



OKLAHOMA ETHICS COMMISSION

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NOTICE OF REGULAR MEETING

The Ethics Commission of the State of Oklahoma will hold a regular meeting February 9, 2024, at 10:00 o'clock a.m. The Commission will meet at the Oklahoma State Capitol, 2300 N. Lincoln Blvd., Room G-3, Oklahoma City, Oklahoma 73105.

AGENDA

1. Call to order and determination of quorum present. Chair Brejcha
2. Open Meeting Act Compliance. Chair Brejcha
3. Introductions and Announcements. Chair Brejcha
4. Announcements, consideration, discussion, and possible action on the disqualification or recusal of a Commissioner or Commissioners pursuant to Ethics Rule 1.6 for any item listed herein, other than those items listed for Executive Session. Deputy Director and General Counsel McCord
5. Consideration, discussion, and possible action on minutes for the regular meeting and executive session held January 12, 2024. Chair Brejcha
6. Introduction and explanation of rulemaking request R-24-01 submitted by Representative Cody Maynard regarding requirements for original source disclosures, campaign communication spending notification to donors, and disclosure of top donors on certain campaign communication disclaimers. Deputy Director and General Counsel McCord, Representative Cody Maynard, and/or Representative Maynard's designee.
 - a. Discussion and comments by Commissioners and staff on rulemaking request R-24-01 and/or the Commission's rulemaking process.
7. Consideration, discussion, and possible action on a Commissioner sponsor for rulemaking request R-24-01. Chair Brejcha
8. Executive Director's Report. Director Bruce Boone
 - a. Commission Financials: December 2023 and January 2024
 - b. FY '25 Budget Request Update
 - c. The Guardian System Update

NOTICE: The Ethics Commission may decide not to discuss any item listed on the agenda. As used herein, "possible action" includes, but is not limited to, approval, authorization, adoption, amendment, rejection, dismissal, denial, no action, or tabling of an item for disposition at a later date.

- d. Ethics Commission’s presentation to the Governor’s Task Force on Campaign Finance and Election Threats
 - e. Legislative Office of Fiscal Transparency (LOFT) study on the Ethics Commission
 - f. Compliance Update
 - g. Legislative Update
9. Consideration, discussion, and possible action to enter closed, executive session, as authorized by the Oklahoma Open Meeting Act in Title 25 of the Oklahoma Statutes, § 307 (B)(4) and (B)(7) and required by Ethics Rules 6.5 and 6.9, to discuss matters identified in **agenda item 10**. Chair Brejcha
- a. **Statement by Attorney**: The information to be discussed in agenda item 10 requires confidential communications between the Ethics Commission and its attorney(s) concerning pending investigations, claims, or actions, the disclosure of which would seriously impair the ability of the Ethics Commission to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest or violate confidentiality requirements of state law.
 - b. Determination, pursuant to Counsel’s advice as set forth above, to enter closed, executive session in the Ethics Commission’s office in Room G-27 of the Oklahoma State Capitol.

10. Executive Session. Chair Brejcha

The designation of “Complaints” or “Cases” are used to identify whether the Commission has opened a formal investigation pursuant to Rule 6.7. A “Complaint” is filed with the Commission and assigned a number at the time it is accepted; it maintains the same number until the matter is resolved as provided in Rule 6.

a. COMPLAINTS

- 1. C-22-11
- 2. C-23-28

b. CASES AND INVESTIGATIONS

- 1. Case No. 2019-06, alleging violations of Campaign Finance Ethics Rule 2; *State of Oklahoma ex rel. Oklahoma Ethics Commission v. Coleman*, Oklahoma County District Court, Case No. CJ-2021-4865
- 2. Case No. 2020-01, alleging violations of Campaign Finance Ethics Rule 2
- 3. Case No. 2022-36, alleging violations of Campaign Finance Ethics Rule 2
- 4. Case No. 2023-18, alleging violations of Campaign Finance Ethics Rule 2

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5. Case No. 2023-19, alleging violations of Campaign Finance Ethics Rule 2
 6. Case No. 2023-20, alleging violations of Campaign Finance Ethics Rule 2
 7. Case No. 2023-21, alleging violations of Campaign Finance Ethics Rule 2
 8. Case No. 2023-22, alleging violations of Conflicts of Interest Ethics Rule 4
11. Action to return to open session. Chair Brejcha
 12. Announcements, consideration, discussion, and possible action on the disqualification or recusal of a Commissioner or Commissioners pursuant to Ethics Rule 1.6 for any item listed in this agenda for Executive Session. Deputy Director and General Counsel McCord
 13. Consideration, discussion, and possible action on the following items considered in executive session. Chair Brejcha
 - a. COMPLAINTS
 1. C-22-11
 2. C-23-28
 - b. CASES AND INVESTIGATIONS
 1. Case No. 2019-06, alleging violations of Campaign Finance Ethics Rule 2; *State of Oklahoma ex rel. Oklahoma Ethics Commission v. Coleman*, Oklahoma County District Court, Case No. CJ-2021-4865
 2. Case No. 2020-01, alleging violations of Campaign Finance Ethics Rule 2
 3. Case No. 2022-36, alleging violations of Campaign Finance Ethics Rule 2
 4. Case No. 2023-18, alleging violations of Campaign Finance Ethics Rule 2
 5. Case No. 2023-19, alleging violations of Campaign Finance Ethics Rule 2
 6. Case No. 2023-20, alleging violations of Campaign Finance Ethics Rule 2
 7. Case No. 2023-21, alleging violations of Campaign Finance Ethics Rule 2
 8. Case No. 2023-22, alleging violations of Conflicts of Interest Ethics Rule 4
 14. New Business. This business, in accordance with Oklahoma Statutes, Title 25, § 311(A)(10) is limited to any matter not known about or which could have not been reasonably foreseen prior to the time of posting of this agenda. Chair Brejcha
 15. Adjournment. Chair Brejcha

-NEXT REGULAR MEETING-
March 8, 2024 at 10:00 a.m.
Oklahoma State Capitol, Rm. G-3
Oklahoma City, Oklahoma 73105

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From: [Cody Maynard](#)
To: [Stephanie McCord](#)
Cc: [Kate Compton](#)
Subject: [EXTERNAL] Voters Right to Know Act
Date: Tuesday, January 30, 2024 8:06:10 AM
Attachments: [image001.png](#)
[image003.png](#)
[Voters Right to Know Act.docx](#)

Hi Stephanie,

I couldn't find the email address for LeeAnne, so please forward this to her as well.

This email is a follow up to our conversation yesterday about my desire to request the attached "Voters Right to Know Act" for rule making. The intent of this legislation is to require source disclosure around donations being made and spent to influence Oklahoma elections. Many of these are originating with 501(c)(4)'s that do not have to report their donors and then they are donating this money to PAC's that are spending money in Oklahoma (sometimes referred to as Dark Money).

The attached legislation was originally a ballot initiative out that went through Arizona and was passed in 2022. It has since been challenged at the Supreme court and it was upheld which is why I want to keep the core language of this bill as written if possible.

Judge Scott McCoy noted that "The Court does not underestimate the importance of Plaintiffs' rights at issue," he wrote. "But in case after case the government's interests in campaign disclosures have prevailed over First Amendment challenges." "It contains relatively significant financial thresholds before triggering disclosure obligations, allows opting out, and contains an exemption for persons subject to physical harm," McCoy wrote.

I have attached a Word document of the act where I had started to work on changing out the Citizens Clean Elections Commission with the Ethics Commission and have highlighted the code section references that were Arizona that would need to be updated to reference the correct areas of Oklahoma's statutes/constitution. However, the Arizona code sections can be found here. [Arizona Revised Statutes \(azleg.gov\)](#). Relevant Chapter for reference is Chapter 6.1.

If there is anything else you need from me to start the rule making process for this, please let me know.

Thank you,

Cody Maynard
Representative, House District 21
2300 N. Lincoln Blvd Rm 341
Oklahoma City, OK 73105
(405) 557-7366
cody.maynard@okhouse.gov

NOTICE: The information in this email is confidential, legally privileged, and exempt from

R-24-01

disclosure under law. It is intended solely for the addressee. Access to this email by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it, is prohibited and unlawful. The Oklahoma House of Reps does not warrant any e-mail transmission received as being virus free, and disclaims any liability for losses or damages arising from the use of this e-mail or its attachments. Recipients of e-mail assume the risk of possible computer virus exposure by opening or utilizing the e-mail and its attachments, and waive any right or recourse against the House by doing so.

Be it enacted by the People of the State of Oklahoma:

Section 1. Short title

This act may be cited as the "Voters' Right to Know Act". **Section 2. Purpose and Intent**

- A. This act establishes that the People of Oklahoma have the right to know the original source of all major contributions used to pay, in whole or part, for campaign media spending. This right requires the prompt, accessible, comprehensible and public disclosure of the identity of all donors who give more than \$5,000 to fund campaign media spending in an election cycle and the source of those monies, regardless of whether the monies passed through one or more intermediaries.
- B. This act is intended to protect and promote rights and interests guaranteed by the First Amendment of the United States Constitution and also protected by the Oklahoma Constitution, to promote self-government and ensure responsive officeholders, to prevent corruption and to assist Oklahoma voters in making informed election decisions by securing their right to know the source of monies used to influence Oklahoma elections.
- C. By adopting this act, the People of Oklahoma affirm their desire to stop "dark money," the practice of laundering political contributions, often through multiple intermediaries, to hide the original source.
- D. This act empowers the Ethics Commission and individual voters to enforce its disclosure requirements. Violators will be subject to significant civil penalties.

Section 3. Title 16, Oklahoma Revised Statutes, is amended by adding chapter 6.1, to read:

CAMPAIGN MEDIA SPENDING

ARTICLE 1. DISCLOSURE OF ORIGINAL SOURCE OF MONIES

Definitions

- 1. "BUSINESS INCOME" MEANS:
 - (a) MONIES RECEIVED BY A PERSON IN COMMERCIAL TRANSACTIONS IN THE ORDINARY COURSE OF THE PERSON'S REGULAR TRADE, BUSINESS OR INVESTMENTS.
 - (b) MEMBERSHIP OR UNION DUES THAT DO NOT EXCEED \$5,000 FROM ANY ONE PERSON IN A CALENDAR YEAR.
- 2. "CAMPAIGN MEDIA SPENDING":
 - (a) MEANS SPENDING MONIES OR ACCEPTING IN-KIND CONTRIBUTIONS TO PAY FOR ANY OF THE FOLLOWING:
 - (i) A PUBLIC COMMUNICATION THAT EXPRESSLY ADVOCATES FOR OR AGAINST THE NOMINATION, OR ELECTION OF A CANDIDATE.
 - (ii) A PUBLIC COMMUNICATION THAT PROMOTES, SUPPORTS, ATTACKS OR OPPOSES A CANDIDATE WITHIN SIX MONTHS PRECEDING AN ELECTION INVOLVING THAT CANDIDATE.
 - (iii) A PUBLIC COMMUNICATION THAT REFERS TO A CLEARLY IDENTIFIED CANDIDATE WITHIN NINETY DAYS BEFORE A PRIMARY ELECTION UNTIL THE TIME OF THE GENERAL ELECTION AND THAT IS DISSEMINATED IN THE JURISDICTION WHERE THE CANDIDATE'S ELECTION IS TAKING PLACE.
 - (iv) A PUBLIC COMMUNICATION THAT PROMOTES, SUPPORTS, ATTACKS OR OPPOSES THE QUALIFICATION OR APPROVAL OF ANY STATE OR LOCAL INITIATIVE OR REFERENDUM.
 - (v) A PUBLIC COMMUNICATION THAT PROMOTES, SUPPORTS, ATTACKS OR OPPOSES THE RECALL OF A PUBLIC OFFICER.
 - (vi) AN ACTIVITY OR PUBLIC COMMUNICATION THAT SUPPORTS THE ELECTION OR DEFEAT OF CANDIDATES OF AN IDENTIFIED POLITICAL PARTY OR THE ELECTORAL PROSPECTS OF AN IDENTIFIED POLITICAL PARTY, INCLUDING PARTISAN VOTER REGISTRATION, PARTISAN GET-OUT-THE-VOTE ACTIVITY OR OTHER PARTISAN CAMPAIGN ACTIVITY.
 - (vii) RESEARCH, DESIGN, PRODUCTION, POLLING, DATA ANALYTICS, MAILING OR SOCIAL MEDIA LIST ACQUISITION OR ANY OTHER ACTIVITY CONDUCTED IN PREPARATION FOR OR IN

CONJUNCTION WITH ANY OF THE ACTIVITIES DESCRIBED IN ITEMS (i) THROUGH (vi) OF THIS SUBDIVISION.

(b) DOES NOT INCLUDE SPENDING MONIES OR ACCEPTING IN-KIND CONTRIBUTIONS FOR ANY OF THE FOLLOWING:

- (i) A NEWS STORY, COMMENTARY OR EDITORIAL BY ANY BROADCASTING STATION, CABLE TELEVISION OPERATOR, VIDEO SERVICE PROVIDER, PROGRAMMER OR PRODUCER, NEWSPAPER, MAGAZINE, WEBSITE OR OTHER PERIODICAL PUBLICATION THAT IS NOT OWNED OR OPERATED BY A CANDIDATE, A CANDIDATE'S SPOUSE OR A CANDIDATE COMMITTEE, POLITICAL PARTY OR POLITICAL ACTION COMMITTEE.
- (ii) A NONPARTISAN ACTIVITY INTENDED TO ENCOURAGE VOTER REGISTRATION AND TURNOUT.
- (iii) PUBLISHING A BOOK OR PRODUCING A DOCUMENTARY, IF THE PUBLICATION OR PRODUCTION IS FOR DISTRIBUTION TO THE GENERAL PUBLIC THROUGH TRADITIONAL DISTRIBUTION MECHANISMS OR IF A FEE IS REQUIRED TO PURCHASE THE BOOK OR VIEW THE DOCUMENTARY.
- (iv) PRIMARY OR NONPARTISAN DEBATES BETWEEN CANDIDATES OR BETWEEN PROPONENTS AND OPPONENTS OF A STATE OR LOCAL INITIATIVE OR REFERENDUM AND ANNOUNCEMENTS OF THOSE DEBATES.

3. "CANDIDATE" HAS THE SAME MEANING AS IN SECTION 16-901.

4. "CANDIDATE COMMITTEE" HAS THE SAME MEANING AS IN SECTION 16-901.

5. "COMMISSION" MEANS THE ETHICS COMMISSION.

6. "CONTRIBUTION" MEANS MONEY, DONATION, GIFT, LOAN OR ADVANCE OR OTHER THING OF VALUE, INCLUDING GOODS AND SERVICES.

7. "COVERED PERSON"

(a) MEANS ANY PERSON WHOSE TOTAL CAMPAIGN MEDIA SPENDING OR ACCEPTANCE OF IN-KIND CONTRIBUTIONS TO ENABLE CAMPAIGN MEDIA SPENDING, OR A COMBINATION OF BOTH, IN AN ELECTION CYCLE IS MORE THAN \$50,000 IN STATEWIDE CAMPAIGNS OR MORE THAN \$25,000 IN ANY OTHER TYPE OF CAMPAIGNS. FOR THE PURPOSES OF THIS CHAPTER, THE AMOUNT OF A PERSON'S CAMPAIGN MEDIA SPENDING INCLUDES CAMPAIGN MEDIA SPENDING MADE BY ENTITIES ESTABLISHED, FINANCED, MAINTAINED OR CONTROLLED BY THAT PERSON.

(b) DOES NOT INCLUDE:

- (i) INDIVIDUALS WHO SPEND ONLY THEIR OWN PERSONAL MONIES FOR CAMPAIGN MEDIA SPENDING. ORGANIZATIONS THAT SPEND ONLY THEIR OWN BUSINESS INCOME FOR CAMPAIGN MEDIA SPENDING.
- (ii) A CANDIDATE COMMITTEE.
- (iii) A POLITICAL ACTION COMMITTEE OR POLITICAL PARTY THAT RECEIVES NOT MORE THAN \$20,000 IN CONTRIBUTIONS, INCLUDING IN-KIND CONTRIBUTIONS, FROM ANY ONE PERSON IN AN ELECTION CYCLE.

8. "ELECTION CYCLE" MEANS THE TIME BEGINNING THE DAY AFTER GENERAL ELECTION DAY IN EVEN-NUMBERED YEARS AND CONTINUING THROUGH THE END OF GENERAL ELECTION DAY IN THE NEXT EVEN-NUMBERED YEAR.

9. "EXPRESSLY ADVOCATES" HAS THE SAME MEANING AS IN SECTION 16-901.01.

10. "IDENTITY" MEANS:

- (a) IN THE CASE OF AN INDIVIDUAL, THE NAME, MAILING ADDRESS, OCCUPATION AND EMPLOYER OF THE INDIVIDUAL
- (b) IN THE CASE OF ANY OTHER PERSON, THE NAME, MAILING ADDRESS, FEDERAL TAX STATUS AND STATE OF INCORPORATION, REGISTRATION OR PARTNERSHIP, IF ANY.

11. "IN-KIND CONTRIBUTION" MEANS A CONTRIBUTION OF GOODS, SERVICES OR ANYTHING OF VALUE THAT IS PROVIDED WITHOUT CHARGE OR AT LESS THAN THE USUAL AND NORMAL CHARGE. (Might need to see if this is already defined in statute)

12. "ORIGINAL MONIES" MEANS BUSINESS INCOME OR AN INDIVIDUAL'S PERSONAL MONIES.

13. "PERSON" INCLUDES BOTH A NATURAL PERSON AND AN ENTITY SUCH AS A CORPORATION, LIMITED LIABILITY COMPANY, LABOR ORGANIZATION, PARTNERSHIP OR ASSOCIATION, REGARDLESS OF LEGAL FORM.

14. "PERSONAL MONIES"

(a) MEANS ANY OF THE FOLLOWING:

- (i) ANY ASSET OF AN INDIVIDUAL THAT, AT THE TIME THE INDIVIDUAL ENGAGED IN CAMPAIGN MEDIA SPENDING OR TRANSFERRED MONIES TO ANOTHER PERSON FOR SUCH SPENDING, THE INDIVIDUAL HAD LEGAL CONTROL OVER AND RIGHTFUL TITLE TO.
- (ii) INCOME RECEIVED BY AN INDIVIDUAL OR THE INDIVIDUAL'S SPOUSE, INCLUDING SALARY AND OTHER EARNED INCOME FROM BONA FIDE EMPLOYMENT, DIVIDENDS AND PROCEEDS FROM THE

INDIVIDUAL'S PERSONAL INVESTMENTS OR BEQUESTS TO THE INDIVIDUAL, INCLUDING INCOME FROM TRUSTS ESTABLISHED BY BEQUESTS.

- (iii) A PORTION OF ASSETS THAT ARE JOINTLY OWNED BY THE INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE EQUAL TO THE INDIVIDUAL'S SHARE OF THE ASSET UNDER THE INSTRUMENT OF CONVEYANCE OR OWNERSHIP. IF NO SPECIFIC SHARE IS INDICATED BY AN INSTRUMENT OF CONVEYANCE OR OWNERSHIP, THE VALUE IS ONE-HALF THE VALUE OF THE PROPERTY OR ASSET.

(b) DOES NOT MEAN ANY ASSET OR INCOME RECEIVED FROM ANY PERSON FOR THE PURPOSE OF INFLUENCING ANY ELECTION.

15. "POLITICAL ACTION COMMITTEE" HAS THE SAME MEANING AS IN SECTION 16-901.

16. "POLITICAL PARTY" HAS THE SAME MEANING AS IN SECTION 16-901.

17. "PUBLIC COMMUNICATION"

(a) MEANS A PAID COMMUNICATION TO THE PUBLIC BY MEANS OF BROADCAST, CABLE, SATELLITE, INTERNET OR ANOTHER DIGITAL METHOD, NEWSPAPER, MAGAZINE, OUTDOOR ADVERTISING FACILITY, MASS MAILING OR ANOTHER MASS DISTRIBUTION, TELEPHONE BANK OR ANY OTHER FORM OF GENERAL PUBLIC POLITICAL ADVERTISING OR MARKETING, REGARDLESS OF MEDIUM.

(b) DOES NOT INCLUDE COMMUNICATIONS BETWEEN AN ORGANIZATION AND ITS EMPLOYEES, STOCKHOLDERS OR BONA FIDE MEMBERS.

18. "TRACEABLE MONIES" MEANS:

(a) MONIES THAT HAVE BEEN GIVEN, LOANED OR PROMISED TO BE GIVEN TO A COVERED PERSON AND FOR WHICH NO DONOR HAS OPTED OUT OF THEIR USE OR TRANSFER FOR CAMPAIGN MEDIA SPENDING PURSUANT TO SECTION 16-972.

(b) MONIES USED TO PAY FOR IN-KIND CONTRIBUTIONS TO A COVERED PERSON TO ENABLE CAMPAIGN MEDIA SPENDING.

19. "TRANSFER RECORDS" MEANS A WRITTEN RECORD OF THE IDENTITY OF EACH PERSON THAT DIRECTLY OR INDIRECTLY CONTRIBUTED OR TRANSFERRED MORE THAN \$2,500 OF ORIGINAL MONIES USED FOR CAMPAIGN MEDIA SPENDING, THE AMOUNT OF EACH CONTRIBUTION OR TRANSFER AND THE PERSON TO WHOM THOSE MONIES WERE TRANSFERRED.

16972. Campaign media spending; transfer records; written notice; donor optout; disclosure of previous records

A. A COVERED PERSON MUST MAINTAIN TRANSFER RECORDS. THE COVERED PERSON MUST MAINTAIN THESE RECORDS FOR AT LEAST FIVE YEARS AND PROVIDE THE RECORDS ON REQUEST TO THE COMMISSION.

B. BEFORE THE COVERED PERSON MAY USE OR TRANSFER A DONOR'S MONIES FOR CAMPAIGN MEDIA SPENDING, THE DONOR MUST BE NOTIFIED IN WRITING THAT THE MONIES MAY BE SO USED AND MUST BE GIVEN AN OPPORTUNITY TO OPT OUT OF HAVING THE DONATION USED OR TRANSFERRED FOR CAMPAIGN MEDIA SPENDING. THE NOTICE UNDER THIS SUBSECTION MUST:

1. INFORM DONORS THAT THEIR MONIES MAY BE USED FOR CAMPAIGN MEDIA SPENDING AND THAT INFORMATION ABOUT DONORS MAY HAVE TO BE REPORTED TO THE APPROPRIATE GOVERNMENT AUTHORITY IN THIS STATE FOR DISCLOSURE TO THE PUBLIC.

2. INFORM DONORS THAT THEY CAN OPT OUT OF HAVING THEIR MONIES USED OR TRANSFERRED FOR CAMPAIGN MEDIA SPENDING BY NOTIFYING THE COVERED PERSON IN WRITING WITHIN TWENTY-ONE DAYS AFTER RECEIVING THE NOTICE.

3. COMPLY WITH RULES ADOPTED BY THE COMMISSION PURSUANT TO THIS CHAPTER TO ENSURE THAT THE NOTICE IS CLEARLY VISIBLE AND THAT IT ACCOMPLISHES THE PURPOSES OF THIS SECTION.

C. THE NOTICE REQUIRED BY THIS SECTION MAY BE PROVIDED TO THE DONOR BEFORE OR AFTER THE COVERED PERSON RECEIVES A

DONOR'S MONIES, BUT THE DONOR'S MONIES MAY NOT BE USED OR TRANSFERRED FOR CAMPAIGN MEDIA SPENDING UNTIL AT LEAST TWENTY-ONE DAYS AFTER THE NOTICE IS PROVIDED OR UNTIL THE DONOR PROVIDES WRITTEN CONSENT PURSUANT TO THIS SECTION, WHICHEVER IS EARLIER.

D. ANY PERSON THAT DONATES TO A COVERED PERSON MORE THAN \$5,000 IN TRACEABLE MONIES IN AN ELECTION CYCLE MUST INFORM THAT COVERED PERSON IN WRITING, WITHIN TEN DAYS AFTER RECEIVING A WRITTEN REQUEST FROM THE COVERED PERSON, OF THE IDENTITY OF EACH OTHER PERSON THAT DIRECTLY OR INDIRECTLY CONTRIBUTED MORE THAN \$2,500 IN ORIGINAL MONIES BEING TRANSFERRED AND THE AMOUNT OF EACH OTHER PERSON'S ORIGINAL MONIES BEING TRANSFERRED. IF THE ORIGINAL MONIES WERE PREVIOUSLY TRANSFERRED, THE DONOR MUST DISCLOSE ALL SUCH PREVIOUS TRANSFERS OF MORE THAN \$2,500 AND IDENTIFY THE

INTERMEDIARIES. THE DONOR MUST MAINTAIN THESE RECORDS FOR AT LEAST FIVE YEARS AND PROVIDE THE RECORDS ON REQUEST TO THE COMMISSION.

E. ANY PERSON THAT MAKES AN IN-KIND CONTRIBUTION TO A COVERED PERSON OF MORE THAN \$5,000 IN AN ELECTION CYCLE TO ENABLE

CAMPAIGN MEDIA SPENDING MUST INFORM THAT COVERED PERSON IN WRITING, AT THE TIME THE IN-KIND CONTRIBUTION IS MADE OR PROMISED TO BE MADE, OF THE IDENTITY OF EACH OTHER PERSON THAT DIRECTLY OR INDIRECTLY CONTRIBUTED OR PROVIDED MORE THAN \$2,500 IN ORIGINAL MONIES USED TO PAY FOR THE IN-KIND CONTRIBUTION AND THE AMOUNT OF EACH OTHER PERSON'S

ORIGINAL MONIES SO USED. IF THE ORIGINAL MONIES WERE PREVIOUSLY TRANSFERRED, THE IN-KIND DONOR MUST DISCLOSE ALL SUCH PREVIOUS TRANSFERS OF MORE THAN \$2,500 AND IDENTIFY THE INTERMEDIARIES. THE IN-KIND DONOR MUST MAINTAIN THESE RECORDS FOR AT LEAST FIVE YEARS AND PROVIDE THE RECORDS ON REQUEST TO THE COMMISSION.

16-973. Disclosure reports: exceptions

A. WITHIN FIVE DAYS AFTER FIRST SPENDING MONIES OR ACCEPTING IN-KIND CONTRIBUTIONS TOTALING \$50,000 OR MORE DURING AN

ELECTION CYCLE ON CAMPAIGN MEDIA SPENDING IN STATEWIDE CAMPAIGNS OR \$25,000 OR MORE DURING THE ELECT

OTHER TYPE OF CAMPAIGNS, A COVERED PERSON SHALL FILE WITH THE SECRETARY OF STATE AN INITIAL REPORT THAT DISCLOSES ALL OF THE FOLLOWING:

1. THE IDENTITY OF THE PERSON THAT OWNS OR CONTROLS THE TRACEABLE MONIES.
2. THE IDENTITY OF ANY ENTITY ESTABLISHED, FINANCED, MAINTAINED OR CONTROLLED BY THE PERSON THAT OWNS OR CONTROLS THE TRACEABLE MONIES AND THAT MAINTAINS ITS OWN TRANSFER RECORDS AND THAT ENTITY'S RELATIONSHIP TO THE COVERED PERSON.
3. THE NAME, MAILING ADDRESS AND POSITION OF THE INDIVIDUAL WHO IS THE CUSTODIAN OF THE TRANSFER RECORDS.
4. THE NAME, MAILING ADDRESS AND POSITION OF AT LEAST ONE INDIVIDUAL WHO CONTROLS, DIRECTLY OR INDIRECTLY, HOW THE TRACEABLE MONIES ARE SPENT.
5. THE TOTAL AMOUNT OF TRACEABLE MONIES OWNED OR CONTROLLED BY THE COVERED PERSON ON THE DATE THE REPORT IS MADE.
6. THE IDENTITY OF EACH DONOR OF ORIGINAL MONIES WHO CONTRIBUTED, DIRECTLY OR INDIRECTLY, MORE THAN \$5,000 OF TRACEABLE MONIES OR IN-KIND CONTRIBUTIONS FOR CAMPAIGN MEDIA SPENDING DURING THE ELECTION CYCLE TO THE COVERED PERSON AND THE DATE AND AMOUNT OF EACH OF THE DONOR'S CONTRIBUTIONS.
7. THE IDENTITY OF EACH PERSON THAT ACTED AS AN INTERMEDIARY AND THAT TRANSFERRED, IN WHOLE OR IN PART, TRACEABLE MONIES OF MORE THAN \$5,000 FROM ORIGINAL SOURCES TO THE COVERED PERSON AND THE DATE, AMOUNT AND SOURCE, BOTH ORIGINAL AND INTERMEDIATE, OF THE TRANSFERRED MONIES.
8. THE IDENTITY OF EACH PERSON THAT RECEIVED FROM THE COVERED PERSON DISBURSEMENTS TOTALING \$10,000 OR MORE OF TRACEABLE MONIES DURING THE ELECTION CYCLE AND THE DATE AND PURPOSE OF EACH DISBURSEMENT, INCLUDING THE FULL NAME AND OFFICE SOUGHT OF ANY CANDIDATE OR A DESCRIPTION OF ANY BALLOT PROPOSITION THAT WAS SUPPORTED, OPPOSED OR REFERENCED IN A PUBLIC COMMUNICATION THAT WAS PAID FOR, IN WHOLE OR IN PART, WITH THE DISBURSED MONIES.
9. THE IDENTITY OF ANY PERSON WHOSE TOTAL CONTRIBUTIONS OF TRACEABLE MONIES TO THE COVERED PERSON CONSTITUTED MORE THAN HALF OF THE TRACEABLE MONIES OF THE COVERED PERSON AT THE START OF THE ELECTION CYCLE.

B. AFTER A COVERED PERSON MAKES AN INITIAL REPORT, EACH TIME THE COVERED PERSON SPENDS MONIES OR ACCEPTS IN-KIND CONTRIBUTIONS TOTALING AN ADDITIONAL \$25,000 OR MORE DURING AN ELECTION CYCLE ON CAMPAIGN MEDIA SPENDING IN STATEWIDE CAMPAIGNS OR AN ADDITIONAL \$15,000 OR MORE ON CAMPAIGN MEDIA SPENDING DURING AN ELECTION CYCLE IN ANY OTHER TYPE OF CAMPAIGNS, THAT COVERED PERSON SHALL FILE WITH THE SECRETARY OF STATE WITHIN THREE DAYS AFTER SPENDING MONIES OR ACCEPTING THE IN-KIND CONTRIBUTION A REPORT THAT DISCLOSES ANY INFORMATION THAT HAS CHANGED SINCE THE MOST RECENT REPORT WAS MADE PURSUANT TO THIS SECTION.

- C. WHEN THE INFORMATION REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPHS 1 THROUGH 4 OF THIS SECTION HAS CHANGED SINCE IT WAS PREVIOUSLY REPORTED, THE CHANGED INFORMATION SHALL BE REPORTED TO THE **SECRETARY OF STATE** WITHIN TWENTY DAYS, EXCEPT THAT THERE IS NO OBLIGATION TO REPORT CHANGES THAT OCCUR MORE THAN ONE YEAR AFTER THE MOST RECENT REPORT SHOULD HAVE BEEN FILED PURSUANT TO THIS SECTION.
- D. TO DETERMINE THE SOURCES, INTERMEDIARIES AND AMOUNTS OF INDIRECT CONTRIBUTIONS RECEIVED, A COVERED PERSON MAY RELY ON THE INFORMATION IT RECEIVED PURSUANT TO **SECTION 16-972**, UNLESS THE COVERED PERSON KNOWS OR HAS REASON TO KNOW THAT THE INFORMATION RELIED ON IS FALSE OR UNRELIABLE.
- E. WHEN A COVERED PERSON TRANSFERS MORE THAN \$5,000 IN TRACEABLE MONIES TO ANOTHER COVERED PERSON, OR AFTER RECEIVING THE REQUIRED NOTICE UNDER SECTION 16-972, SUBSECTION B, FAILS TO OPT OUT OF HAVING PREVIOUSLY TRANSFERRED MONIES USED FOR CAMPAIGN MEDIA SPENDING, A TRANSFER RECORD MUST BE PROVIDED TO THE RECIPIENT COVERED PERSON THAT IDENTIFIES EACH PERSON THAT DIRECTLY OR INDIRECTLY CONTRIBUTED MORE THAN \$2,500 OF THE ORIGINAL MONIES BEING TRANSFERRED, THE AMOUNT OF EACH PERSON'S ORIGINAL MONIES BEING TRANSFERRED, AND ANY OTHER PERSON THAT PREVIOUSLY TRANSFERRED THE ORIGINAL MONIES.
- F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE IDENTITY OF AN ORIGINAL SOURCE THAT IS OTHERWISE PROTECTED FROM DISCLOSURE BY LAW OR A COURT ORDER OR THAT DEMONSTRATES TO THE SATISFACTION OF THE COMMISSION THAT THERE IS A REASONABLE PROBABILITY THAT PUBLIC KNOWLEDGE OF THE ORIGINAL SOURCE'S IDENTITY WOULD SUBJECT THE SOURCE OR THE SOURCE'S FAMILY TO A SERIOUS RISK OF PHYSICAL HARM SHALL NOT BE DISCLOSED OR INCLUDED IN A DISCLAIMER.
- G. THIS SECTION DOES NOT REQUIRE PUBLIC DISCLOSURE OF OR A DISCLAIMER REGARDING THE IDENTITY OF AN ORIGINAL SOURCE THAT CONTRIBUTES, DIRECTLY OR THROUGH INTERMEDIARIES, \$5,000 OR LESS IN MONIES OR IN-KIND CONTRIBUTIONS DURING AN ELECTION CYCLE TO A COVERED PERSON FOR CAMPAIGN MEDIA SPENDING.
- H. ALL DISCLOSURE REPORTS MADE PURSUANT TO THIS SECTION SHALL BE MADE ELECTRONICALLY TO THE SECRETARY OF STATE AND TO ANY OTHER BODY AS DIRECTED BY LAW. OFFICIALS SHALL PROMPTLY MAKE THE INFORMATION PUBLIC AND PROVIDE IT TO THE COMMISSION ELECTRONICALLY. ALL DISCLOSURE REPORTS ARE SUBJECT TO PENALTY OF PERJURY.
- I. EXCEPT AS PROVIDED IN SUBSECTION J OF THIS SECTION, A POLITICAL ACTION COMMITTEE OR POLITICAL PARTY THAT IS A COVERED PERSON MAY SATISFY THE TIMING REQUIREMENTS FOR REPORTING IN THIS SECTION BY FILING THE PERIODIC CAMPAIGN FINANCE REPORTS AS REQUIRED BY LAW FOR POLITICAL ACTION COMMITTEES AND POLITICAL PARTIES, PROVIDED THAT THE DISCLOSURES REQUIRED BY THIS SECTION ARE INCLUDED IN THOSE PERIODIC REPORTS, INCLUDING THE REQUIREMENT TO IDENTIFY THE ORIGINAL SOURCES OF TRACEABLE MONIES WHO GAVE, DIRECTLY OR INDIRECTLY, AND ANY INTERMEDIARIES WHO TRANSFERRED, DIRECTLY OR INDIRECTLY, MORE THAN \$5,000 IN TRACEABLE MONIES TO THE COVERED PERSON DURING THE ELECTION CYCLE.
- J. IF A POLITICAL ACTION COMMITTEE OR POLITICAL PARTY THAT IS A COVERED PERSON SPENDS MONIES OR ACCEPTS IN-KIND CONTRIBUTIONS WITHIN 20 DAYS OF AN ELECTION THAT WOULD REQUIRE A REPORT UNDER THIS SECTION, IT SHALL FILE A REPORT PURSUANT TO THIS SECTION WITHIN 3 DAYS OF THAT SPENDING OR IN-KIND CONTRIBUTION.

16-974. Ethics commission: powers and duties: rules

- A. THE ETHICS COMMISSION IS THE PRIMARY AGENCY AUTHORIZED TO IMPLEMENT AND ENFORCE THIS CHAPTER. THE COMMISSION MAY DO ANY OF THE FOLLOWING:
 - 1. ADOPT AND ENFORCE RULES.
 - 2. ISSUE AND ENFORCE CIVIL SUBPOENAS, INCLUDING THIRD-PARTY SUBPOENAS.
 - 3. INITIATE ENFORCEMENT ACTIONS.
 - 4. CONDUCT FACT-FINDING HEARINGS AND INVESTIGATIONS.
 - 5. IMPOSE CIVIL PENALTIES FOR NONCOMPLIANCE, INCLUDING PENALTIES FOR LATE OR INCOMPLETE DISCLOSURES AND FOR ANY OTHER VIOLATIONS OF THIS CHAPTER.
 - 6. SEEK LEGAL AND EQUITABLE RELIEF IN COURT AS NECESSARY.
 - 7. ESTABLISH THE RECORDS PERSONS MUST MAINTAIN TO SUPPORT THEIR DISCLOSURES.
 - 8. PERFORM ANY OTHER ACT THAT MAY ASSIST IN IMPLEMENTING THIS CHAPTER.
- B. IF THE COMMISSION IMPOSES A CIVIL PENALTY ON A PERSON AND THAT PERSON DOES NOT TIMELY SEEK JUDICIAL REVIEW, THE COMMISSION MAY FILE A CERTIFIED COPY OF ITS ORDER REQUIRING PAYMENT OF THE CIVIL PENALTY WITH THE CLERK OF THE SUPERIOR COURT IN ANY COUNTY OF THIS STATE. THE CLERK SHALL

TREAT THE COMMISSION ORDER IN THE SAME MANNER AS A JUDGMENT OF THE SUPERIOR COURT. A COMMISSION ORDER FILED PURSUANT TO THIS SUBSECTION HAS THE SAME EFFECT AS A JUDGMENT OF THE SUPERIOR COURT AND MAY BE RECORDED, ENFORCED OR SATISFIED IN THE SAME MANNER. A FILING FEE IS NOT REQUIRED FOR AN ACTION FILED UNDER THIS SUBSECTION. THE COMMISSION SHALL ESTABLISH DISCLAIMER REQUIREMENTS FOR PUBLIC COMMUNICATIONS BY COVERED PERSONS. A POLITICAL ACTION COMMITTEE THAT COMPLIES WITH THESE REQUIREMENTS NEED NOT SEPARATELY COMPLY WITH THE REQUIREMENTS PRESCRIBED IN SECTION 16-925, SUBSECTION B. PUBLIC COMMUNICATIONS BY COVERED PERSONS SHALL STATE, AT A MINIMUM, THE NAMES OF THE TOP THREE DONORS WHO DIRECTLY OR INDIRECTLY MADE THE THREE LARGEST CONTRIBUTIONS OF ORIGINAL MONIES DURING THE ELECTION CYCLE TO THE COVERED PERSON. IF IT IS NOT TECHNOLOGICALLY POSSIBLE FOR A PUBLIC COMMUNICATION DISSEMINATED ON THE INTERNET OR BY SOCIAL MEDIA MESSAGE, TEXT MESSAGE OR SHORT MESSAGE SERVICE TO PROVIDE ALL THE INFORMATION REQUIRED BY THIS SUBSECTION, THE PUBLIC COMMUNICATION MUST PROVIDE A MEANS FOR VIEWERS TO OBTAIN, IMMEDIATELY AND EASILY, THE REQUIRED INFORMATION WITHOUT HAVING TO RECEIVE EXTRANEOUS INFORMATION.

- C. THE COMMISSION'S RULES AND ANY COMMISSION ENFORCEMENT ACTIONS PURSUANT TO THIS CHAPTER ARE NOT SUBJECT TO THE APPROVAL OF OR ANY PROHIBITION OR LIMIT IMPOSED BY ANY OTHER EXECUTIVE OR LEGISLATIVE GOVERNMENTAL BODY OR OFFICIAL. NOTWITHSTANDING ANY LAW TO THE CONTRARY, RULES ADOPTED PURSUANT TO THIS CHAPTER ARE EXEMPT FROM TITLE 41, CHAPTERS 6 AND 6.1. (Might want to remove this section)
- D. THE COMMISSION SHALL ESTABLISH A PROCESS TO REIMBURSE THE SECRETARY OF STATE AND ANY OTHER AGENCY THAT INCURS COSTS TO IMPLEMENT OR ENFORCE THIS CHAPTER.
- E. THE COMMISSION MAY ADJUST THE CONTRIBUTION AND EXPENDITURE THRESHOLDS IN THIS CHAPTER TO REFLECT INFLATION.

16-975. Structured transactions prohibited

A PERSON MAY NOT STRUCTURE OR ASSIST IN STRUCTURING, OR ATTEMPT OR ASSIST IN AN ATTEMPT TO STRUCTURE ANY SOLICITATION, CONTRIBUTION, DONATION, EXPENDITURE, DISBURSEMENT OR OTHER TRANSACTION TO EVADE THE REPORTING REQUIREMENTS OF THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

16-976. Penalties; separate account; use of monies; surcharge

- A. THE CIVIL PENALTY FOR ANY VIOLATION OF THIS CHAPTER SHALL BE AT LEAST THE AMOUNT OF THE UNDISCLOSED OR IMPROPERLY DISCLOSED CONTRIBUTION AND NOT MORE THAN THREE TIMES THAT AMOUNT. FOR VIOLATIONS OF SECTION 16-975, THE RELEVANT AMOUNT FOR THE PURPOSES OF CALCULATING THE CIVIL PENALTY IS THE AMOUNT DETERMINED BY THE COMMISSION TO CONSTITUTE A STRUCTURED TRANSACTION.
- B. CIVIL PENALTIES COLLECTED FOR VIOLATIONS OF THIS CHAPTER SHALL BE DEPOSITED IN A SEPARATE ACCOUNT IN THE ETHICS COMMISSION FUND ESTABLISHED PURSUANT TO CHAPTER 6, ARTICLE 2 OF THIS TITLE AND USED TO DEFRAY THE COSTS OF IMPLEMENTING AND ENFORCING THIS CHAPTER. ANY MONIES IN THIS ACCOUNT THAT ARE NOT USED TO IMPLEMENT AND ENFORCE THIS CHAPTER MAY BE USED FOR OTHER COMMISSION-APPROVED PURPOSES.
- C. AN ADDITIONAL SURCHARGE OF ONE PERCENT SHALL BE IMPOSED ON CIVIL AND CRIMINAL PENALTIES AND THE PROCEEDS DEPOSITED IN THE ACCOUNT IN THE ETHICS COMMISSION FUND ESTABLISHED PURSUANT TO SUBSECTION B OF THIS SECTION. THE SURCHARGE SHALL BE SUSPENDED FOR ONE TO THREE YEARS AT A TIME IF THE COMMISSION DETERMINES THAT, DURING THAT PERIOD, IT CAN PERFORM THE ACTIONS REQUIRED BY THIS CHAPTER WITHOUT THE MONIES FROM THE SURCHARGE.

16-977. Complaints; investigations; civil action

- A. ANY QUALIFIED VOTER IN THIS STATE MAY FILE A VERIFIED COMPLAINT WITH THE COMMISSION AGAINST A PERSON THAT FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER. THE COMPLAINT MUST STATE THE FACTUAL BASIS FOR BELIEVING THAT THERE HAS BEEN A VIOLATION OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.
- B. IF THE COMMISSION DETERMINES THAT THE COMPLAINT, IF TRUE, STATES THE FACTUAL BASIS FOR A VIOLATION OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER, THE COMMISSION SHALL INVESTIGATE THE ALLEGATIONS AND PROVIDE THE ALLEGED VIOLATOR WITH AN OPPORTUNITY TO BE HEARD.

- C. IF THE COMMISSION DISMISSES AT ANY TIME THE COMPLAINT OR TAKES NO SUBSTANTIVE ENFORCEMENT ACTION WITHIN NINETY DAYS AFTER RECEIVING THE COMPLAINT, THE COMPLAINANT MAY BRING A CIVIL ACTION AGAINST THE COMMISSION TO COMPEL IT TO TAKE ENFORCEMENT ACTION, AND THE COURT SHALL REVIEW *DE NOVO* WHETHER THE COMMISSION'S DISMISSAL OR FAILURE TO ACT WAS REASONABLE. IN ANY MATTER IN WHICH THE CIVIL PENALTY FOR THE ALLEGED VIOLATION COULD BE GREATER THAN \$50,000, ANY CLAIM OR DEFENSE BY THE COMMISSION OF PROSECUTORIAL DISCRETION IS NOT A BASIS FOR DISMISSING OR FAILING TO ACT ON THE COMPLAINT. A COURT MAY AWARD THE PREVAILING PARTY IN A CIVIL ACTION UNDER THIS SUBSECTION ITS REASONABLE ATTORNEYS' FEES.

16-978. Legislative, county and municipal provisions

- A. NOTHING IN THIS ACT PREVENTS THE LEGISLATURE, A COUNTY BOARD OF SUPERVISORS OR A MUNICIPAL GOVERNMENT FROM ENACTING OR ENFORCING ADDITIONAL OR MORE STRINGENT DISCLOSURE PROVISIONS FOR CAMPAIGN MEDIA SPENDING THAN THOSE CONTAINED IN THIS CHAPTER. ADDITIONAL OR MORE STRINGENT DISCLOSURE REQUIREMENTS FOR CAMPAIGN MEDIA SPENDING FURTHER THE PURPOSES OF THIS CHAPTER.
- B. TO THE EXTENT THE PROVISIONS OF THIS CHAPTER CONFLICT WITH ANY STATE LAW, THIS CHAPTER GOVERNS.

16-979. Legal defense; standing; legal counsel

- A. THE COMMISSION HAS STANDING TO DEFEND THIS CHAPTER ON BEHALF OF THIS STATE IN ANY LEGAL ACTION BROUGHT TO CHALLENGE THE VALIDITY OF THIS CHAPTER OR ANY OF ITS PROVISIONS.
- B. NOTWITHSTANDING ANY LAW, THE COMMISSION HAS EXCLUSIVE AND INDEPENDENT AUTHORITY TO SELECT LEGAL COUNSEL TO REPRESENT THE COMMISSION REGARDING ITS DUTIES UNDER THIS CHAPTER AND TO DEFEND THIS CHAPTER IF ITS VALIDITY IS CHALLENGED.

Sec. 4. Severability

The provisions of this act are severable. If any provision of this act or application of a provision to any person or circumstance is held to be unconstitutional, the remainder of this act, and the application of the provisions to any person or circumstance, shall not be affected by the holding. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act.