

RULES OF THE ETHICS COMMISSION

REVISED PROPOSED AMENDMENTS and/or DRAFTS

for the 2012 Legislative Session
[Section 257:1-1-1 et seq., 74 O.S. 2011, January 20, 2012
Regular Meeting of the Ethics Commission¹
[incorporated into the Notice/Agenda by reference]

SYNOPSIS OF AMENDMENTS

Amendment	Section	Subject
1.	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
2.	257:10-1-2(e)(2)	makes no changes beyond the 2011 amendments; however, it is carried forward because members have requested further study of the ban on PAC-to-PAC transfers
3.	257:20-1-4(a)	would except, from the limitations on use of office, compensation and expenses only when paid to a state officer/employee for performance of his or her job
4.	ALTERNATIVE A 257:1-1-2 257:1-1-6(e) 257:1-1-7(7) 257:10-1-10(f) 257:10-1-14(a) (12) and (13) and 257:10-1-16	sponsored by Commissioner Raley defines terms for disclosure of peripheral campaign activity; would require disclosure by all groups making independent expenditures or electioneering communications or transferring funds to groups making or intending to make such disbursements; deletes requirements for out-of-state committees
	ALTERNATIVE B 257:10-1-12 257:10-1-14(a)(13) 257:10-1-16 257:10-1-20(b)(4)	sponsored by Chair Long The amendment to 257:20-1-12 provides for the registration of a political action committee that will make only independent expenditures or electioneering communications. In the amendment to 257:10-1-14, information required for reporting independent expenditures and electioneering communications is, to the extent possible, made uniform. The amendment requires disclosure of the amount, date, brief description or statement of each expenditure, the name of the candidate and office supported or opposed, and whether the expenditure is made to support or oppose the candidate. In the amendment to 257:10-1-16, the time an independent expenditure or

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 may be taken at any regular meeting but no later than the January 2012 Regular Meeting.

- electioneering communication is considered to be “made” is the time it is publicly disseminated to eligible voters. The amendment puts reporting on the same schedule as a PAC. And in the amendment to 257:20-1-20 there is language to provide for the distribution of surplus funds by a PAC that makes only independent expenditures
5. 257:10-1-9(d)(3) would require all committees with more than \$500 in activity to file campaign statements of organization and contributions and expenditures reports electronically
 6. 257:1-1-2 [defn of “anything of value”] and 257:23-1-2(d) would expand the current rule to exempt from the definition of “anything of value” not only when all Legislators are invited, but also when all members of either house or any of the caucuses, committees or subcommittees are invited. Required reporting would include the cost of events, including those which cost less than \$10 per person, the event would have to take place during the legislative day, and such events would be limited to one time per year without reporting other details. Lobbyists and lobbyists principals would be limited to one event per calendar year to which all the members of the legislature were invited; restrictions on splitting costs among lobbyists and/or lobbyist principals and the required presence of a lobbyist when things of value greater than \$10 are given are excepted for such events.
 7. 257:10-1-20(a)(3)(H) would allow legislators to contribute surplus funds to the Young Republicans or the Young Democrats within their county or within the state organization with a cap of \$5,000 per calendar year in the aggregate to all such groups
 8. 257:30-1-5(d) **Tabled at December 16, 2011 meeting;** would require the names of those with late fee assessments to be publicly posted in the office of the Commission following personal notification. Protests could be filed, and the Commission could schedule a hearing or assign a hearing officer. How much a late fee could be reduced and under what circumstances would be clarified. The hearing officer would make recommendations to the Commission which could either be approved or “pulled” for further testimony or discussion. Finally, a late fee could not be reduced unless it was justified – first, by evidence that it was not late or – second, by compelling evidence such as serious illness or injury of the filer or the filer’s immediate family member

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 1

(Date)

Madame Chair:

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

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. 2

(Date)

Madame Chair:

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 shall not make a contribution to another political action committee as specified herein. A political action committee shall not accept a contribution from another political action committee as specified herein. This subsection shall not prohibit:

(A) 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;

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

(C) 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

Explanation: This amendment makes no changes beyond the 2011 amendments submitted to the Legislature.

Purpose: This amendment makes no changes beyond the 2011 amendments; however, it is carried forward because members have requested further study of the ban on PAC-to-PAC transfers.

Person requesting amendment: Further study of this issue was requested by the Commission.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 3

(Date)

Madame Chair:

I agree to sponsor Ethics Commission Rule No. 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 his or her official position to solicit or secure special privileges, exemptions or compensation for himself; or herself. An officer or employee may receive compensation and expenses paid for the performance of his or her duties as allowed by law. No state officer or state employee shall use his or her official position to solicit or secure special privileges, exemptions or compensation for 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 any overt act toward accomplishing the violation of this section. Such prohibited activity shall include accepting compensation for an article, appearance or speech, or for participation at an event, as set forth in Subsection (h) of Section 9 of Chapter 20 of this title. Such prohibited activity, except as provided by statute, shall not include: ...

* * *

Submitted by

Commissioner

Explanation: This amendment assumes changes made in 2011 become effective. It would except, from the limitations on use of office, compensation and expenses only when paid to a state officer/employee for performance of his or her job duties.

Purpose: The purpose of this amendment is to clarify that "except in the performance of his or her duties" means accepting compensation and expenses only when paid to a state officer/employee for the performance of his or her job duties.

Person requesting amendment: This amendment was requested by Andrew Tevington, General Counsel of the Oklahoma Corporation Commission.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 4

(Date)

ALTERNATIVE A

Madame Chair:

I agree to sponsor Ethics Commission Rule Nos. 257:1-1-2, 257:1-1-6(b), 257:1-1-7(7), 257:10-1-10(f), 257:10-1-14(a)(12) and (13) and 257:10-1-16 as follows:

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

* * *

“Bundled contributions”

(1) **In general.** For the purposes of Section 16 of Chapter 10 of this title, the term “bundled contribution” means any contribution or other payment:

(A) transmitted or forwarded from the contributor or payor to the covered entity by another person; or

(B) received by the covered entity from the contributor or payor, where the covered entity either knows another person raised or solicited such contributions or payments, or credits another person for raising or soliciting such contributions or payments through records, designations or other means of recognition.

(2) **Joint fundraising.** If two or more persons have jointly provided bundled contributions to a covered entity or have been credited for jointly providing bundled contributions to a covered entity, then each such person shall be deemed to have provided the total amount of such bundled contributions to the entity for the purpose of applying the monetary thresholds described in Subsection (a) of Section 2 of Chapter 10 of this title.

* * *

“Covered entity.” For the purposes of Section 16 of Chapter 10 of this title, the term “covered entity” means any of the following:

(1) Any corporation as defined in this section, other than a corporation described in paragraph (3) of section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(2) Any organization as defined in this section;

(3) Any group described in paragraph (4), (5), or (6) of Section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

(4) Any political committee under section 527 of the Internal Revenue Code of 1986, other than a political committee under this title.

* * *

“Disclosure date” For the purposes of Section 16 of Chapter 10 of this title, the term “disclosure date” means:

(1) the first date during any calendar year by which a covered entity has made disbursements for peripheral campaign activity in an aggregate amount equal to or exceeding \$1,000; and

(2) any other date during such calendar year by which a covered entity has made disbursements for peripheral campaign activity in an aggregate amount equal to or exceeding \$1,000 since the most recent disclosure date for such calendar year.

* * *

“Peripheral campaign activity”

(1) In general. For the purposes of Section 14(a)(13) and Section 16 of Chapter 10 of this title, the term “peripheral campaign activity” means:

(A) an independent expenditure consisting as defined in this section;

(B) an electioneering communication, as defined in this section, provided however that the time period in the definition of “electioneering communication” shall be 120 days instead of 60 days;

(C) a transfer of funds from a covered entity to another person for the purpose of funding such an independent expenditure or electioneering communication by that person, as described by Paragraph (2); or

(D) a transfer of funds from a covered entity to another person for the purpose of funding a transfer by that person, as described by Paragraph (2).

(2) Transfers made for purpose of funding peripheral campaign activity. A transfer of funds by a covered entity to another person is “for the purpose of funding such an independent expenditure or electioneering communication by that person or by any other person,” if one or more of the following apply:

(A) The covered entity that transferred the funds designates, requests, or suggests that the transferred funds be used by the recipient to make an independent expenditure consisting of a public communication or an electioneering communication, as defined in Paragraph (1)(B);

(B) The person to whom the amounts were transferred or its agent or representative solicited the covered entity for funds to make an

independent expenditure consisting of a public communication or an electioneering communication, as defined in Paragraph (1)(B);

(C) The covered entity that transferred the funds has spent, in aggregate, 25 percent or more of its gross receipts in the period beginning on the first day of the calendar year and ending on the transfer date to make independent expenditures consisting of a public communications or electioneering communications, as defined in Paragraph (1)(B);

(D) The covered entity that transferred the funds spent, in aggregate, 25 percent or more of its annual gross receipts or assets in the immediately preceding calendar year to make independent expenditures consisting of public communications or electioneering communications, as defined in Paragraph (1)(B);

(E) the covered entity that transferred the funds spent, in the aggregate, \$5,000 or more to make independent expenditures consisting of public communications or electioneering communications, as defined in Paragraph (1)(B), during the 12-month period which ends on the date of the transfer; or

(F) the covered entity that transferred the funds knew or had reason to know that the recipient would use the transferred funds to make independent expenditures consisting of a public communications or electioneering communications, as defined in Paragraph (1)(B), in the 12-month period beginning on the date of the transfer.

* * *

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

* * *

(b) **Repository.** The Commission shall serve as the official repository for statements of financial interests, statements of organization, last minute contributions reports, ~~last minute independent expenditures~~ peripheral campaign activity reports, statements of inactivity, campaign contributions and expenditures reports, lobbyist expenditure reports and such other documents filed by committees, state officers, state employees, lobbyists and other persons as pertain to its duties.

* * *

257:1-1-7. Forms and publications

The Executive Director shall devise or designate forms and form software and publications to conform with this title, subject to the approval of the Commission, which shall include, but not be limited to, the following forms and publications and shall make such forms, form software and publications available to the public:

* * *

- (7) ~~Last minute independent expenditures~~ Peripheral campaign activity
report;

* * *

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

* * *

~~(f) An out-of-state committee or person, except a corporation or labor organization, accepting donations from other persons and making independent expenditures or electioneering communications with respect to elections governed by this chapter, shall make such independent expenditures and electioneering communications from a segregated account which contains only funds which comply with the monetary limit for contributions to a candidate set forth in paragraph (2) of subsection (a) of Section 2 of this chapter and which comply with the provisions of subsection (d) of Section 2 of this chapter. The out-of-state committee or person, except a corporation or labor organization, shall be required to disclose the location of the account to the Commission. The reports required by paragraph (2) of subsection (c) of Section 13 of this chapter and paragraph (3) of subsection (c) of Section 16 of this chapter shall be made with respect to the account required by this subsection.~~

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, a brief description of the consideration, and an explanation of the purpose —w hich 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~~ peripheral campaign activity:

(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, the name and address of each person who received disbursements of an aggregate amount of \$1,000 or more for peripheral campaign activity during the period covered by the report and the aggregate amount of disbursements received by such person in the period, the election to which the disbursement pertains and the names (if known) of the candidates or ballot measures identified or to be identified and the purpose of the expenditure; and~~

~~(C) (B) the total of independent expenditures peripheral campaign activity not required to be reported in Subparagraph (B) (A).~~

~~(D) (C) Committees may file all independent expenditures peripheral campaign activity in lieu of the additional bookkeeping requirement of grouping together all independent expenditures such disbursements aggregating \$50 \$1,000 or less to one entity and all independent expenditures those aggregating more than \$50 \$1,000 to one entity;~~

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

* * *

Rule 10-1-16. ~~Report of last minute independent expenditures and electioneering communications~~ Reports by covered entities making disbursements for peripheral campaign activity

(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 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.~~ **Peripheral campaign activity report.** If a covered entity makes disbursements for peripheral campaign activity in an aggregate amount equal to or exceeding \$1,000 in a calendar year, it shall, within 24 hours of each disclosure date, as defined in Section 2 of Chapter 1 of this title, file with the Commission a statement containing the information described in Subsection (b).

~~(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.~~ **Contents of statement.** Each statement required to be filed under this subsection shall contain the following information:

- (1) The name of the covered entity, as defined in Section 2 of Chapter 1 of this title, making the disbursement and of any person sharing or exercising direction or control over the activities of such person.
- (2) The principal place of business of the covered entity.
- (3) The name and address of each person who received disbursements of an aggregate amount of \$1,000 or more from the covered entity for peripheral campaign activity, as defined in Section 2 of Chapter 1 of this title, during the period covered by the statement and the aggregate amount of disbursements received by such person in this period;
- (4) The elections to which the disbursement pertains and the names (if known) of the candidates identified or to be identified;
- (5) If the disbursements were paid out of a Peripheral Campaign Activity Account that complies with the requirements of Subsection (d),
 - (A) the names and addresses of all persons who contributed, transferred or paid an aggregate amount of \$500 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date, as defined in Section 2 of Chapter 1 of this title; and
 - (B) the name and address of each person who provided 2 or more bundled contributions to that account in an aggregate amount equal to

or exceeding \$1,000 during the period beginning on the first day of the preceding calendar year and ending on the disclosure date, and the aggregate amount of the bundled contributions, as defined in Section 2 of Chapter 1 of this title, provided by each such person during this period.

(6) If the disbursements were paid out of funds not described in Paragraph (5).

(A) the names and addresses of all persons who contributed, transferred or paid an aggregate amount of \$500 or more to the covered entity making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date; and

(B) the name and address of each person who provided 2 or more bundled contributions to the covered entity in an aggregate amount equal to or exceeding \$1,000 during the period beginning on the first day of the preceding calendar year and ending on the disclosure date, and the aggregate amount of the bundled contributions provided by each such person during this period.

(c) Electioneering communications. Treatment of transfers made to other persons.

~~(1) Any person, including an out-of-state committee, who makes a payment or payments or promise of payment or payments totaling five thousand dollars (\$5,000) or more for an electioneering communication or series of electioneering communications shall file a statement with the Commission disclosing the name of such person and street address, city, state and zip code, occupation and employer, along with the recipient's name, street address, city, state and zip code, description of the payment, the amount, the name of one or more candidates mentioned, the purpose of the communication or series of communications and how much was spent regarding each candidate mentioned. Additionally, an out-of-state committee or person, except a corporation or labor organization, who accepts donations from other persons shall provide the name and address of the financial institution at which the account required by subsection (f) of Section 10 of this chapter is maintained. The report shall be filed within twenty-four (24) hours of making the payment or payments or the promise to make the payment or payments.~~
In general. For purposes of the requirement to file reports under this subsection, a covered entity that makes a transfer described by Section 2, definition of peripheral campaign activity, paragraph (1)(C) and (D), shall be considered to have made a disbursement for peripheral campaign activity.

~~(2) Except as provided in paragraph (1), if any person other than an out-of-state committee or person has received a payment or payments or a promise of payment or payments from other persons totaling fifty dollars (\$50) or more for the purpose of making an electioneering communication or series of electioneering communications, the person receiving the payments shall disclose on the report the name, street address, city, state, zip code, occupation and employer, date and amount received from each person who has made a payment of fifty dollars (\$50) or more since the beginning of the calendar year.~~ **Exception.** Notwithstanding any other provision of this

subsection, a covered entity that makes a transfer described in Section 2, definition of peripheral campaign activity, paragraph (1)(C) and (D) shall not be required to file a report under this subsection provided that:

(A) the transfer is comprised wholly of funds contributed, transferred or paid to the covered entity in a commercial transaction made in the ordinary course of business;

(B) the covered entity making the transfer has not received any funds that were designated by the donor to be used for disbursements for peripheral campaign activity during the 12-month period ending on the date of the transfer; and

(C) the covered entity making the transfer has not solicited funds to make disbursement for peripheral campaign activity during the 12-month period ending on the date of the transfer.

~~(3) — Except as provided in paragraph (1), if an out-of-state committee or person has received a payment or a promise of payment from other persons totaling two hundred dollars (\$200.00) or more for the purpose of making an electioneering communication within this state, the committee or person receiving the payments shall disclose on the report the number and amount of payments of less than two hundred dollars (\$200.00) and the name, street address, city, state, zip code, occupation and employer, date and amount received from each person who has made a payment of two hundred dollars (\$200.00) or more on a last-in-first-out-basis in an amount which equals or exceeds the amount of payments for electioneering communications made in this state with respect to elections governed by this chapter. Such a committee or person shall also report all contributions from Oklahoma contributors within the twelve-month period preceding the last date of the reporting period.~~

~~(4) — A person who receives or is promised a payment or payments that are otherwise reportable under Paragraph (1) is not required to report the payment or payments if the person is in the business of providing goods or services and receives or is promised the payment or payments for the purpose of providing those goods or services.~~

(d) **Peripheral campaign activity account.**

(1) **Establishment of account.** At its option, a covered entity may establish and make disbursements from a Peripheral Campaign Activity Account (hereafter in this paragraph referred to as the "Account"), which shall be maintained separately from all other accounts of the entity and which shall consist exclusively of the deposits described in subparagraph (B).

(2) **Deposits Described.** The funds that may be deposited in a covered entity's Peripheral Campaign Activity Account are limited to amounts contributed, transferred or paid directly to the Account by a person other than the entity.

(e) **Exclusions from report.** For the purposes of the reports filed under this section:

(1) In determining the amount of disbursements for peripheral campaign activity made by a covered entity, there shall be excluded any amounts paid from a political action committee established and administered by the entity.

(2) In determining the persons who have made contributions, payments or transfers to a covered entity or provided bundled contributions to a covered entity, there shall be excluded the following:

(A) Any person who either contributed, transferred or paid funds or provided bundled contributions to the covered entity in any commercial transaction made in the ordinary course of business, unless there is affirmative evidence that the amounts were received by the covered entity for the purpose of making an independent expenditure or electioneering communication; and

(B) Any person who contributed, transferred or paid funds to a covered entity and, in writing, requested that the covered entity not use such funds to make a disbursement for peripheral campaign activity, provided that the entity did not use such funds to make a disbursement for peripheral campaign activity.

(f) **Coordination with other provisions.** A covered entity required to file a report under this section shall not be required to file the same information in any report required under Section 14 or Section 15. Notwithstanding any other provision of law, a political entity required to file a report with the Internal Revenue Service under section 527(j) of Title 26 shall be required also to file reports that comply with the disclosure provisions of this section.

Submitted by

Commissioner John Raley

ALTERNATIVE A.

Explanation: This amendment defines terms for disclosure of peripheral campaign activity and would require disclosure by all groups making independent expenditures or electioneering communications or transferring funds to groups making or intending to make such disbursements.

Purpose: The purpose of this amendment is to require disclosure of the sources of independent expenditures, electioneering communications and of transfers of funds to be utilized for these disbursements.

Person requesting amendment: This amendment was drafted by the Ethics Commission staff in response to Legislators' request for timely disclosure of independent expenditures and electioneering communications which, pursuant to *Buckley v Valeo* and *Citizens United v FEC*, may not be limited by source or amount.

ALTERNATIVE B

Madame Chair:

I agree to sponsor Ethics Commission Rule Nos. 257:10-1-12, 257:10-1-14(a)(13), 257:10-1-16 and 257:10-1-20(b)(4) as follows:

257:10-1-12. Statement of Organization

* * *

(c) Statement of organization for a political action committee that will make only independent expenditures or electioneering communications.

(1) The statement of organization for a political action committee that will make only independent expenditures or electioneering communications shall include the following:

(A) the full name of the committee, which may not include the name of a candidate and, if amending a former statement of organization, the number assigned by the Ethics Commission for the committee pursuant to the initial registration;

(B) the complete mailing address, electronic mailing address, and daytime telephone number of the committee;

(C) the date the committee was organized;

(D) a statement that the committee will make only independent expenditures or electioneering communications;

(E) the full name, mailing address, electronic mailing address, daytime telephone number, and principal place of business of the chair;

(F) the full name, mailing address, electronic mailing address, daytime telephone number, and principal place of business of the treasurer, and, if appointed, of a deputy treasurer;

(G) the designation of an officer to receive notices of required filings and late violations;

(H) the full name, mailing address, electronic mailing address, daytime telephone number, and principal place of business of the custodian of the books and accounts if other than the designated officers;

(I) the full name and address of each depository in which the committee will maintain its campaign account, which, for an out-of-state committee, shall be the account required by subsection (f) of Section 10 of this chapter;

(J) the actual signature of the treasurer or typed signature of the treasurer on electronically filed forms, certifying that each officer has provided the committee with written acceptance of the appointment and that the information provided is true, complete and correct.

257:10-1-14. Report Contents

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

* * *

(13) the following information about independent expenditures and electioneering communications:

(A) the total of independent expenditures and electioneering communications made during the reporting period and the ~~year to date or campaign to date~~ total independent expenditures and electioneering communications made during the election cycle;

(B) the amount, the date and a brief description or statement 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 the name and office of the candidate supported or opposed, indicating whether the candidate was supported or opposed, and a brief description or statement of each electioneering communication and the name and office of the candidate to whom the electioneering communication referred.; ~~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;~~ If the person making the independent expenditure or electioneering communication, other than a political action committee, received funds from any other person for the purpose of making an independent expenditure or expenditures or an electioneering communication or communications, the report shall include the name, address and principal business activity of each person contributing funds in excess of Fifty Dollars (\$50.00) in the aggregate and the amount of any such contribution or contributions that have not been previously reported, together with a cumulative total of all contributions made by each person since the first report was filed for the election for which the independent expenditure or electioneering communication is being made.

* * *

257:10-1-16. Reports 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 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.~~

(1) An independent expenditure shall be considered to have been made at the time a communication financed by the independent expenditure is publicly disseminated to voters eligible to vote in the election for which the independent expenditure is being made and shall include all independent expenditures obligated at that time.

(2) Any person other than an individual or a political action committee that makes an independent expenditure of Five Thousand Dollars (\$5,000.00) or more in the aggregate at least fifteen (15) days prior to any election shall be required to file a report with the Commission at the same time that committees are required to file pre-election reports for the applicable election by Section 10-1-13(b) of this Chapter.

(3) Any person other than an individual, including a political action committee, that makes an independent expenditure of Five Thousand Dollars (\$5,000.00) or more in the aggregate during the period beginning no more than fourteen (14) days prior to any election and ending on the day of the election shall make a report to the Commission no later than the business day following the day the expenditure is made.

(4) Each report filed by a person other than a political action committee shall include the name and address of the person making the independent expenditure and the name, street address, telephone number, and office or title of the individual filing the report. The report shall include the information on independent expenditures required by Section 10-1-14(a)(13) of this chapter. A report filed by a political action committee shall include the information required by Section 10-1-14(a)(1) of this Chapter and the information on independent expenditures required by Section 10-1-14(a)(13) of this Chapter. All reports shall be made electronically.

~~(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 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 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 report, who shall attest to the report's accuracy and veracity.

(e) (b) **Electioneering communications.**

(1) ~~Any person, including an out of state committee, who makes a payment or payments or promise of payment or payments totaling five thousand dollars (\$5,000) or more for an electioneering communication or series of electioneering communications shall file a statement with the Commission disclosing the name of such person and street address, city, state and zip code, occupation and employer, along with the recipient's name, street address, city, state and zip code, description of the payment, the amount, the name of one or more candidates mentioned, the purpose of the communication or series of communications, and how much was spent on each candidate mentioned. Additionally, an out of state committee or person who accepts donations from other persons shall provide the name and address of the financial institution at which the account required by subsection (f) of Section 10 of this chapter is maintained. The report shall be filed within twenty four (24) hours of making the payment or payments or the promise to make the payment or payments. An electioneering communication shall be considered to have been made at the time a communication financed by the electioneering communication is publicly disseminated to voters eligible to vote in the election for which the electioneering communication is being made and shall include all electioneering communications obligated at that time.~~

(2) ~~Except as provided in paragraph (1), if any person other than an out of state committee or person has received a payment or payments or a promise of a payment or payments from other persons totaling fifty dollars (\$50) or more for the purpose of making an electioneering communication or series of communications, the person receiving the payments shall disclose on the report the name, street address, city, state, zip code, occupation and employer, date and amount received from each person who has made a payment of fifty dollars (\$50) or more since the beginning of the calendar year. Any person other than an individual or a political action committee that makes an electioneering communication of Five Thousand Dollars (\$5,000.00) or more, in the aggregate, at least fifteen (15) days prior to any election shall be required to file a report with the Commission at the same time that committees are required to file pre-election reports for the applicable election by Section 10-1-13(b) of this Chapter.~~

(3) ~~Except as provided in paragraph (1), if an out of state committee or person has received a payment or a promise of payment from other persons totaling two hundred dollars (\$200.00) or more for the purpose of making an electioneering communication within this state, the committee or person receiving the payments shall disclose on the report the number and amount of payments of less than two hundred dollars (\$200.00) and the name, street address, city, state, zip code, occupation and employer, date and amount received from each person who has made a payment of two hundred dollars (\$200.00) or more on a last in first out basis in an amount which equals or exceeds the amount of payments for electioneering communications made in this state with respect to elections governed by this chapter. Such a committee or person shall also report all contributions from Oklahoma contributors within~~

~~the twelve month period preceding the last date of the reporting period. Any person other than an individual, including a political action committee, that makes an electioneering communication of Five Thousand Dollars (\$5,000.00) or more, in the aggregate, during the period beginning no more than fourteen (14) days prior to any election and ending on the day of the election shall make a report to the Commission no later than the business day following the day the expenditure is made.~~

(4) ~~A person who receives or is promised a payment or payments that are otherwise reportable under Paragraph (1) is not required to report the payment or payments if the person is in the business of providing goods or services and receives or is promised the payment or payments for the purpose of providing those goods or services. Each report filed by a person other than a political action committee shall include the name and address of the person making the electioneering communication and the name, street address, telephone number, and office or title of the individual filing the report. The report shall include the information on electioneering communications required by Section 10-1-14(a)(13) of this chapter. A report filed by a political action committee shall include the information required by Section 10-1-14(a)(1) of this Chapter and the information on electioneering communications required by Section 10-1-14(a)(13) of this Chapter. All reports shall be made electronically.~~

257:10-1-20. Use of Campaign Contributions and Use of Surplus Funds.

* * *

(b) **Other committees.**

* * *

(4) **Use of surplus funds by political action committees making only independent expenditures or electioneering communications** . Surplus funds of political action committees formed to make only independent expenditures or electioneering communications may be:

- (A) deposited with the State Treasurer to the credit of the General Revenue Fund;
- (B) returned to the contributors pursuant to any formula approved by the committee; provided, any amount returned to a contributor shall not exceed the amount of the original contribution;
- (C) donated to other political action committees formed solely to make independent expenditures or electioneering communications;
- (D) donated to a charitable organization; or
- (E) donated to a community activity.

* * *

Submitted by

Chair Karen Long

ALTERNATIVE B.

Explanation: This amendment to 257:20-1-12 provides for the registration of a political action committee that will make only independent expenditures or electioneering communications. In the amendment to 257:10-1-14, information required for reporting independent expenditures and electioneering communications is, to the extent possible, made uniform. The amendment requires disclosure of the amount, date, brief description or statement of each expenditure, the name of the candidate and office supported or opposed, and whether the expenditure is made to support or oppose the candidate. In the amendment to 257:10-1-16, the time an independent expenditure or electioneering communication is considered to be “made” is the time it is publicly disseminated to eligible voters. The amendment puts reporting on the same schedule as a PAC. And in the amendment to 257:20-1-20 there is language to provide for the distribution of surplus funds by a PAC that makes only independent expenditures.

Purpose: Provides an alternative to Alternative A.

Person requesting alternative amendment: This alternative amendment was drafted by Chair Karen Long.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 5

(Date)

Madame Chair:

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 of a candidate committee which has exceeded ~~\$10,000~~ \$500 in contributions or expenditures during an active campaign or a non-candidate committee which has exceeded ~~\$10,000~~ \$500 in contributions or expenditures during the current or previous calendar year.

* * *

Submitted by

Commissioner

Explanation: This amendment would require all committees with more than \$500 in activity to file campaign statements of organization and contributions and expenditures reports electronically.

Purpose: The purpose of this amendment is to inform citizens of the financing of political campaigns by lowering the threshold for mandatory electronic filing from \$10,000 to \$500.

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

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 6

(Date)

Madame Chair:

I agree to sponsor Ethics Commission Rule Rules Sections 257:1-1-2 [definition of “ anything of value,” etc.] and 257:23-1-2(d) as follows:

257:1-1-2. Definitions

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

* * *

(2) These terms do not include:

* * *

(G) food and beverage consumed on the occasion when participating in a charitable, civic, or community event, ~~or at any event to which all members of the Legislature are invited, which bears a relationship to the state officer's or state employee's office~~ and the officer or employee is attending in an official capacity;

* * *

(V) food and beverage provided at any event to which all members of the Legislature are invited, provided this provision shall apply no more than one time per calendar year for any lobbyist principal;

(W) food and beverage provided at any meeting of the political caucus of either House of the Legislature, provided the House involved has not adjourned for the day, during a regular or special legislative session; food and beverage provided at any event to which all members of a committee or subcommittee of either House of the Legislature identified in the Rules or Journal of the respective House are invited and which is attended by a majority of members of the committee or subcommittee. Any lobbyist or lobbyist principal may provide food and beverage to any meeting of a political caucus or to any event to which all members of a committee or subcommittee of either House are invited as contemplated by this subsection; provided, however, if a lobbyist or lobbyist principal provide food and beverage to the same political caucus of either House or to an event to which all members of the same committee or same subcommittee of either House are invited more than one time during a calendar year, the second such meeting or event and any subsequent meetings or events shall not be subject to the exception to the definition of “ things of value” provided by this subsection.

* * *

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

* * *

(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 full name and electronic mailing address of the lobbyist or other person filing the report;
- (2) The name and position of the state officer or state employee to whom the thing of value was given;
- (3) The date the thing of value was given;
- (4) The nature of the thing of value given;
- (5) The amount of the expenditure made by the lobbyist or lobbyist principal for the thing of value; and
- (6) The name of the lobbyist principal or lobbyist principals on whose behalf the thing of value was given, if any.

(7) The date and total expenditure for food and beverages provided at any event to which all members of the Legislature are invited; the date and total expenditure for food and beverages provided at any meeting of a political caucus of either House of the Legislature; the identity of the caucus; the date and total expenditure for food and beverages provided at an event to which all members of a legislative committee or subcommittee of either House of the Legislature identified in the Rules or Journal of the respective House are invited and which is attended by a majority of the members of the committee or subcommittee. A lobbyist reporting the date and total expenditure for food and beverages provided at any of the foregoing events need not report the names of individuals who participated, but must maintain in his or her records a list of all participants at an event to which all members of a legislative committee or subcommittee are invited.

(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. A single event during any calendar year, disclosed pursuant to Paragraph (7) of Subsection (d) of this section, is hereby excepted from this section.

(f) **Presence of lobbyist – exception for nominal things of value.** ~~A~~ Except for a single event during any calendar year, disclosed pursuant to Paragraph (7) of Subsection (d) of this section, 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.

* * *

Submitted by

Commissioner Jo Pettigrew

Explanation: This amendment would expand the current rule to exempt from the definition of “anything of value” not only when all Legislators are invited, but also when all members of either house or any of the caucuses, committees or subcommittees are invited. Required reporting would include the cost of events, including those which cost less than \$10 per person, the event would have to take place during the legislative day, and such events would be limited to one time per year without reporting other details. Lobbyists and lobbyist principals would be limited to one event per calendar year to which all the members of the legislature were invited. Restrictions on splitting costs among lobbyists and/or lobbyist principals and the required presence of a lobbyist when things of value greater than \$10 are given are excepted for such events.

Purpose: The purpose of this amendment is to make such lobbying expenditures transparent.

Person requesting amendment: This amendment was requested by Dr. Jo Pettigrew .

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 7

(Date)

Madame Chair:

I agree to sponsor Ethics Commission Rules Sections 257:10-1-20(a)(3)(H) as follows:

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 congressional district committee of a political party; ~~not to include an affiliated or connected entity of a political party or to an organization affiliated with a state, county or congressional district committee of a political party that is specifically identified in the rules, bylaws or similar provisions of the state political party central committee; provided the aggregate total of surplus funds transferred to a state, county or congressional district committee of a political party, or an organization affiliated with a state, county or congressional district committee of a political party, shall not exceed Five Thousand Dollars (\$5,000.00) per calendar year;~~

* * *

Submitted by

Commissioner Jo Pettigrew

Explanation: This amendment would allow legislators to contribute surplus funds to the Young Republicans or the Young Democrats within their county or within the state organization with a cap of \$5,000 per calendar year in the aggregate to all such groups.

Purpose: The purpose of this amendment is to encourage partisan youths.

Person requesting amendment: This amendment was requested by Dr. Jo Pettigrew.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 8

(Date)

Madame Chair:

I agree to sponsor Ethics Commission Rules Sections 257:30-1-5 as follows:

257:30-1-5. Resolution of investigations other than by complaints

- (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 Respondent for an inadvertent violation;
 - (2) after prior notice and an opportunity to be heard, issuing a public reprimand to the Respondent;
 - (3) electing to enter into a settlement agreement.
- (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.
- (d) The Commission shall assess late filing fees as prescribed by Title 74, Section 4256 of the Oklahoma Statutes. The Executive Director of the Commission shall post notice of each assessment for public view in the offices of the Commission. The Executive Director shall notify any candidate or committee or other person assessed such late filing fees of the assessment and shall advise such candidate or committee of the right to object to the late filing fee assessment by filing a protest with the Commission within thirty (30) days after posting of the notice in the offices of the Commission. If no protest is filed within thirty (30) days, the assessment shall be final.

(e) If a protest is filed, the Commission may schedule a hearing on the protest, or it may assign to a Hearing Officer appointed by the Commission the authority to conduct an evidentiary hearing on the protest. If the Commission assigns a Hearing Officer the authority to conduct an evidentiary hearing on a protest, the Hearing Officer's authority shall be limited to making a recommendation to the Commission. A Hearing Officer shall make a recommendation reducing the late filing fees only upon a determination (1) that the required registrations or reports were not filed after the required date or (2) that the late filing was justified by compelling evidence such as serious illness or injury, including illness or injury to an immediate family member, which evidence shall be stated in the Hearing Officer's recommendation. The Commission alone shall determine the amount of the late fee assessment.

* * *

Submitted by

Commissioner Jo Pettigrew

Explanation: This amendment was tabled at the December 16, 2011 regular meeting. It would require the names of those with late fee assessments to be publicly posted in the office of the Commission following personal notification. Protests could be filed, and the Commission could schedule a hearing or assign a hearing officer. How much a late fee could be reduced and under what circumstances would be clarified. The hearing officer would make recommendations to the Commission which could either be approved or “pulled” for further testimony or discussion. Finally, a late fee could not be reduced unless it was justified – first, by evidence that it was not late or – second, by compelling evidence such as serious illness or injury of the filer or the filer's immediate family member.

Purpose: The purpose of this amendment is to define the criteria for lowering the amount assessed for late filings.

Person requesting amendment: This amendment was requested by Dr. Jo Pettigrew.