

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1325

By: Reynolds

4  
5 AS INTRODUCED

6  
7 An Act relating to state government; creating the  
8 Ethics in Oklahoma Act; amending 74 O.S. 2001,  
9 Section 4258, as amended by Section 3, Chapter 320,  
10 O.S.L. 2004 (74 O.S. Supp. 2008, Section 4258), which  
11 relates to the Ethics Commission Fund; providing  
12 funding based on contributions reported to the Ethics  
13 Commission; amending Rules 257:10-1-2, 257:10-1-10,  
14 257:10-1-20, 257:20-1-9 and 257:23-1-2 (74 O.S. Supp.  
15 2008, Chapter 62, App.) and Rules 257:30-1-5 and  
16 257:30-1-6 (74 O.S. 2001, Chapter 62, App.) of the  
17 Rules of the Ethics Commission; modifying  
18 requirements for contribution statements; requiring  
19 certain contributions be tendered by a certain time;  
20 prohibiting transfer of funds from campaign accounts;  
21 modifying use of campaign contributions and surplus  
22 funds; prohibiting things of value to certain  
23 persons; modifying private reprimands; modifying  
24 public inspection and confidentiality of certain  
actions; providing for noncodification; and providing  
an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be  
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Ethics in  
Oklahoma Act".

1 SECTION 2. AMENDATORY 74 O.S. 2001, Section 4258, as  
2 amended by Section 3, Chapter 320, O.S.L. 2004 (74 O.S. Supp. 2008,  
3 Section 4258), is amended to read as follows:

4 Section 4258. A. There is hereby created in the State Treasury  
5 a revolving fund for the Ethics Commission to be designated the  
6 "Ethics Commission Fund". The fund shall be a continuing fund, not  
7 subject to fiscal year limitations and shall consist of all copying  
8 fees, lobbyist registration fees, and committee registration fees  
9 received by the Commission. All monies accruing to the credit of  
10 the fund are hereby appropriated and may be budgeted and expended by  
11 the Commission for any expenses incurred in the implementation of  
12 this act. Expenditures from the fund shall be made upon warrants  
13 issued by the State Treasurer against claims filed as prescribed by  
14 law with the Director of State Finance for approval and payment.

15 B. The Ethics Commission shall be fully funded to allow it to  
16 enforce the Ethics Commission Rules. The Legislature shall fund the  
17 Ethics Commission not less than two percent (2%) of the total  
18 contributions reported to the Ethics Commission during the previous  
19 two (2) calendar years.

20 SECTION 3. AMENDATORY Rule 257:10-1-2 of the Rules of  
21 the Ethics Commission (74 O.S. Supp. 2008, Chapter 62, App.), is  
22 amended to read as follows:

23 Rule 257:10-1-2. (a) Limitations on contributions from a  
24 person.

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

10 (2) No person or family may contribute more than five thousand  
11 dollars (\$5,000) to a candidate for state office or to a candidate  
12 committee authorized by such a candidate to accept contributions or  
13 make expenditures on his behalf during a campaign as defined in  
14 Chapter 1, Section 2 and as provided in Paragraphs (4) and (5) of  
15 this subsection. No candidate or candidate committee shall  
16 knowingly accept a contribution in excess of five thousand dollars  
17 (\$5,000) from a person or family during a campaign.

18 (3) These restrictions do not apply to:

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

20 or

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

23

24

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

4 (4) For purposes of this subsection, if a candidate:

5 (A) begins a campaign for a specific state office;

6 (B) accepts one or more contributions for such campaign  
7 but prior to the election therefor chooses not to run  
8 for such office and becomes a candidate for a  
9 different office; and

10 (C) transfers all or any part of the contributions  
11 accepted for the first campaign to the second  
12 campaign;

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

15 (5) For purposes of this subsection, if a candidate:

16 (A) does not dissolve his or her candidate committee after  
17 the election at which the office at stake is decided;

18 (B) accepts one or more contributions for such committee  
19 after such election; and

20 (C) begins a campaign for the same or another office in a  
21 subsequent election cycle;

22 any contributions accepted within six (6) months prior to the  
23 beginning of the campaign for the same or another office in a  
24

1 subsequent election cycle shall be applied to the limit specified in  
2 Paragraph (2) of this subsection for such campaign.

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

11 (b) Limitations on contributions from a political party  
12 committee. A candidate committee shall not accept contributions  
13 from a political party of more than:

14 (1) fifty thousand dollars (\$50,000) per campaign in the case  
15 of a candidate for governor; and

16 (2) twenty-five thousand dollars (\$25,000) per campaign in the  
17 case of a candidate for other non-federal statewide elective office.

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

23 (c) Contributor statement. Within ~~ten (10)~~ seven (7) business  
24 days of accepting a single contribution exceeding fifty dollars

1 (\$50.00), or before accepting multiple contributions from a single  
2 source which exceed fifty dollars (\$50.00) in the aggregate, persons  
3 accepting contributions must obtain from each contributor a  
4 statement which shall include:

5 (1) the date the contribution was ~~given~~ tendered to the payee  
6 which shall not be more than seven (7) business days after the date  
7 of the written instrument required by subsection (m) of this  
8 section;

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

14 (3) the amount; if in-kind, a description of the contribution  
15 and a good faith estimate of its fair market value;

16 (4) a declaration that the contribution is for a campaign in  
17 the State of Oklahoma, and the contribution is freely and  
18 voluntarily given from the contributor's personal property, if an  
19 individual, or the person or committee's property, if other than an  
20 individual;

21 (5) a declaration that the contributor has not been directly or  
22 indirectly compensated or reimbursed for the contribution, if an  
23 individual, and, if a person other than an individual or a  
24

1 committee, that the person or committee has not been compensated or  
2 reimbursed for the contribution by persons:

3 (A) other than those from whom contributor statements have  
4 been received and of whom disclosure has or will be  
5 made; or

6 (B) if from persons exempted from the definition of  
7 political action committee, by other persons; and

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

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

16 (d) Prohibitions and exceptions to corporate and labor  
17 organization contributions and expenditures.

18 (1) No corporation or labor organization shall contribute to  
19 any campaign fund of any party committee of this state or to any  
20 other person for the benefit of such party committee or its  
21 candidates, nor shall it, through any agent, officer,  
22 representative, employee, attorney, or any other person or persons,  
23 so contribute. Nor shall any such corporation or labor  
24 organization, directly or through such other person, make any loan

1 of money or anything of value, or give or furnish any privilege,  
2 favor or other thing of value to any party committee, or to any  
3 representative of a party committee, or to any other person for it,  
4 or to any candidate upon the ticket of any political party.

5 (2) A corporation or labor organization shall not make a  
6 contribution or an expenditure or an independent expenditure to, or  
7 for the benefit of, a candidate or committee in connection with an  
8 election or for any electioneering communication, except that this  
9 provision shall not apply to:

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

12 (B) the establishment, administration, and solicitation of  
13 contributions to a political action committee to be  
14 utilized for political purposes by a corporation or  
15 labor organization; or if

16 (C) the communication is susceptible of a reasonable  
17 interpretation other than as an appeal to vote for or  
18 against a clearly identified state candidate.

19 (3) Permissible use of corporate and labor organization funds  
20 for certain electioneering communications. An electioneering  
21 communication shall satisfy Subparagraph (2) of this subsection if  
22 it meets the requirements of either Subparagraph (3)(A) or (3)(B) of  
23 this subsection:  
24

1 (A) Grassroots lobbying communications. Any communication  
2 that:

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

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

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

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

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

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

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

23

24

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

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

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

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

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

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

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

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

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

13 (e) Prohibitions relating to committee solicitations and funds.

14 It shall be prohibited for:

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

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

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

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

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

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

14 (f) Prohibition on transfer of funds between committees.

15 (1) Candidate committee transfers.

16 (A) A candidate committee shall not make a contribution or  
17 transfer to another candidate, or to a political  
18 action committee which supports or opposes candidates  
19 or ballot measures, nor shall it make an independent  
20 expenditure on behalf of another candidate or ballot  
21 measure. A political action committee which supports  
22 or opposes candidates or ballot measures shall not  
23 accept a contribution or transfer from a candidate  
24 committee. The principal candidate committee or an

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

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

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

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

1 (g) Aggregation of contributions. For purposes of the  
2 contribution limitations, the following apply:

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

5 (A) share the majority of members on their boards of  
6 directors;

7 (B) are owned or controlled by the same majority  
8 shareholder or shareholders;

9 (C) are in a parent-subsidiary relationship; or

10 (D) have bylaws so stating; or

11 (E) are affiliated or connected entities.

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

16 (h) Attribution and aggregation of family contributions.

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

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

1 (i) Restrictions on loans.

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

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

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

9 (A) by a commercial lending institution;

10 (B) made in the regular course of business;

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

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

15 are not subject to the contribution limits of this section.

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

17 (j) Anonymous and earmarked contributions.

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

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

16 (k) Reimbursement for contribution prohibited. A person shall  
17 not, directly or indirectly, reimburse a person for a contribution  
18 to a candidate or committee.

19 (l) Cash contributions.

20 (1) An individual shall not make to a candidate committee or a  
21 committee supporting or opposing a ballot measure and a candidate  
22 committee or a committee supporting or opposing a ballot measure  
23 shall not accept a contribution of more than fifty dollars (\$50) in  
24 cash during a campaign as defined in Chapter 1, Section 2. Agents

1 accepting and delivering cash shall deliver contributor statements  
2 disclosing cash contributions equal to the aggregate amount of cash  
3 delivered.

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

6 (m) Certain contributions required to be by written instrument.

7 (1) An individual shall not make a contribution of more than  
8 fifty dollars (\$50), other than an in-kind contribution, except by  
9 written instrument containing the name of the contributor and the  
10 name of the payee during a campaign as defined in Chapter 1, Section  
11 2.

12 (2) A committee, or a person other than an individual, shall  
13 not make a contribution, other than in-kind, except by written  
14 instrument containing the name of the contributor and the name of  
15 the payee. The date of the written instrument shall not be more  
16 than seven (7) business days prior to tender of the contribution to  
17 the payee.

18 (n) Use of other funds.

19 (1) Anything of value which is solicited from the public in the  
20 name of or for the benefit of an elective officer or candidate, and  
21 which is accepted by an elective officer or candidate, shall be  
22 subject to the reporting requirements of this chapter. This would  
23 include, but not be limited to, things of value given for an  
24 inauguration or renovation of public property. Anything of value

1 | accepted by an agent or representative of an elective officer or  
2 | candidate or by a committee established by, in the name of, or for  
3 | the benefit of, an elective officer or candidate shall be deemed to  
4 | be accepted by such elective officer or candidate for purposes of  
5 | this section.

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

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

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

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

24 |

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

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

10 SECTION 4. AMENDATORY Rule 257:10-1-10 of the Rules of  
11 the Ethics Commission (74 O.S. Supp. 2008, Chapter 62, App.), is  
12 amended to read as follows:

13 Rule 257:10-1-10. (a) A committee, other than an out-of-state  
14 committee, shall establish one or more campaign depositories:

15 (1) in financial institutions that ordinarily conduct business  
16 within the state; and

17 (2) in offices located within the state that ordinarily conduct  
18 business with the general public.

19 (b) The committee shall maintain a campaign account in each  
20 depository in the name of the committee, with no use of acronyms  
21 permitted.

22 (c) Expenditures of a committee of more than fifty dollars  
23 (\$50), except for expenditures made by the candidate from his or her  
24 own funds, shall be drawn from a campaign account and issued on a

1 check signed by the candidate, treasurer or, in the treasurer's  
2 absence, the deputy treasurer or the chair of said committee.

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

11 (e) Contributions deposited into a campaign account shall not  
12 be transferred into any other campaign account.

13 (f) A committee shall be required to disclose the location of  
14 its campaign account or accounts to the Commission.

15 ~~(f)~~ (g) An out-of-state committee or person, accepting  
16 donations from other persons and making independent expenditures or  
17 electioneering communications with respect to elections governed by  
18 this chapter, shall make such independent expenditures and  
19 electioneering communications from a segregated account which  
20 contains only funds which comply with the monetary limit for  
21 contributions to a candidate set forth in paragraph (2) of  
22 subsection (a) of Section 2 of this chapter and which comply with  
23 the provisions of subsection (d) of Section 2 of this chapter. The  
24 out-of-state committee or person shall be required to disclose the

1 location of the account to the Commission. The reports required by  
2 paragraph (2) of subsection (c) of Section 13 of this chapter and  
3 paragraph (3) of subsection (c) of Section 16 of this chapter shall  
4 be made with respect to the account required by this subsection.

5 SECTION 5. AMENDATORY Rule 257:10-1-20 of the Rules of  
6 the Ethics Commission (74 O.S. Supp. 2008, Chapter 62, App.), is  
7 amended to read as follows:

8 Rule 257:10-1-20. (a) Candidate committees.

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

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

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

20 ~~(C) for political activity,~~

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

22 ~~(E) for nonreimbursed office related expenses~~ campaign for the  
23 office which the candidate is seeking.

24

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

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

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

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

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

22 ~~(C)~~ (B) be contributed to a charitable organization;

23 ~~(D)~~ ~~be retained by the candidate or candidate committee  
24 for use in a future election for a six year period~~

1 following the General Election for the same or a  
2 different office;

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

8 ~~(F) be used for a community activity;~~

9 ~~(G) be used for political activity;~~

10 ~~(H) be transferred to the state or local central committee~~  
11 ~~of a political party; or~~

12 ~~(I) be distributed using a combination of these options.~~

13 (b) Other committees.

14 (1) Use of campaign contributions. Contributions accepted by  
15 any committee, other than a candidate committee, may not be  
16 converted by any person to any personal use and shall only be used  
17 to ~~defray any campaign expenditures and to further the committee's~~  
18 ~~purposes~~ campaign for the office which the candidate is seeking.

19 Said contributions shall not be used for any other purposes except  
20 as permitted in Paragraph (2) or (3) of this subsection. Such a  
21 committee with an unexpended balance of funds not otherwise  
22 obligated for the payment of expenses to further the committee's  
23 purposes shall designate how the surplus funds are to be disposed of  
24 on the committee's statement of organization. Surplus funds may not

1 be expended for any other purpose. ~~The designated use or uses for~~  
2 ~~surplus funds may be changed by the committee by filing an amended~~  
3 ~~statement of organization, provided that no contributions received~~  
4 ~~prior to the date the amended statement of organization is filed~~  
5 ~~with the Commission may be used for the amended use or uses.~~

6 (2) Use of surplus funds by committees supporting or opposing  
7 candidates. Surplus funds of committees, other than candidate  
8 committees, formed solely to support or oppose candidates may be-

9 ~~(A) deposited with the State Treasurer to the credit of~~  
10 ~~the General Revenue Fund;~~

11 ~~(B) returned to the contributors pursuant to any formula~~  
12 ~~approved by the committee; provided, any amount~~  
13 ~~returned to a contributor shall not exceed the amount~~  
14 ~~of the original contribution; or~~

15 ~~(C) donated to another committee.~~

16 (3) Use of surplus funds by committees supporting or opposing  
17 ballot measures. Surplus funds of committees formed to support or  
18 oppose ballot measures may be:

19 (A) ~~deposited with the State Treasurer to the credit of~~  
20 ~~the General Revenue Fund;~~

21 ~~(B) returned to the contributors pursuant to any formula~~  
22 ~~approved by the committee; provided, any amount~~  
23 ~~returned to a contributor shall not exceed the amount~~  
24 ~~of the original contribution; or~~

1           ~~(C) donated to other committees formed solely to support~~  
2           ~~or oppose ballot measures;~~

3           ~~(D)~~ (B) donated to a charitable organization; ~~or~~

4           ~~(E) donated to a community activity.~~

5           SECTION 6.           AMENDATORY           Rule 257:20-1-9 of the Rules of  
6 the Ethics Commission (74 O.S. Supp. 2008, Chapter 62, App.), is  
7 amended to read as follows:

8           Rule 257:20-1-9. (a) Influence of official act, fraud or  
9 official duty. No state officer and no state employee shall,  
10 directly or indirectly, ask, demand, exact, solicit, seek, accept,  
11 assign, receive, or agree to receive anything of value for the state  
12 officer or employee or for any other person or entity, in return for  
13 being:

14           (1) influenced in the performance of an official act;

15           (2) influenced to commit, aid in committing, collude in, or  
16 allow fraud, or make an opportunity for the commission of fraud on a  
17 governmental entity; or

18           (3) induced to perform or fail to perform an act in violation  
19 of the state officer's or state employee's official duty.

20           (b) Soliciting individually or on behalf of a regulatory  
21 governmental entity prohibited. No state officer and no state  
22 employee shall, directly or indirectly, ask, demand, exact, solicit,  
23 seek, accept, assign, receive or agree to receive anything of value  
24 individually or for or on behalf of a governmental entity from a

1 business entity, its employees, officers or board members, or a  
2 person who has greater than a ten percent (10%) interest in such  
3 entity if the rates, charges, prices or fees charged by the business  
4 entity are subject to regulation by the governmental entity which  
5 the officer or employee serves. This provision does not apply to a  
6 campaign contribution properly received and reported, which is  
7 exempt from the definition of anything of value in Section 2 of  
8 Chapter 1 of this title, or to anything of value accepted on behalf  
9 of the state of Oklahoma pursuant to Subsection (e) of this section.

10 (c) ~~Calendar year limits~~ Prohibition on things of value.

11 ~~(1) Elective officers. No elective officer, or an immediate~~  
12 ~~family member of an elective officer shall, directly or indirectly,~~  
13 ~~ask, demand, exact, solicit, seek, accept, assign, receive, or agree~~  
14 ~~to receive things of value in a calendar year which, in the~~  
15 ~~aggregate, are valued at more than one hundred dollars (\$100); and~~

16 ~~(2) Other state~~ State officers and state employees. ~~Except for~~  
17 ~~an elective officer, no~~ No state officer, state employee or an  
18 immediate family member of such state officer or state employee  
19 shall, directly or indirectly, ask, demand, exact, solicit, seek,  
20 accept, assign, receive or agree to receive things of value ~~in a~~  
21 ~~calendar year which, in the aggregate, are valued at more than one~~  
22 ~~hundred dollars (\$100):~~ as defined and subject to the exceptions  
23 enumerated in the definition of "anything of value" in Section 2 of  
24

1 Chapter 1 of this title from a person ~~who~~ whom the state officer or  
2 state employee knows or should know:

3 ~~(A)~~

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

6 ~~(i)~~

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

10 ~~(ii)~~

11 (B) things of value received from any director,  
12 stockholder, partner, agent, affiliate, member,  
13 employee or officer of a lobbyist principal if the  
14 donor is excepted in subparagraph (D) of Paragraph (2)  
15 from the definition of "anything of value" in Section  
16 2 of Chapter 1 of this title, or if there exists  
17 between the recipient and the donor a close personal  
18 relationship of long standing in which the mutual  
19 exchange of gifts on special occasions, such as  
20 holidays or anniversaries, has become customary;

21 ~~(B)~~

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

1           ~~(C)~~

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

5           ~~A thing or things of value given by a lobbyist; the lobbyist~~  
6 ~~principal by whom the lobbyist is employed or retained; or a~~  
7 ~~stockholder, partner, agent, affiliate, member, employee or officer~~  
8 ~~of the lobbyist principal or lobbyist principals by whom the~~  
9 ~~lobbyist is employed or retained are aggregated for purposes of the~~  
10 ~~disclosure threshold and calendar year limits, regardless of how the~~  
11 ~~thing or things of value are funded if, and only if, the thing or~~  
12 ~~things of value are given at the specific direction, and on behalf~~  
13 ~~of, the lobbyist principal. Lobbyists principals of contract~~  
14 ~~lobbyists shall not be aggregated together for purposes of this~~  
15 ~~provision. If more than one lobbyist is retained or employed by a~~  
16 ~~lobbyist principal, the disclosure and calendar year limits of the~~  
17 ~~first lobbyist to register on behalf of the lobbyist principal for a~~  
18 ~~calendar year are aggregated with each additional lobbyist employed~~  
19 ~~or retained by the same lobbyist principal.~~

20           (d) Prohibition versus limit - Exception. Nothing in  
21 Subsection (c) shall allow a state officer or state employee to  
22 accept anything of value in violation of Subsection (a) of this  
23 section. Subsection (c) shall not apply to public members when  
24

1 things of value are received but are not given as a result of the  
2 public member's status as a public member.

3 (e) Exceptions for state officers and employees of judicial  
4 branch and corporations. Nothing in this section shall allow:

5 (1) a judicial officer, juror, referee, arbitrator or umpire to  
6 accept anything of value from a corporation or any other person,  
7 knowing that person to be a party in interest or the attorney or  
8 counsel of a party in interest to any action or proceeding then  
9 pending or about to be brought before him or her pursuant to Section  
10 386 of Title 21 of the Oklahoma Statutes; or

11 (2) a corporation to influence elections or official duty by  
12 contributions of money or anything of value pursuant to Section 40  
13 of Article IX of the Oklahoma Constitution.

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

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

20 (2) anything of value which is accepted by the Governor on  
21 behalf of the state of Oklahoma or a governmental entity pursuant to  
22 Section 381 et seq. of Title 60 of the Oklahoma Statutes. In order  
23 to be deemed accepted, the Governor must be notified in writing of  
24 any gift received by a governmental entity, or person on behalf of a

1 governmental entity, within ten (10) days of receipt of the gift.  
2 Notice of acceptance must be received from the Governor within the  
3 next thirty (30) days. Upon lack of a response from the Governor  
4 within thirty (30) days of receipt of notice, the gift is deemed  
5 rejected and must be returned to the donor; or

6 (3) the solicitation or acceptance of anything of value for or  
7 from either:

8 (A) a charitable organization or an organization described  
9 in Section 501 (c) of Title 26 of the United States  
10 Code, 26 U.S.C., Section 501 (c), as it currently  
11 exists or as it may be amended; or

12 (B) a tax-exempt professional organization established by  
13 state statute or rules passed by the Oklahoma Supreme  
14 Court,

15 by a member, state officer or state employee, who is a member,  
16 officer or director of the organization, when receipt of anything of  
17 value results from the member, state officer or state employee  
18 attending a function, meeting or seminar on behalf of, or as a  
19 representative of, the organization.

20 (g) No state officer or state employee shall directly or  
21 indirectly borrow money from a lobbyist, or an immediate family  
22 member of a lobbyist, or an entity controlled by or employing a  
23 lobbyist. This subsection shall not apply to:

24

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

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

9 (h) Except for the compensation an elective officer is entitled  
10 to by law for the performance of official duties, no elective  
11 officer shall solicit or accept cash, check or cash equivalent  
12 compensation for an article, appearance or speech, or for  
13 participation at an event, unless the article, appearance or  
14 participation is made as part of the normal course of business in  
15 the member's private occupation.

16 SECTION 7. AMENDATORY Rule 257:23-1-2 of the Rules of  
17 the Ethics Commission (74 O.S. Supp. 2008, Chapter 62, App.), is  
18 amended to read as follows:

19 Rule 257:23-1-2. (a) Required reports. Every lobbyist shall  
20 file reports required by this section with the Ethics Commission  
21 concerning the activities specified in this section. The reports  
22 shall be filed whether or not the person has taken any action which  
23 is required to be reported pursuant to the provisions of this  
24 section. The reports shall be filed between the first and twentieth

1 day of January and the first and twentieth day of July of each  
2 calendar year which shall cover the activities during the period  
3 following the last report.

4 (b) Disclosure of things of value. The report shall be signed  
5 by the lobbyist, who shall attest to the report's accuracy and  
6 veracity, and the signature shall be notarized. The reports shall  
7 include the information specified in Subsection (d) of this section  
8 for things of value given to an elective officer or the immediate  
9 family member of an elective officer by the lobbyist or any lobbyist  
10 principal by whom the lobbyist is employed or retained, the costs of  
11 which exceed ten dollars (\$10) in the aggregate or things of value  
12 given to a state officer, excluding an elective officer, state  
13 employee, or the immediate family member of a state officer,  
14 excluding an elective officer, or a state employee, by the lobbyist  
15 or any lobbyist principal by whom the lobbyist is employed or  
16 retained, the costs of which exceed ten dollars (\$10) in the  
17 aggregate during a six-month period beginning January 1 and ending  
18 June 30 or beginning July 1 and ending December 31.

19 (c) Limits on things of value and exceptions. Lobbyists or  
20 lobbyist principals shall not give things of value ~~which, in the~~  
21 ~~aggregate, are valued at more than one hundred dollars (\$100)~~  
22 ~~annually to any elective officer or the immediate family member of~~  
23 ~~an elective officer, or things of value which, in the aggregate, are~~  
24 ~~valued at more than one hundred dollars (\$100) annually to any other~~

1 state officer or state employee, or the immediate family member of a  
2 state officer, ~~excluding an elective officer,~~ or a state employee,  
3 provided that the following shall not be subject to this subsection:

4 (1) things of value given by a lobbyist or lobbyist principal  
5 as a result of or arising out of employment of, or the lobbyist or  
6 lobbyist principal doing business with a state officer or state  
7 employee or the recipient; and

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

16 ~~A thing or things of value given by a lobbyist, the lobbyist~~  
17 ~~principal by whom the lobbyist is employed or retained, or a~~  
18 ~~stockholder, partner, agent, affiliate, member, employee or officer~~  
19 ~~of the lobbyist principal or lobbyist principals by whom the~~  
20 ~~lobbyist is employed or retained are aggregated for purposes of the~~  
21 ~~disclosure threshold and calendar year limits, regardless of how the~~  
22 ~~thing or things of value are funded if, and only if, the thing or~~  
23 ~~things of value are given at the specific direction, and on behalf~~  
24 ~~of, the lobbyist principal. If more than one lobbyist is retained~~

1 ~~or employed by a lobbyist principal, the disclosure and calendar~~  
2 ~~year limits of the first lobbyist to register on behalf of the~~  
3 ~~lobbyist principal for a calendar year are aggregated with each~~  
4 ~~additional lobbyist, employed or retained by the same lobbyist~~  
5 ~~principal.~~

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

9 ~~(1) The name and position of the state officer or state~~  
10 ~~employee to whom the thing of value was given;~~

11 ~~(2) The date the thing of value was given;~~

12 ~~(3) The nature of the thing of value given;~~

13 ~~(4) The amount of the expenditure made by the lobbyist or~~  
14 ~~lobbyist principal for the thing of value; and~~

15 ~~(5) The name of the lobbyist principal or lobbyist principals~~  
16 ~~on whose behalf the thing of value was given, if any.~~

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

24

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

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

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

22 ~~(i) Form for lobbyist reporting. The form or computer diskette~~  
23 ~~with form software for reports of lobbyists shall be prescribed by~~  
24 ~~the Ethics Commission.~~

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

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

9       ~~(1) a charitable organization or an organization described in~~  
10 ~~Section 501 (c) of Title 26 of the United States Code, 26 U.S.C.,~~  
11 ~~Section 501 (c), as it currently exists or as it may be amended; or~~

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

18       SECTION 8.       AMENDATORY       Rule 257:30-1-5 of the Rules of  
19 the Ethics Commission (74 O.S. 2001, Chapter 62, App.), is amended  
20 to read as follows:

21       Rule 257:30-1-5. (a) The Commission may resolve any possible  
22 violation of this chapter by the following:

23  
24

1 (1) after prior notice and an opportunity to be heard, issuing  
2 a private reprimand to ~~the~~ a Respondent one time only for an  
3 inadvertent violation;

4 (2) after prior notice and an opportunity to be heard, issuing  
5 a public reprimand to ~~the~~ a Respondent;

6 (3) electing to enter into a settlement agreement.

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

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

14 (c) A settlement agreement may include, but shall not be  
15 limited to:

16 (1) a requirement that the Respondent pay a civil penalty in  
17 accordance with Section 11 of Chapter 1 of this title;

18 (2) a requirement that the Respondent's conduct be conformed to  
19 the requirements of this title;

20 (3) forfeiture of gifts, receipts or profits obtained through a  
21 violation of this title; or

22 (4) a combination of the above, as necessary and appropriate,  
23 consistent with this title.

24

1 SECTION 9. AMENDATORY Rule 257:30-1-6 of the Rules of  
2 the Ethics Commission (74 O.S. 2001, Chapter 62, App.), is amended  
3 to read as follows:

4 Rule 257:30-1-6. (a) Confidential Commission actions and  
5 records. The following Commission actions and records are  
6 confidential and not open for public inspection:

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

9 (2) deliberations which shall include discussion of ethics  
10 interpretations, investigations, complaints, settlement ranges or  
11 settlement offers, decisions, and recommendations, and discussions  
12 on pending litigation, all of which shall be held in executive  
13 sessions of the Commission; and

14 (3) records and materials obtained or work products prepared by  
15 the Commission, its employees or independent contractors in  
16 connection with an investigation or complaint; and

17 (4) communications between the Executive Director of the  
18 Commission and the Chief Justice in writing pertaining to the  
19 disqualification of a member of the Commission pursuant to Section 5  
20 of Chapter 1 of this title; and

21 (5) private reprimands for inadvertent violations.

22 (b) Commission actions and records open for public inspection.

23 The following Commission actions and records are open for public  
24 inspection:

1        (1) Respondents and allegations contained in any complaint  
2 initiated by the Commission and any other information as may be  
3 filed in district court; and

4        (2) Respondents and allegations contained in any record  
5 transmitted by the Commission to a law enforcement commission,  
6 officer, or prosecuting authority.

7        (c) Disclosure to a respondent or law enforcement authority.

8 Notwithstanding Subsection (a) of this section, the record of a  
9 matter that is the subject of an investigation shall be disclosed  
10 upon written request to:

11        (1) a Respondent or the subject of an investigation, or the  
12 attorney for a Respondent or subject of an investigation; provided  
13 that disclosure of the record to the Respondent or the subject of an  
14 investigation or to an attorney for a Respondent or subject of an  
15 investigation record shall be limited to a copy of the complaint, a  
16 copy of all statements made by the Respondent, a copy of all sworn  
17 statements by persons other than the Respondent, and any and all  
18 exculpatory evidence; or

19        (2) a law enforcement commission, officer, or prosecuting  
20 authority to fulfill the purposes of this title.

21        ~~(c)~~ (d) Disclosure when necessary in investigation.

22 Notwithstanding Subsection (a) and (b) of this section, a record or  
23 any part of a record may, in the discretion of the Commission, be  
24

1 disclosed upon written request when necessary in the course of an  
2 investigation to such persons as are material to the investigation.

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

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

15 SECTION 10. This act shall become effective November 1, 2009.

16

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