit of a committee, which expressly advocates the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures, or for reducing the debt of such committee;

(B) an expenditure expressly advocating the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures made by a person or committee, other than a candidate committee, with the cooperation of, or in consultation with, a committee, a candidate, candidate committee, or candidate's agent or that is made in concert with, or at the request or suggestion of, a candidate, candidate committee, or candidate's agent;

(C) the difference between the payment to a person, other than a candidate or committee, of compensation for personal services or products to the candidate or committee, and the reasonable and customary rate charged by the person for like services or products in like quantities when the candidate or committee has knowledge of the discounted services or products;

(D) anything of value received by a committee that is transferred from another committee or other source;

(E) sums paid for tickets for a political event such as a reception, rally, or a similar fundraising event; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting and contribution limitations requirements of Chapter 10 of this title, by the actual cost of consumables furnished by the committee in connection with the purchase of the tickets, and only the excess over the actual cost of the consumables shall be deemed a contribution;

(F) the candidate's own money used on behalf of that candidate's candidacy; and

(G) the difference between the open market value and a discount or rebate:

(i) not extended to the public generally; or

(ii) by a television or radio station not extended equally to all candidates for the same office.

(2) The term "contribution" shall not include:

(A) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or committee;

(B) for purposes of the contribution limits set forth in Section 2 of Chapter 10, the transfer of any funds by a political action committee to an affiliated or connected political action committee or by a party committee to an affiliated or connected party committee, provided the committees have been established as provided by law and the transferring committee and the receiving committee have been established, directly or indirectly, and are administered or financially supported, directly or indirectly, by a common entity; or

(C) any payment or obligation incurred by a corporation, labor organization, membership organization, cooperative or corporation without capital stock for the establishment, administration, and solicitation of contributions to a separate segregated fund or political action committee to be utilized for political purposes;

(D) a nonreimbursed payment made by an individual for the individual's own travel expenses on behalf of a committee;

(E) a payment made by an occupant of a residence or office for costs related to a meeting or fundraising event held in the occupant's residence or office if the costs for the meeting or fundraising event do not exceed five hundred dollars (\$500). However, if the occupant hosts more than one (1) event in an election cycle for the same beneficiary, all subsequent payments that exceed five hundred dollars (\$500) in the aggregate are contributions;

(F) a loan of money made in the ordinary course of business by a financial institution authorized to transact business in this state at terms and interest rates generally available to a member of the public without regard to that person's status as a state officer or state employee or a candidate for state office by the institution;

(G) a communication by a corporation, labor organization, or association aimed at its employees, members, owners, stockholders, directors, executive administrative personnel, or their families that is not coordinated with, requested by, or made upon consultation with a candidate or party committee or the treasurer, deputy treasurer or agent of a candidate committee or party committee;

(H) a tender of a contribution if the tender is not accepted, including use as collateral, or is transferred to the state as provided in Subsection (i) of Section 2 of Chapter 10 of this title;

(I) the fair market value earnings of a sole proprietorship, partnership, limited partnership, limited liability partnership, or limited liability company; or

(J) a communication which does not expressly advocate the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures.

(3) If any person makes, or contracts to make, any disbursement for any electioneering communication as defined in this section; and such disbursement is coordinated with a:

(A) candidate or authorized committee of such candidate, or agent or official of any such candidate, such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication and as an expenditure by that candidate committee;

(B) state or local political party or committee thereof, or agent or official of such political party, such disbursement or contracting shall be treated as a contribution to the political party of the candidate or candidates supported by the electioneering communication and as an expenditure by that candidate's or candidates' party; or

(C) ballot measure committee, or an agent or official of any such ballot measure committee; such disbursement or contracting shall be treated as a contribution to the ballot measure committee supported by the electioneering communication and as an expenditure by that ballot measure committee.

\* \* \*

**"Expenditure":**

(1) means a purchase, payment, distribution, loan, advance, compensation, reimbursement, fee deposit, transfer of funds between committees, or a gift made by a committee which is used to expressly advocate the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures.

(2) An expenditure does not include the following:

(A) a loan of money, made in the ordinary course of business, by a financial institution authorized to transact business in this state;

(B) a communication by a corporation, labor organization, or association aimed at its employees, members, owners, stockholders, executive administrative personnel, or their families, ~~except a communication by the corporation's political action committee promoting or opposing a candidate or candidates;~~

(C) uncompensated services provided by an individual volunteering the individual's time; or

(D) a transfer of funds to another committee if such transfer is not accepted; or

(E) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political action committee, candidate, candidate committee or ballot measure committee.

\* \* \*

**"Political action committee"**

(1) means a combination of at least two individuals, or a person other than an individual:

(A) with the primary purpose of:

(i) expressly supporting or opposing a clearly identified candidate or candidates, or a party committee, except those required to file with the Federal Election Commission, or

(ii) supporting or opposing a ballot measure; and

(B) which accepts or gives contributions or makes expenditures from a joint account aggregating at least five hundred dollars (\$500) during a calendar year.

(2) does not include:

(A) a party committee or a candidate committee;

(B) a person other than an individual, when that person makes an expenditure or expenditures from an account to which contributions have not been solicited or accepted from any other persons or individuals; and, the expenditure or expenditures are required by these rules to be reported by the recipient committee or committees as a contribution or contributions; ~~and~~

(C) a combination of individuals, or a person other than an individual, if the combination of individuals, or a person other than an individual, solicits contributions on behalf of a committee; and, any contributions received as a result of the solicitation are forwarded to the committee without being deposited in any account; and, the contributions are required by these rules to be reported by the committee that receives the contributions;

(D) a corporation; or

(E) a labor union.

\* \* \*

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

(a) **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 state or local ballot measure; ~~or~~

(B) a committee formed solely to make independent expenditures or electioneering communications; or

(C) a candidate making a contribution of his or her own funds, to his or her campaign.

\* \* \*

**(c) 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~~ to 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 to, or for the benefit of, a candidate or committee in connection with an election, except that this provision shall not apply to:

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

(B) a committee formed solely to make independent expenditures or electioneering communications; or

(C) 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.

(d) **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 unless the committee is formed solely to make independent expenditures or electioneering communications.

\* \* \*

Submitted by

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Chairman Bob McKinney

**Explanation:** This amendment would amend definitions and allow corporations and labor unions to make unlimited independent expenditures and electioneering communications from their treasury funds and would allow all persons, including corporations and labor unions, to give unlimited contributions to political action committees formed solely to make independent expenditures or electioneering communications. It would also require 24-hour reporting of independent expenditures and reporting of independent expenditures, amended to include "electioneering communications", on Form C-1R in order to balance out contributions against expenditures.

**Purpose:** The purpose of this amendment is to conform the Rules to the holdings in *Citizens United v. Federal Election Commission*, 558 U.S. 50 (2010), a landmark decision by the United States Supreme Court; *Speechnow.org v. Federal Election Commission*, 599 F.3d 686, 689 (D.C. Cir. 2010); and Federal Election Commission Advisory Opinion AO-2010-11 and to require disclosure of independent expenditures and electioneering communications within 24 hours of the expenditure.

**Person requesting amendment:** This amendment was requested by Chairman Bob McKinney.

**ETHICS COMMISSION**  
**STATE OF OKLAHOMA**

DISPOSITION BY COMMISSION

**RULE AMENDMENT**

No. 7

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

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:10-1-14(a)(12) and (13) and 257:10-1-16(a) 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, including independent expenditures and electioneering communications, made during the reporting period and the year-to-date or campaign-to-date total;

(B) the amount, date, 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 —for which each campaign expenditure was made in excess of one thousand dollars (\$1,000.00) in the aggregate to one (1) entity during the reporting period, 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); and

(D) Committees may file all expenditures in lieu of the additional bookkeeping requirement of grouping together all expenditures aggregating ~~\$50~~ one thousand dollars (\$1,000) or less to one entity and all expenditures aggregating more than ~~\$50~~ one thousand dollars (\$1,000) 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;

~~(13) —the following information about independent expenditures:~~

~~(A) — the total of independent 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 what was purchased for each individual independent expenditure in excess of fifty dollars (\$50) in the aggregate made during the reporting period, and the purpose of the expenditure; and~~

~~(C) — the total of independent expenditures not required to be reported in Subparagraph (B);~~

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

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

\* \* \*

Paragraphs 14 through 20 would then be renumbered as (13) through (19).

**257:10-1-16. Report Special report of ~~last-minute~~ independent expenditures and electioneering communications**

(a) **Independent expenditures by committee.** A committee, including an out-of-state committee, that makes an independent expenditure of five hundred dollars (\$500) or more ~~after the closing date for the pre-election reporting period, but before the election, at any time~~ shall report the total amount, the date, the name and address of the entity to which the independent expenditure was made; items purchased, description of the consideration for the expenditure and the purpose, whether support or opposition; and the beneficiary, whether candidate or ballot measure, for each individual independent expenditure on the paper form or electronically transmitting the information on the form to the Commission office by United States mail, hand delivery, facsimile transmission, telegram, or express delivery service within twenty-four (24) hours of making the expenditure. The report shall include the signature or typed signature on electronically filed forms of the person making the expenditure, or the treasurer or, in the treasurer's absence, the deputy treasurer of a reporting committee, who shall attest to the report's accuracy and veracity. This information shall be included on the next report filed on paper, or electronically transmitted by the committee.

(b) **Independent expenditures by person other than committee.** A person other than a committee that makes an independent expenditure of Five Hundred Dollars (\$500.00) or more at any time, shall file a report with the Commission disclosing the name of such person and street address, city, state and zip code, occupation and employer or principal business activity, along with the recipient's name, street address, city, state and zip code, description of the payment, the date, the amount, the name of one or more candidates or ballot measures mentioned, the purpose of the independent expenditure, and how much was spent regarding each candidate or ballot measure for each individual independent expenditure. The report shall be filed on the

paper form or by electronically transmitting the information to the Commission office by United States mail, hand delivery, facsimile transmission, telegram, or express delivery service within twenty four (24) hours of making the expenditure. The report shall include the signature, or typed signature on electronically filed forms, of the person making the expenditure, who shall attest to the report's accuracy and veracity.

\* \* \*

Submitted by

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Vice Chair Bob McKinney

**Explanation:** This amendment would require 24-hour reporting of independent expenditures and reporting of independent expenditures, amended to include "electioneering communications", on Form C-1R in order to balance out contributions against expenditures.

**Purpose:** The purpose of this amendment is to require disclosure of independent expenditures and electioneering communications within 24 hours of the expenditure.

**Person requesting amendment:** This amendment was requested by Chairman Bob McKinney.

## SUBSTITUTE RULE AMENDMENT NO. 7

### 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, date, items purchased, 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 —for which each campaign expenditure was made in excess of one thousand dollars (\$1,000.00) in the aggregate to one (1) entity during the reporting period, 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); and

(D) Committees may file all expenditures in lieu of the additional bookkeeping requirement of grouping together all expenditures aggregating ~~\$50~~ one thousand dollars (\$1,000) or less to one entity and all expenditures aggregating more than ~~\$50~~ one thousand dollars (\$1,000) 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;

(13) the following information about independent expenditures:

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

(B) the amount, the date, items purchased, and a brief description of what was purchased the consideration, and an explanation of the purpose —which must permit a reasonable person to determine the reason for the purchase — for which each individual independent expenditure in excess of ~~fifty~~ five hundred dollars (~~\$50~~) \$500 in the aggregate was made to one (1) entity during the reporting period, the name and address of the person to which the independent expenditure was made, the beneficiary of the independent expenditure and the year to date total ~~the purpose of the expenditure;~~ and

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

(D) Committees may file all independent expenditures in lieu of the additional bookkeeping requirement of grouping together all independent expenditures aggregating ~~\$50~~ \$500 or less to one entity and all independent expenditures aggregating more than ~~\$50~~ \$500 to one entity;

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

\* \* \*

**257:10-1-16. Report of last minute independent expenditures and electioneering communications**

(a) **Independent expenditures by committee.** A committee, including an out-of-state committee, that makes an independent expenditure of five hundred dollars (\$500) or more after the closing date for the pre-election reporting period, but before the election, shall report the total amount, the date, the name and address of the entity to which the independent expenditure was made; items purchased, description of the consideration for the expenditure and the purpose, whether support or opposition; and the beneficiary, whether candidate or ballot measure, for each individual independent expenditure on the paper form ~~or electronically transmitting the information on the form~~ to the Commission office by United States mail, hand delivery, facsimile transmission, telegram, or express delivery service or by electronically transmitting the information

on the form within twenty-four (24) hours of making the expenditure. The report shall include the signature or typed signature on electronically filed forms of the person making the expenditure, or the treasurer or, in the treasurer's absence, the deputy treasurer of a reporting committee, who shall attest to the report's accuracy and veracity. This information shall be included on the next report filed on paper, or electronically transmitted by the committee.

(b) **Independent expenditures by person other than committee.** A person other than a committee that makes an independent expenditure of Five Hundred Dollars (\$500.00) or more at any time, shall file a report with the Commission disclosing the name of such person and street address, city, state and zip code, occupation and employer or principal business activity, along with the recipient's name, street address, city, state and zip code, description of the payment, the date, the amount, the name of one or more candidates or ballot measures mentioned, the purpose of the independent expenditure, and how much was spent regarding each candidate or ballot measure for each individual independent expenditure. The report shall be filed on the paper form or by electronically transmitting the information to the Commission office by United States mail, hand delivery, facsimile transmission, telegram, or express delivery service within twenty four (24) hours of making the expenditure. The report shall include the signature, or typed signature on electronically filed forms, of the person making the expenditure, who shall attest to the report's accuracy and veracity.

\* \* \*

Submitted by

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Commissioner

**Explanation:** This substitute amendment would require itemization of independent expenditures of \$500 or more on Schedule F of Form C-1R and clean-up changes to Form C-5R [Last Minute Report of Independent Expenditures].

**Purpose:** The purpose of this substitute amendment is to require the same itemization of independent expenditures by committees as is currently required on Form C-5R [Last Minute Report of Independent Expenditures]. The \$500 figure, which appears in this provision, matches the threshold required in the Last Minute Report of Independent Expenditures. Rule 257:10-1-16(a) and (b) sets the disclosure threshold at that amount.

**Person requesting amendment:** This substitute amendment arose from public comments at the December 2010 Public Hearing. It was prepared by Staff to meet concerns expressed by Commissioners in the discussion.

**ETHICS COMMISSION**  
**STATE OF OKLAHOMA**

DISPOSITION BY COMMISSION

**RULE AMENDMENT**

No. 8

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

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:1-1-2 (definition of "substantial financial interest") as follows:

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

"Substantial financial interest"

(1) means and includes, but is not limited to:

(A) an interest that could result in directly or indirectly receiving a substantial pecuniary gain or sustaining a substantial pecuniary loss as a result of a person's ownership or interest in a business entity, or as a result of a person's salary, gratuity or other compensation or remuneration from any person, partnership, organization or association. The term "substantial financial interest" includes, but is not limited to, an ownership interest of five percent (5%) or more in a business enterprise or an interest in an entity from which dividends of one thousand dollars (\$ 1,000.00) or more were derived during the preceding calendar year.

(B) An ownership interest in a private business, closely held corporation or limited liability company for which the person or the person's immediate family member is a director, officer, owner, manager, employee, or agent or any private business, closely held corporation or limited liability company in which the person or the person's immediate family member owns or has owned stock, another form of equity interest, stock options, debt instruments, or has received dividends, worth one thousand dollars (\$1,000.00) or more at any point during the preceding calendar year;

(C) An ownership interest of five percent (5%) or more in a publicly held corporation by a person or the person's immediate family member;

(D) An ownership interest in a publicly held corporation from which dividends of one hundred thousand dollars (\$100,000.00) or more were derived during the preceding calendar year by the person or the person's immediate family member;

(E) An interest which arises as a result of the person's or the person's immediate family member's service as a director, officer,

representative, agent or employee of a publicly held corporation within the preceding calendar year; or,

(F) For “public members”, any interest, profits, or perquisites, arising from the use of public funds in his hands, or monies to be raised through his agency for state, city, town or county purposes may be construed as a “substantial financial interest” in accordance with Okla. Const. Art. X, § 11.

(2) The term “substantial financial interest” shall not be construed to include:

(A) An interest in a mutual fund or other community investment vehicle in which the person or the person’s immediate family member exercises no control over the vehicle’s acquisition or sale of particular holdings; or

(B) An interest in a pension plan, 401k, IRA or other retirement investment vehicle in which the person or the person’s immediate family member exercises no control over the vehicle’s acquisition or sale of particular holdings.

\* \* \*

Submitted by

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Commissioner

**Explanation:** This amendment would redefine “substantial financial interest”.

**Purpose:** The purpose of this amendment is to adjust the definition of “substantial financial interest” in light of today’s economy.

**Person requesting amendment:** This amendment was requested by Paula Hearn, Chief Administrative Officer of the OKDHS Office of Administration, LOC #174.