



"Gary Clark"
<gclark@osuf.org>
12/21/2004 01:10 PM

To: "Jennifer F Paustenbaugh" <jennifer.paustenbaugh@okstate.edu>
cc: "Paula D Johnson" <paulaj@okstate.edu>, (bcc: Paula D
Johnson/legal/regents/Okstate)
Subject: RE: Nickles Deposit Agreement

Jennifer,

I have the signed original Deposit Agreement. I will send it to you with a copy to Paula. I am sending G. T. a copy as well.

Let's hope that the necessary legislation is passed that will allow this to become a Deed of Gift in the near future.

Merry Christmas and a Happy New year to both of you.

Gary

This transmission may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you..

Oklahoma State University
FOUNDATION

RECEIVED

DEC 23 2004

Legal Counsel

December 21, 2004

Jennifer F. Paustenbaugh
Oklahoma State University
Head of Special Collections
204D Library
Stillwater, OK 74078

RE: Senator Nickles Deposit Agreement

Dear Jennifer:

Enclosed is the original signed deposit agreement to be kept in Special Collections in the data file for the Nickles collection. Congratulations on seeing this come to fruition. Please let me know if I can provide any further assistance.

Sincerely,



Gary C. Clark
Vice President and General Counsel

GCC/ag

cc: w/ encl.

Paula D. Johnson
G. T. Bynum

Oklahoma State University
FOUNDATION

December 3, 2004

RECEIVED
DEC 08 2004
Legal Counsel

G.T. Bynum
125 C St., SE #2
Washington, DC 20003

RE: Senator Don Nickles Deposit Agreement and Deed of Gift

VIA FACSIMILE and U.S. MAIL

Dear Mr. Bynum:

Enclosed please find a revised copy of the Deposit Agreement and the Deed of Gift. Please do not hesitate to contact me directly at 405-385-5146, should you have any questions or concerns regarding these documents.

Thank you for your time and assistance in this matter.

Sincerely,



Gary C. Clark
Vice President and General Counsel

GCC/ag

cc: w/ encl.

Jennifer F. Paustenbaugh
Paula D. Johnson ✓

DEPOSIT AGREEMENT

1. This Deposit Agreement (hereinafter "Agreement") sets forth the intent of SENATOR DON NICKLES (hereinafter referred to as the "Senator") and OKLAHOMA STATE UNIVERSITY (hereinafter referred to as the "University"), an institute of higher education of the State of Oklahoma, located in Stillwater, Oklahoma, to establish at the University a suitable repository for a collection of the Senator's Senatorial papers and other materials of significant historical value, documenting the Senator's life and career (hereinafter "Materials"), as described in general terms in Exhibit A attached hereto.

2. Pursuant to this Agreement, the Senator intends to begin depositing Materials with the University. Notwithstanding their deposit with the University, title to, and all associated rights of beneficial ownership of, these Materials will remain with the Senator.

3. It is the Senator's present intention to execute a Deed of Gift, at a future date, to transfer to the Oklahoma State University Foundation (hereinafter "Foundation") title of the Materials transferred pursuant to this Agreement, except for any particular items as to which the Senator may determine to retain title, and to designate the University as the permanent repository of the collection. However, as stated in paragraph 6 below, the Senator is not bound by this Agreement to execute a Deed of Gift transferring title of these Materials to the Foundation, and the Senator may, in his sole discretion, elect either to defer indefinitely a decision whether to execute such a Deed of Gift, or to decline ever to execute such a Deed of Gift, notwithstanding his present intention to do so. Further, terms of a Deed of Gift may supersede any terms of this Agreement, including terms regarding restrictions on access and use. Also, the terms of this Agreement may be supplemented or modified by written agreement of the Senator and the University.

4. The following terms shall apply to Materials that are transferred to the University pursuant to this Agreement:

a. The Senator's office shall bear the costs of transferring the Materials to the University's Library. Materials transferred to the University pursuant to this Agreement shall be deposited in the Special Collections and University Archives of the University Library and shall be maintained by the University's Library in conditions meeting the accepted professional standards for the archival storage and preservation of historical papers and materials; provided, however it is understood between the parties that the University assumes no responsibility in case of loss or damage by theft, fire, or any other cause beyond the control of the University and University need not specially insure the Materials covered by this Agreement. If the University proposes to store any of the Materials

outside of University property, the University will consult with the Senator or his designated representative in advance.

b. Copyright to that portion of the Materials in which copyright resides with the Senator is hereby expressly retained by the Senator.

c. The Senator or his designated representative shall be permitted to examine any Materials during the regular working hours of the University Library. The University will make Materials in the collection available to the Senator at the University Library and provide reference services to the Senator, including reasonable requests for delivery of materials to the Senator's home or offices within the continental United States and photocopied reproductions of original materials to the Senator or his designated representative upon request. The University shall bear the costs of fulfilling these requests.

d. Except for those Materials in the collection that the Senator has specifically designated in writing are to be made immediately available to the public all other Materials in the collection transferred pursuant to this Agreement will be restricted, and the Materials shall not be made available for inspection, reading, or use by anyone until the earlier of (1) the Senator in writing authorizing public access to the Materials or some portion of them, or (2) the Senator's demise; provided, however, that this restriction on access and use shall not apply to the Senator, persons authorized by the Senator in writing to have access to such Materials, and authorized employees of Special Collections and University Archives of the University Library to the extent necessary to process, store, and preserve the Materials and to respond to requests from the Senator for access to the Materials or reproductions at the University or at the Senator's home or offices. At any time the Materials are no longer restricted, the University is authorized to make all Materials in the collection available to any person in its reasonable discretion and in accordance with standard archival or special collections practices. Until the earlier of (1) the Senator in writing authorizing public access to the Materials or some portion of them, or (2) the Senator's demise, the University may not exhibit the Materials without the written consent of the Senator or his designated representative. If any restricted material is subpoenaed, the University will notify the Senator within 3 days and allow him to move to quash the subpoena at his expense before the proper court. If such a motion is filed, the University will not produce the subpoenaed material until an order on the subpoena is issued. If no motion to quash is timely filed by the Senator, the University may produce the subpoenaed material.

e. The Materials transferred pursuant to this Agreement may not be completely identified or arranged at the time of their transfer. The

University Library employees assigned to the collection, under the supervision of the Head of Special Collections and University Archives, shall organize and describe the materials in the collection using accepted archival standards and practices.

f. In the event that the University finds that any of the Materials transferred pursuant to this Agreement belong to the United States Senate, rather than to the Senator, the University will notify the Senator and arrange for the return of those materials to the Senate at the Senator's cost. In the event that the University finds that any of the Materials transferred pursuant to this Agreement are the personal/private papers of the Senator, the University will notify the Senator so that he may determine whether to request the return of the personal papers. If the University determines that any of the Materials transferred pursuant to this Agreement have no permanent value or historical interest, the University shall notify the Senator in writing of its determination, and the Senator may direct the University to return the Materials to him, at the expense of the Senator. The University may dispose of any of the Materials as to which the Senator has not, within 30 days, exercised his right to have the Materials returned to him. The University may also dispose, in accordance with its usual practices, any Material that is the third or more copy of such Material.

5. The Senator may from time to time deposit with the University additional papers and other historical materials, in which case the terms of this Agreement shall be applicable to all such materials, except to the extent that by subsequent letter or agreement the terms applicable to such materials are varied.

6. At any time, the Senator may reclaim the Materials and decline to make a Deed of Gift of them to the Foundation, in which case the University shall promptly arrange for the Materials to be returned to the Senator by shipping the Materials as instructed by the Senator at the expense of the Senator. If, however, the Senator reclaims the Materials because of a failure on the part of the University to fulfill any of its obligations under this Agreement, including the University's duty to maintain the Materials in conditions meeting the accepted professional standards for the archival storage and preservation of historical papers and materials, then the University shall bear the expense of shipping the Materials as instructed by the Senator, and the Senator shall not be obligated to reimburse the University for shipping expenses.

7. The Senator appoints Brett Bernhardt as his designated representative in the administration of this Agreement.

8. All notices hereunder shall be sent by regular mail, postage prepaid and/or facsimile, with receipt documentation. The Senator shall provide a current

notification address (mailing address and facsimile number) to the University's Library, Head of Special Collections and University Archives, and will be responsible for notifying the University of any future changes of address.

READ AND AGREED TO:

Senator Don Nickles

Dated:

David J. Schmidly, President/CEO
Oklahoma State University

Dated:

DEED OF GIFT
TO THE
OKLAHOMA STATE UNIVERSITY FOUNDATION

On this _____ day of _____, 200____, for the purpose of furthering scholarly research and teaching at Oklahoma State University, I, THE HONORABLE DON NICKLES (the "Donor"), hereby give, donate, transfer, convey, and deliver to the OKLAHOMA STATE UNIVERSITY FOUNDATION (the "Foundation") to be held by the Edmon Low Library ("Library") at Oklahoma State University ("University") for inclusion in the Special Collections and University Archives and for maintenance therein by the authorities and staff thereof my papers and historical materials, described in general terms on Exhibit A attached hereto (hereinafter "Materials.")

In making this gift, it is my purpose and intention to vest in the Foundation all the incidents of absolute ownership of said Materials, and any additional papers, documents, and other materials of a similar historic nature that I may give in the future, subject to the following terms and conditions:

1. Title. Title to the Materials, and any additional papers, materials or other property that I may send to the Library from time to time in the future, shall pass to the Foundation as of the date of receipt of said Materials by the Library.

2. Access. It is the Donor's wish that the Materials donated to the Foundation by the terms of this instrument be made available for research and/or public view in the Library's Special Collections and University Archives. At the same time, it is the Donor's wish to guard against the possibility of these Materials being used to embarrass or otherwise injure any living person. Therefore, in furtherance of these objectives, the following stipulations concerning the use of the Materials are imposed by the Donor:

a. Materials transferred to the Foundation pursuant to this Deed of Gift shall be deposited in the Special Collections and University Archives of the Library and shall be maintained by the Library in conditions meeting the accepted professional standards for the archival storage and preservation of historical papers and materials, provided, however, it is understood between the parties that neither the Foundation or the University assumes any responsibility in case of loss or damage by theft, fire, or any other cause beyond the control of the Foundation or the University and the Foundation and the University need not specially insure the Materials covered by this instrument. If the University proposes to store any of the Materials outside of University property, the University will consult with the Donor or his designated representative in advance.

b. The Donor or his designated representative shall be permitted to examine any of the Materials during the regular working hours of the Library. The Library will make the Materials in the collection available to the Donor at the Library and provide reference services to the Donor, including reasonable requests for delivery of the Materials to the Donor's home or offices within the continental United States and photocopied reproductions of original materials to the Donor or his designated representative upon request. University shall bear the costs of fulfilling these requests.

c. Except for materials in the collection that the Donor has specifically designated in writing are to be made immediately available to the public, all other Materials in the collection will be restricted and will not be made available for inspection, reading or use by anyone until the earlier of (1) the Donor in writing authorizing public access to the Materials or some portion of them, or (2) the Donor's demise; provided however, this restriction on access and use shall not apply to the Donor, persons authorized by the Donor in writing to have access to such materials, and authorized employees of Special Collections and University Archives of the Library to the extent necessary to process, store, and preserve the Materials and to respond to requests from the Donor for access to the Materials or reproductions at the Library or at the Donor's home or offices. At any time the Materials are no longer restricted, the University is authorized to make all Materials in the collection available to any person in its reasonable discretion and in accordance with standard archival or special collections practices. Until the earlier of (1) the Donor in writing authorizing public access to the Materials or some portion of them, or (2) the Donor's demise, the University may not exhibit restricted materials without the written consent of the Donor or his designated representative. If any restricted material is subpoenaed, the University will notify the Donor within 3 days and allow him to move to quash the subpoena at his expense before the proper court. If such a motion is filed, the University will not produce the subpoenaed material until a final order is issued. If no motion to quash is timely filed by the Donor, the University may produce the subpoenaed material.

d. All Materials not restricted in accordance with the foregoing stipulations or upon release from said restrictions shall be made available for research and/or public view in accordance with the policies and procedures of the Library's Special Collections and University Archives governing access to its holdings.

3. Copyright. The Donor hereby formally gives, donates transfers, conveys and delivers to the University all possessory, literary, artistic, and intellectual property rights in the Materials that have hereby given or that may later be given by the terms of this instrument to the Library's Special Collections and University Archives, including without limitation the rights to reproduce, adapt, publish, perform, or publicly display said Materials.

4. Materials Owned by Senate. In the event that the Foundation finds that any of the Materials transferred pursuant to this Deed of Gift belong to the United States Senate, rather than to the Donor, the Foundation will promptly notify the Donor and arrange for the return of those materials to the Senate.

5. Disposition. If the University determines that any of the Materials transferred pursuant to this Deed of Gift have no permanent value or historical interest, the University shall notify the Donor in writing of its determination, and the Donor may direct the University to return the Materials to him, at the expense of the Donor. The University may dispose of any of the Materials as to which the Donor has not, within 30 days, exercised his right to have the materials returned to him. The University may also dispose, in accordance with its usual practices, any Material that is the third or more copy of such Material.

6. Designated Representative. The Donor appoints Brett Bernhardt as his designated representative in the administration of this instrument.

7. Notices, Address. All notices hereunder shall be sent by regular mail, postage prepaid and/or facsimile, with receipt documentation. The Donor shall provide a current notification address (mailing address and facsimile number) to the Library's Head of Special Collections and University Archives, and will be responsible for notifying the University of any future changes of address.

8. Binding Effect. This Deed of Gift shall be binding upon the parties, their assigns, heirs, and successors in interest.

Signed: _____
Senator Don Nickles

Acceptance: Oklahoma State University Foundation

By: _____
Kirk Jewell, President and CEO

Oklahoma State University

By: _____
David J. Schmidly, President and CEO



"Gary Clark"
<gclark@osuf.org>

12/01/2004 01:50 PM

To: "Jennifer F Paustenbaugh" <jennifer.paustenbaugh@okstate.edu>,
"Paula D Johnson" <paulaj@okstate.edu>
cc: (bcc: Paula D Johnson/legal/regents/Okstate)
Subject:

Jennifer and Paula,

Here is my proposed language to address Senator Nickles' concern. Let me know what you think and I will get the final version to G.T. with copies to you,

Gary

d. Except for those Materials in the collection that the Senator has specifically designated in writing are to be made immediately available to the public all other Materials in the collection transferred pursuant to this Agreement will be restricted, and the Materials shall not be made available for inspection, reading, or use by anyone until the earlier of (1) the Senator in writing authorizing public access to the Materials or some portion of them, or (2) the Senator's demise; provided, however, that this restriction on access and use shall not apply to the Senator, persons authorized by the Senator in writing to have access to such Materials, and authorized employees of Special Collections and University Archives of the University Library to the extent necessary to process, store, and preserve the Materials and to respond to requests from the Senator for access to the Materials or reproductions at the University or at the Senator's home or offices. At any time the Materials are no longer restricted, the University is authorized to make all Materials in the collection available to any person in its reasonable discretion and in accordance with standard archival or special collections practices. Until the earlier of (1) the Senator in writing authorizing public access to the Materials or some portion of them, or (2) the Senator's demise, the University may not exhibit the Materials without the written consent of the Senator or his designated representative. If any restricted material is subpoenaed, the University will notify the Senator within 3 days and allow him to move to quash the subpoena at his expense before the proper court. If such a motion is filed, the University will not produce the subpoenaed material until an order on the subpoena is issued. If no motion to quash is timely filed by the Senator, the University may produce the subpoenaed material.

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immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you..



Jennifer F
Paustenbaugh

11/29/2004 12:08 PM

To: gclark@okstate.edu
cc: Paula D Johnson/legal/regents/Okstate@Okstate
Subject: RE: Deposit Agreement

Gary,

Thanks, I can see where there'd be confusion on all sides! I am copying Paula so she's in the loop. Once you have made the revisions could you send me a copy of the deposit agreement as it currently stands so I have the most up-to-date copy in my files? Also, I am not sure whether you got the word that we need to fax this (202.224.6008) to G.T.'s attention and then follow it by hard copy to GT's home address [REDACTED]

[REDACTED] There is such a huge delay with irradiated mail that it is unlikely Senator Nickles would get it before Christmas if you send it to his office.

Jennifer

OSU is currently changing the campus e-mail system and my e-mail will be extremely unreliable until at least the end of the summer. If you have sent a message which I did not respond to, please try to resend it.

Jennifer Paustenbaugh, Ph.D.
Head, Special Collections & University Archives
and Puterbaugh Professor of Library Service
Oklahoma State University Library
Stillwater, OK 74078-1071 USA
405. 744.6596 405.744.7579 FAX
jennifer.paustenbaugh@okstate.edu

----- Forwarded by Jennifer F Paustenbaugh/lib/Okstate on 11/29/2004 12:00 PM -----



"Gary Clark"
<gclark@osuf.org>

11/29/2004 11:46 AM

To: "Jennifer F Paustenbaugh" <jennifer.paustenbaugh@okstate.edu>
cc: (bcc: Jennifer F Paustenbaugh/lib/Okstate)
Subject: RE: Deposit Agreement

Jennifer,

I plead guilty to thinking Paula was going to make the changes (sounds like we were both thinking the other person would be doing the revision). Sorry if I have delayed things. I would be happy to make the changes and share them with you and Paula.

Gary

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**Jennifer F
Paustenbaugh**

11/22/2004 09:26 PM

To: Paula D Johnson/legal/regents/Okstate@Okstate, gclark@osuf.org
cc: Sheila Johnson, Katherine L Bost/lib/Okstate@Okstate
Subject: Deposit Agreement

Paula and Gary,

I rec'd this message from G.T. Bynum while I was out of town. I have discussed this with Dean Sheila Johnson. We are pleased that Bret Bernhardt will be our contact. I will get his contact info from G.T., since that will need to be in the agreement. We are not excited that Senator Nickles wants to remove the time period for making the records public. However, there doesn't seem to be a lot we can do about that. We have a strategy for working with Bret to identify content (other than that the Senator identifies) that can be made public more quickly. I think part of the problem is that they did not keep detailed records (or even somewhat detailed records) about what they shipped off when. So I can see their hesitancy in this. Although this is definitely your call, it sounds like we need to go back to the template language about the access restrictions and then use Nickles' forthcoming letter(s) to amend these restrictions.

I will be back in the office next Monday if we need to discuss this further. Happy Thanksgiving!

Jennifer

OSU is currently changing the campus e-mail system and my e-mail will be extremely unreliable until at least the end of the summer. If you have sent a message which I did not respond to, please try to resend it.

Jennifer Paustenbaugh, Ph.D.
Head, Special Collections & University Archives
and Puterbaugh Professor of Library Service
Oklahoma State University Library
Stillwater, OK 74078-1071 USA
405. 744.6596 405.744.7579 FAX
jennifer.paustenbaugh@okstate.edu

----- Forwarded by Jennifer F Paustenbaugh/lib/Okstate on 11/22/2004 01:45 PM -----



**"Bynum, G.T.
(Nickles)"**
<G.T._Bynum@Nickles
.senate.gov>

11/19/2004 04:32 PM

To: "Jennifer F Paustenbaugh" <jennifer.paustenbaugh@okstate.edu>
cc: "Fleming, Pamela (Nickles)" <Pamela_Fleming@Nickles.senate.gov>,
"Bernhardt, Bret (Nickles)" <Bret_Bernhardt@Nickles.senate.gov>,
(bcc: Jennifer F Paustenbaugh/lib/Okstate)
Subject: Deposit Agreement

Jennifer:

I have gone over the deposit agreement with Senate Legal Counsel and Senator Nickles.

First, the designated representative will be Bret Bernhardt - the Senator's long-time chief of staff.

Second, at the suggestion of Senate Legal Counsel, Senator Nickles would like to strike those elements of section 4d that open the archive up after 10 years. The Senator would like to maintain control over access until a time of his choosing, as is provided for in the template provided to you

by Senate Legal Counsel. When legislation passes through Congress that will allow the Senator to enter into a deed of gift without taking a gift tax hit, he will revisit the issue. Otherwise, he will open access to the archive when at a time he feels appropriate.

Senate Legal Counsel makes this recommendation because Senator Nickles is dramatically younger than your average retiring senator. The potential for there to be something in the archive which might embarrass the senator, his staff, or a colleague compels him to limit access.

I will work with the Senator in drafting a letter to the University which will spell out exactly what parts of the archive can be immediately available for public access. Otherwise, the Senator would like to reserve his right to grant permission to any person wishing to access his archive.

Please give me a call when you receive this, so I can confirm that you have it. As soon as I receive a revised draft from you, I will clear it with Counsel and give it to the Senator for signature.

My direct line is 202-224-6005.

Thanks!

G.T.

Paula D Johnson

10/29/2004 11:04 AM

To: gclark@osuf.org
cc:
Subject: Nickles' Agreements

Gary:

I have attached "clean" versions of the Deposit Agreement and Deed of Gift Agreement for Senator Nickles papers. Because these were prepared in Word using the Track Changes feature, you will have to have whoever prints them click "Final" on the Track Changes toolbar. Otherwise, the "Final Showing Markup" is the version you will be looking at. If you or your assistant have any questions about this, call Cindy Pearson (in my office) at 4-6494.

Have a good weekend.

Paula



Nickles Deposit Agreement.rev1cp.doc



Nickles deed of gift.Foundation.doc

DEPOSIT AGREEMENT

1. This Deposit Agreement (hereinafter "Agreement") sets forth the intent of SENATOR DON NICKLES (hereinafter referred to as the "Senator") and OKLAHOMA STATE UNIVERSITY (hereinafter referred to as the "University"), an institute of higher education of the State of Oklahoma, located in Stillwater, Oklahoma, to establish at the University a suitable repository for a collection of the Senator's Senatorial papers and other materials of significant historical value, documenting the Senator's life and career (hereinafter "Materials"), as described in general terms in Exhibit A attached hereto.

2. Pursuant to this Agreement, the Senator intends to begin depositing Materials with the University. Notwithstanding their deposit with the University, title to, and all associated rights of beneficial ownership of, these Materials will remain with the Senator.

3. It is the Senator's present intention to execute a Deed of Gift, at a future date, to transfer to the Oklahoma State University Foundation (hereinafter "Foundation") title of the Materials transferred pursuant to this Agreement, except for any particular items as to which the Senator may determine to retain title, and to designate the University as the permanent repository of the collection. However, as stated in paragraph 6 below, the Senator is not bound by this Agreement to execute a Deed of Gift transferring title of these Materials to the Foundation, and the Senator may, in his sole discretion, elect either to defer indefinitely a decision whether to execute such a Deed of Gift, or to decline ever to execute such a Deed of Gift, notwithstanding his present intention to do so. Further, terms of a Deed of Gift may supersede any terms of this Agreement, including terms regarding restrictions on access and use. Also, the terms of this Agreement may be supplemented or modified by written agreement of the Senator and the University.

4. The following terms shall apply to Materials that are transferred to the University pursuant to this Agreement:

a. The Senator's office shall bear the costs of transferring the Materials to the University's Library. Materials transferred to the University pursuant to this Agreement shall be deposited in the Special Collections and University Archives of the University Library and shall be maintained by the University's Library in conditions meeting the accepted professional standards for the archival storage and preservation of historical papers and materials; provided, however it is understood between the parties that the University assumes no responsibility in case of loss or damage by theft, fire, or any other cause beyond the control of the University and University need not specially insure the Materials covered by this Agreement. If the University proposes to store any of the Materials

outside of University property, the University will consult with the Senator or his designated representative in advance.

b. Copyright to that portion of the Materials in which copyright resides with the Senator is hereby expressly retained by the Senator.

c. The Senator or his designated representative shall be permitted to examine any Materials during the regular working hours of the University Library. The University will make Materials in the collection available to the Senator at the University Library and provide reference services to the Senator, including reasonable requests for delivery of materials to the Senator's home or offices within the continental United States and photocopied reproductions of original materials to the Senator or his designated representative upon request. The University shall bear the costs of fulfilling these requests.

d. Except for those Materials in the collection that the Senator has specifically designated in writing are to be made immediately available to the public all other Materials in the collection transferred pursuant to this Agreement will be restricted, and the Materials shall not be made available for inspection, reading, or use by anyone until ten years have expired from the date of this Agreement and the Senator is not serving in National public office; provided, however, that this restriction on access and use shall not apply to the Senator, persons authorized by the Senator in writing to have access to such Materials, and authorized employees of Special Collections and University Archives of the University Library to the extent necessary to process, store, and preserve the Materials and to respond to requests from the Senator for access to the Materials or reproductions at the University or at the Senator's home or offices. At any time the Materials are no longer restricted, the University is authorized to make all Materials in the collection available to any person in its reasonable discretion and in accordance with standard archival or special collections practices. Until ten years have expired and the Senator is not serving in National public office, the University may not exhibit the Materials without the written consent of the Senator or his designated representative. If any restricted material is subpoenaed, the University will notify the Senator within 3 days and allow him to move to quash the subpoena at his expense before the proper court. If such a motion is filed, the University will not produce the subpoenaed material until an order on the subpoena is issued. If no motion to quash is timely filed by the Senator, the University may produce the subpoenaed material.

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supervision of the Head of Special Collections and University Archives, shall organize and describe the materials in the collection using accepted archival standards and practices.

f. In the event that the University finds that any of the Materials transferred pursuant to this Agreement belong to the United States Senate, rather than to the Senator, the University will notify the Senator and arrange for the return of those materials to the Senate at the Senator's cost. In the event that the University finds that any of the Materials transferred pursuant to this Agreement are the personal/private papers of the Senator, the University will notify the Senator so that he may determine whether to request the return of the personal papers. If the University determines that any of the Materials transferred pursuant to this Agreement have no permanent value or historical interest, the University shall notify the Senator in writing of its determination, and the Senator may direct the University to return the Materials to him, at the expense of the Senator. The University may dispose of any of the Materials as to which the Senator has not, within 30 days, exercised his right to have the Materials returned to him. The University may also dispose, in accordance with its usual practices, any Material that is the third or more copy of such Material.

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6. At any time, the Senator may reclaim the Materials and decline to make a Deed of Gift of them to the Foundation, in which case the University shall promptly arrange for the Materials to be returned to the Senator by shipping the Materials as instructed by the Senator at the expense of the Senator. If, however, the Senator reclaims the Materials because of a failure on the part of the University to fulfill any of its obligations under this Agreement, including the University's duty to maintain the Materials in conditions meeting the accepted professional standards for the archival storage and preservation of historical papers and materials, then the University shall bear the expense of shipping the Materials as instructed by the Senator, and the Senator shall not be obligated to reimburse the University for shipping expenses.

7. The Senator appoints _____ as his designated representative in the administration of this Agreement.

8. All notices hereunder shall be sent by regular mail, postage prepaid and/or facsimile, with receipt documentation. The Senator shall provide a current notification address (mailing address and facsimile number) to the University's

Library, Head of Special Collections and University Archives, and will be responsible for notifying the University of any future changes of address.

READ AND AGREED TO:

Senator Don Nickles

Dated:

David J. Schmidly, President/CEO
Oklahoma State University

Dated:

**DEED OF GIFT
TO THE
OKLAHOMA STATE UNIVERSITY FOUNDATION**

On this _____ day of _____, 200____, for the purpose of furthering scholarly research and teaching at Oklahoma State University, I, THE HONORABLE DON NICKLES (the "Donor"), hereby give, donate, transfer, convey, and deliver to the OKLAHOMA STATE UNIVERSITY FOUNDATION (the "Foundation") to be held by the Edmon Low Library ("Library") at Oklahoma State University ("University") for inclusion in the Special Collections and University Archives and for maintenance therein by the authorities and staff thereof my papers and historical materials, described in general terms on Exhibit A attached hereto (hereinafter "Materials.")

In making this gift, it is my purpose and intention to vest in the Foundation all the incidents of absolute ownership of said Materials, and any additional papers, documents, and other materials of a similar historic nature that I may give in the future, subject to the following terms and conditions:

1. Title. Title to the Materials, and any additional papers, materials or other property that I may send to the Library from time to time in the future, shall pass to the Foundation as of the date of receipt of said Materials by the Library.

2. Access. It is the Donor's wish that the Materials donated to the Foundation by the terms of this instrument be made available for research and/or public view in the Library's Special Collections and University Archives. At the same time, it is the Donor's wish to guard against the possibility of these Materials being used to embarrass or otherwise injure any living person. Therefore, in furtherance of these objectives, the following stipulations concerning the use of the Materials are imposed by the Donor:

a. Materials transferred to the Foundation pursuant to this Deed of Gift shall be deposited in the Special Collections and University Archives of the Library and shall be maintained by the Library in conditions meeting the accepted professional standards for the archival storage and preservation of historical papers and materials, provided, however, it is understood between the parties that neither the Foundation or the University assumes any responsibility in case of loss or damage by theft, fire, or any other cause beyond the control of the Foundation or the University and the Foundation and the University need not specially insure the Materials covered by this instrument. If the University proposes to store any of the Materials outside of University property, the University will consult with the Donor or his designated representative in advance.

b. The Donor or his designated representative shall be permitted to examine any of the Materials during the regular working hours of the Library. The Library will make the Materials in the collection available to the Donor at the Library and provide reference services to the Donor, including reasonable requests for delivery of the Materials to the Donor's home or offices within the continental United States and photocopied reproductions of original materials to the Donor or his designated representative upon request. University shall bear the costs of fulfilling these requests.

c. Except for materials in the collection that the Donor has specifically designated in writing are to be made immediately available to the public, all other Materials in the collection will be restricted and will not be made available for inspection, reading or use by anyone until ten years have expired from the date of this instrument and the Donor is not serving in National public office, provided however this restriction on access and use shall not apply to the Donor, persons authorized by the Donor in writing to have access to such materials, and authorized employees of Special Collections and University Archives of the Library to the extent necessary to process, store, and preserve the Materials and to respond to requests from the Donor for access to the Materials or reproductions at the Library or at the Donor's home or offices. At any time the Materials are no longer restricted, the University is authorized to make all Materials in the collection available to any person in its reasonable discretion and in accordance with standard archival or special collections practices. Until ten years have expired from the date of this instrument and the Donor is not serving in National public office, the University may not exhibit materials without the written consent of the Donor or his designated representative. If any restricted material is subpoenaed, the University will notify the Donor within 3 days and allow him to move to quash the subpoena at his expense before the proper court. If such a motion is filed, the University will not produce the subpoenaed material until a final order is issued. If no motion to quash is timely filed by the Donor, the University may produce the subpoenaed material.

d. All Materials not restricted in accordance with the foregoing stipulations or upon release from said restrictions shall be made available for research and/or public view in accordance with the policies and procedures of the Library's Special Collections and University Archives governing access to its holdings.

3. Copyright. The Donor hereby formally gives, donates transfers, conveys and delivers to the University all possessory, literary, artistic, and intellectual property rights in the Materials that have hereby given or that may later be given by the terms of this instrument to the Library's Special Collections and University Archives, including without limitation the rights to reproduce, adapt, publish, perform, or publicly display said Materials.

4. Materials Owned by Senate. In the event that the Foundation finds that any of the Materials transferred pursuant to this Deed of Gift belong to the United States Senate, rather than to the Donor, the Foundation will promptly notify the Donor and arrange for the return of those materials to the Senate.

5. Disposition. If the University determines that any of the Materials transferred pursuant to this Deed of Gift have no permanent value or historical interest, the University shall notify the Donor in writing of its determination, and the Donor may direct the University to return the Materials to him, at the expense of the Donor. The University may dispose of any of the Materials as to which the Donor has not, within 30 days, exercised his right to have the materials returned to him. The University may also dispose, in accordance with its usual practices, any Material that is the third or more copy of such Material.

6. Designated Representative. The Donor appoints _____ as his designated representative in the administration of this instrument.

7. Notices, Address. All notices hereunder shall be sent by regular mail, postage prepaid and/or facsimile, with receipt documentation. The Donor shall provide a current notification address (mailing address and facsimile number) to the Library's Head of Special Collections and University Archives, and will be responsible for notifying the University of any future changes of address.

8. Binding Effect. This Deed of Gift shall be binding upon the parties, their assigns, heirs, and successors in interest.

Signed: _____
Senator Don Nickles

Acceptance: Oklahoma State University Foundation

By: _____
Kirk Jewell, President and CEO

Oklahoma State University

By: _____
David J. Schmidly, President and CEO

DEPOSIT AGREEMENT

1. This Deposit Agreement (hereinafter "Agreement") sets forth the intent of SENATOR DON NICKLES (hereinafter referred to as the "Senator") and OKLAHOMA STATE UNIVERSITY (hereinafter referred to as the "University"), an institute of higher education of the State of Oklahoma, located in Stillwater, Oklahoma, to establish at the University a suitable repository for a collection of the Senator's Senatorial papers and other materials of significant historical value, documenting the Senator's life and career (hereinafter "Materials"), as described in general terms in Exhibit A attached hereto.

2. Pursuant to this Agreement, the Senator intends to begin depositing Materials with the University. Notwithstanding their deposit with the University, title to, and all associated rights of beneficial ownership of, these Materials will remain with the Senator.

3. It is the Senator's present intention to execute a deed of gift, at a future date, to transfer to the Oklahoma State University Foundation (hereinafter "Foundation") title of the Materials transferred pursuant to this Agreement, except for any particular items as to which the Senator may determine to retain title, and to designate the University as the permanent repository of the collection. However, as stated in paragraph 6 below, the Senator is not bound by this Agreement to execute a deed of gift transferring title of these Materials to the Foundation, and the Senator may, in his sole discretion, elect either to defer indefinitely a decision whether to execute such a deed of gift, or to decline ever to execute such a deed of gift, notwithstanding his present intention to do so. Further, terms of a deed of gift may supersede any terms of this Agreement, including terms regarding restrictions on access and use. Also, the terms of this Agreement may be supplemented or modified by written agreement of the Senator and the University.

4. The following terms shall apply to Materials that are transferred to the University pursuant to this Agreement:

- a. The Senator's office shall bear the costs of transferring the Materials to the University's Library. Materials transferred to the University pursuant to this Agreement shall be deposited in the Special Collections and University Archives of the University Library and shall be maintained by the University's Library in conditions meeting the accepted professional standards for the archival storage and preservation of historical papers and materials, ~~including the maintenance of confidentiality~~; provided, however it is understood between the parties that the University assumes no responsibility in case of loss or damage by theft, fire, or any other cause beyond the control of the University and University need not specially insure the Materials covered by this Agreement. If the University proposes to store any of the Materials outside of University property, the University will consult with the Senator or his designated representative in advance.

b. Copyright to that portion of the Materials in which copyright resides with the Senator is hereby expressly retained by the Senator. ~~The University may not grant permission to anyone to publish from any items in the materials without the specific written consent of the Senator or his designated representative.~~

c. The Senator or his designated representative shall be permitted to examine any Materials during the regular working hours of the University Library. The University will make Materials in the collection available to the Senator at the University Library and provide reference services to the Senator, including reasonable requests for delivery of materials to the Senator's home or offices within the continental United States and photocopied reproductions of original materials to the Senator or his designated representative upon request. The University shall bear the costs of fulfilling these requests.

d. Except for those Materials in the collection that the Senator has specifically designated in writing are to be made immediately available to the public all other Materials in the collection transferred pursuant to this Agreement will be restricted, and the Materials shall not be made available for inspection, reading, or use by anyone until ten years have expired from the date of this Agreement and the Senator is not serving in National public office; provided however that this restriction on access and use shall not apply to ~~except~~ the Senator, persons authorized by the Senator in writing to have access to such Materials, and authorized employees of Special Collections and University Archives of the University Library to the extent necessary to process, store, and preserve the Materials and to respond to requests from the Senator for access to the Materials or reproductions at the University or at the Senator's home or offices. At any time the Materials are no longer restricted, the University is authorized to make all Materials in the collection available to any person in its reasonable discretion and in accordance with standard archival or special collections practices. Until ten years have expired and the Senator is not serving in National public office, the University may not exhibit the Materials without the written consent of the Senator or his designated representative. If any restricted material is subpoenaed, the University will notify the Senator within 3 days and allow him to move to quash the subpoena at his expense before the proper court. If such a motion is filed, the University will not produce the subpoenaed material until an ~~final~~ order on the subpoena is issued. If no motion to quash is timely filed by the Senator, the University may produce the subpoenaed material.

e. The Materials transferred pursuant to this Agreement may not be completely identified or arranged at the time of their transfer. The University Library employees assigned to the collection, under the supervision of the Head of Special Collections & University Archives, shall organize and describe the materials in the collection using accepted archival standards and practices.

f. In the event that the University finds that any of the Materials transferred pursuant to this Agreement belong to the United States Senate, rather than to the Senator, the University will promptly notify the Senator and arrange for the return of those materials to the Senate at the Senator's cost.. In the event that the University finds that any of the Materials transferred pursuant to this Agreement ~~belong to the~~ are the personal/private papers of the Senator, the University will promptly notify the Senator so that he may determine whether to request the return of the personal papers. If the University determines that any of the Materials transferred pursuant to this Agreement have no permanent value or historical interest, the University shall notify the Senator in writing of its determination, and the Senator may direct the University to return the Materials to him, at the expense of the Senator. The University may dispose of any of the Materials as to which the Senator has not, within 30 days, exercised his right to have the Materials returned to him. The University may also dispose, in accordance with its usual practices, any Material that is the third or more copy of such Material.

5. The Senator may from time to time deposit with the University additional papers and other historical materials, in which case the terms of this Agreement shall be applicable to all such materials, except to the extent that by subsequent letter or agreement the terms applicable to such materials are varied.

6. At any time, the Senator may reclaim the Materials and decline to make a deed of gift of them to the Foundation, in which case the University shall promptly arrange for the Materials to be returned to the Senator by shipping the Materials as instructed by the Senator at the expense of the Senator. If, however, the Senator reclaims the Materials because of a failure on the part of the University to fulfill any of its obligations under this Agreement, including the University's duty to maintain the Materials in conditions meeting the highest-accepted professional standards for the archival storage and preservation of historical papers and materials, ~~including the maintenance of confidentiality~~, then the University shall bear the expense of shipping the Materials as instructed by the Senator, and the Senator shall not be obligated to reimburse the University for shipping expenses.

7. The Senator appoints _____ as his designated representative in the administration of this Agreement.

8. All notices hereunder shall be sent by regular mail, postage prepaid and/or facsimile, with receipt documentation. The Senator shall provide a current notification address (-mailing address and facsimile number) to the University's Library, Head of Special Collections and University Archives, and will be responsible for notifying the University of any future changes of address.

READ AND AGREED TO:

Senator Don Nickles

Dated: _____

David J. Schmidly, President/CEO
Oklahoma State University

Dated: _____

**DEED OF GIFT
TO THE
OKLAHOMA STATE UNIVERSITY FOUNDATION**

On this _____ day of _____, 200____, for the purpose of furthering scholarly research and teaching at Oklahoma State University, I, THE HONORABLE DON NICKLES (the "Donor"), hereby give, donate, transfer, convey, and deliver to the OKLAHOMA STATE UNIVERSITY FOUNDATION (the "Foundation") to be held by the Edmon Low Library ("Library") at Oklahoma State University ("University") for inclusion in the Special Collections and University Archives and for maintenance therein by the authorities and staff thereof"; my papers and historical materials, the materials described in general terms on Exhibit A attached hereto (hereinafter "Materials."):-

In making this gift, it is my purpose and intention to vest in the Foundation all the incidents of absolute ownership of said Materials, and any additional papers, documents, and other materials of a similar historic nature that I may give in the future, subject to the following terms and conditions:

1. Title. Title to the Materials, and any additional papers, materials or other property that I may send to the ~~Special Collections and University Archives~~ Library from time to time in the future, shall pass to the Foundation as of the date of receipt of said Materials by the Library.

2. Access. It is the Donor's wish that the Materials donated to the Foundation by the terms of this instrument be made available for research and/or public view in the Library's Special Collections and University Archives. At the same time, it is the Donor's wish to guard against the possibility of these Materials being used to embarrass or otherwise injure any living person. Therefore, in furtherance of these objectives, the following stipulations concerning the use of the Materials are imposed by the Donor:

a. Materials transferred to the Foundation pursuant to this Deed of Gift shall be deposited in the Special Collections and University Archives of the Library and shall be maintained by the Library in conditions meeting the ~~highest~~ accepted professional standards for the archival storage and preservation of historical papers and materials, ~~including the maintenance of confidentiality~~; provided, however, it is understood between the parties that neither the Foundation or the University assumes any responsibility in case of loss or damage by theft, fire, or any other cause beyond the control of the Foundation or the University and the Foundation and the University need not specially insure the Materials covered by this instrument. If the University proposes to store any of the Materials

outside of University property, the University will consult with the Donor or his designated representative in advance.

~~The Donor hereby formally gives, donates transfers, conveys and delivers to Oklahoma State University all possessory, literary, artistic, and intellectual property rights in the materials that have hereby given or that may later be given by the terms of this instrument to the Library's Special Collections and University Archives, including without limitation the rights to reproduce, adapt, publish, perform, or publicly display said materials; subject to the restrictions set forth in this Paragraph 2.~~

b. The Donor or his designated representative shall be permitted to examine any of the Materials during the regular working hours of the Library. The Library will make the Materials in the collection available to the Donor at the Library and provide reference services to the Donor, including reasonable requests for delivery of the Materials to the Donor's home or offices within the continental United States and photocopied reproductions of original materials to the Donor or his designated representative upon request. University shall bear the costs of fulfilling these requests.

c. Except for materials in the collection that the Donor has specifically designated in writing are to be made immediately available to the public, all other Materials in the collection will be restricted and will not be made available for inspection, reading or use by anyone until ten years have expired from the date of this instrument and the Donor is not serving in National public office, provided however this restriction on access and use shall not apply to the Donor, persons authorized by the Donor in writing to have access to such materials, and authorized employees of Special Collections and University Archives of the Library to the extent necessary to process, store, and preserve the Materials and to respond to requests from the Donor for access to the Materials or reproductions at the Library or at the Donor's home or offices. At any time the Materials are no longer restricted, the University is authorized to make all Materials in the collection available to any person in its reasonable discretion and in accordance with standard archival or special collections practices. Until ten years have expired from the date of this instrument and the Donor is not serving in National public office, the University may not exhibit materials without the written consent of the Donor or his designated representative. If any restricted material is subpoenaed, the University will notify the Donor within 3 days and allow him to move to quash the subpoena at his expense before the proper court. If such a motion is filed, the University will not produce the subpoenaed material until a final order is issued. If no motion to quash is timely

filed by the Donor, the University may produce the subpoenaed material.

d. All Materials not restricted in accordance with the foregoing stipulations or upon release from said restrictions shall be made available for research and/or public view in accordance with the policies and procedures of the Library's Special Collections and University Archives governing access to its holdings.

3. Copyright. The Donor hereby formally gives, donates transfers, conveys and delivers to the University all possessory, literary, artistic, and intellectual property rights in the Materials that have hereby given or that may later be given by the terms of this instrument to the Library's Special Collections and University Archives, including without limitation the rights to reproduce, adapt, publish, perform, or publicly display said Materials.

4. Materials Owned by Senate. In the event that the Foundation finds that any of the Materials transferred pursuant to this Deed of Gift belong to the United States Senate, rather than to the Donor, the Foundation will promptly notify the Donor and arrange for the return of those materials to the Senate.

5. Disposition. If the University determines that any of the Materials transferred pursuant to this Deed of Gift have no permanent value or historical interest, the University shall notify the Donor in writing of its determination, and the Donor may direct the University to return the Materials to him, at the expense of the Donor. The University may dispose of any of the Materials as to which the Donor has not, within 30 days, exercised his right to have the materials returned to him. The University may also dispose, in accordance with its usual practices, any Material that is the third or more copy of such Material.

6. Designated Representative. The Donor appoints _____ as his designated representative in the administration of this instrument.

7. Notices, Address. All notices hereunder shall be sent by regular mail, postage prepaid and/or facsimile, with receipt documentation. The Donor shall provide a current notification address (mailing address and facsimile number) to the Library's Head of Special Collections and University Archives, and will be responsible for notifying the University of any future changes of address.

8. Binding Effect. This Deed of Gift shall be binding upon the parties, their assigns, heirs, and successors in interest.

Signed: _____
Senator Don Nickles

Acceptance: Oklahoma State University Foundation

By: _____
Kirk Jewell
President and CEO

Oklahoma State University

By: _____
David J. Schmidly
President and CEO



Jennifer F
Paustenbaugh

10/28/2004 11:22 AM

To: Paula D Johnson/legal/regents/Okstate@Okstate
cc: gclark@osuf.org
Subject: RE: Nickles draft agreement

Paula and Gary,

I think both documents look fine and cover the things we are worried about. I am going to be in Nickles' office Nov. 11 to see their file/organizational set up before they start dismantling the office. Hopefully we'll have heard something back from them at that point about the deposit agreement/deed. Thanks again for your help on this!

Jennifer

OSU is currently changing the campus e-mail system and my e-mail will be extremely unreliable until at least the end of the summer. If you have sent a message which I did not respond to, please try to resend it.

Jennifer Paustenbaugh, Ph.D.
Head, Special Collections & University Archives
and Puterbaugh Professor of Library Service
Oklahoma State University Library
Stillwater, OK 74078-1071 USA
405. 744.6596 405.744.7579 FAX
jennifer.paustenbaugh@okstate.edu



gclark@osuf.org

10/20/2004 11:47 AM

To: paulaj@okstate.edu, jennifer.paustenbaugh@okstate.edu
cc: gclark@osuf.org, (bcc: Paula D Johnson/legal/regents/Okstate)
Subject: RE: Nickles draft agreement

I agree with Paula's changes and have the following brief comments/suggestions;

1. We should also change the "deposit agreement" to "Agreement" in Para 3, line 3; Para 4, line 2; and Para 4(f), line 2.
2. 4(a)-confidentiality- I took this to mean the normal business term of confidentiality, i.e., not only will we not allow access, but we will not disclose the content of the materials. I must admit I am unfamiliar with the National Security classified material standards. We should incorporate the standard we think is appropriate. A possibility: "During the period of restricted access to the Materials the Library shall not, except as authorized by the Senator or required by law, disclose to any persons, firm, company or other organization whatsoever any confidential information derived from restricted Materials."
3. 4(b) Perhaps the second sentence should along these lines: "The Senator reserves the right to grant permission to use such copyrighted Materials."
4. 4(c) It is not unreasonable to believe that Sen. Nickles could be appointed to an ambassadorship. Thus, a limitation to the continental United States may be in order. I don't think the Senator would accept Oklahoma as the limit, but we could try it to see if it presents an issue.
5. 4(e) What about this?: "To the extent that outside funding is available, the University Library employees assigned to the collection, under the supervision of the Head of Special Collections & University Archives, shall organize and describe the materials in the collection using accepted archival standards and conditions."
6. 4(f) At whose cost? I suppose we can propose it to be at the Senator's expense. I don't know how delicate a situation we have.
7. 6- confidentiality- This will presumably be addressed when we resolve the first confidentiality issue.

Gary

"This transmission may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is strictly prohibited. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you."

Oklahoma State
University
Library

204 Edmon Low
Library
Stillwater, OK
74078-1071

405-744-6311
Fax: 405-744-7579



Special Collections & University Archives

ATTN: Paula Johnson

DEPT: OSU Legal Counsel

FAX #: 47998

DATE: Thursday, October 21, 2004

PAGES: 3 (including cover page)

SENT BY: Jennifer Paustenbaugh

MESSAGE: Paula,

Here's the letter Pres. Schmidly sent to Senator Nickles as well as the copy of G.T. Bynum's letter saying that their office will pay shipping. He also sent me a fat packet showing what materials they had identified thus far for transfer. Do you want me to copy that list as your Exhibit A right now or hold off?

Jennifer

OKLAHOMA STATE UNIVERSITY



David J. Schmidly, System CEO, President
107 Whitehurst
Stillwater, Oklahoma 74078-1015
405-744-6384; Fax: 405-744-6285
Email: osupres@okstate.edu

September 20, 2004

The Honorable Don Nickles
United States Senate
133 Hart Senate Office Building
Washington, DC 20510

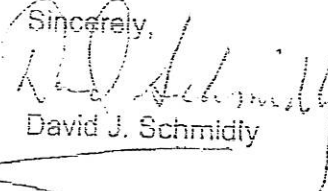
Dear Senator Nickles:

Oklahoma State University is pleased and honored that you have selected the Edmon Low Library at OSU as the permanent home for your senatorial papers. The papers will be an outstanding resource for the citizens of Oklahoma as well as for scholars and students who will make use of these materials for years to come.

OSU is fully committed to providing the funding necessary to make the Senator Don Nickles Papers one of our premier collections. I am allocating additional funds over the next several years to the Edmon Low Library to ensure that your papers will be processed in accordance with all national archival standards. You can expect that the papers will be organized, easily accessible, and physically and intellectually preserved. I will also continue to aggressively seek private support for the papers, support that will enhance opportunities to promote the collection through lectures and exhibitions and make it more widely available through travel stipends and special digital initiatives.

OSU is extremely proud of you and your accomplishments. Henry Bellmon joins with me in thanking you for honoring your alma mater in this significant way.

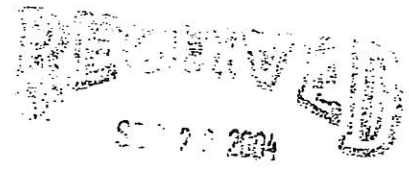
Sincerely,


David J. Schmidly

/dal

c: Sheila Johnson
Bob Clyne
Cathy Shuffield

f:\cor\SenatorNicklespapers9.04.doc



Dean of Libraries Office

United States Senate

WASHINGTON, DC 20510-3602

Jennifer Paustenbaugh
Head, Special Collections & University Archives
Oklahoma State University Library
Stillwater, OK 74078-1071

October 14, 2004

Dear Jennifer:

Enclosed are all of the records we were able to come across detailing the contents of boxes currently being held at the National Archives Suitland Records Center.

I have also touched base with the Senate Archivist, and have confirmed that we can pay for the moving expense of the papers out of our office budget. Our chief of staff has budgeted enough to do this.

Our staff is also in communication with staff at the Senate Finance Committee regarding the legislation we discussed regarding deeds of gift. I will let you know as I learn anything else about that.

I have also given the Senator a memo outlining the need for a "designated representative" and asking him whom he would like to designate. I will get that information to you as soon as he decides.

If there is anything else I can provide to you, please do not hesitate to contact me any time at 202-224-6005. It's good to be working with you!

Sincerely,



G.T. Bynum
Legislative Assistant
U.S. Senator Don Nickles



gclark@osuf.org

10/14/2004 03:03 PM

To: paulaj@okstate.edu

cc: jennifer.paustenbaugh@okstate.edu, (bcc: Paula D Johnson/legal/regents/Okstate)

Subject: RE: Nickles draft agreement

-----Original Message-----

From: Paula D Johnson [mailto:paulaj@okstate.edu]

Sent: Thursday, October 14, 2004 1:31 PM

To: gclark@osuf.org

Cc: gclark@osuf.org; jennifer.paustenbaugh@okstate.edu

Subject: RE: Nickles draft agreement

All: I am in the process of reviewing the drafts that you forwarded to me. I will have some suggested changes, but before I begin with those, I have a couple of concerns on which I would like your input.

1. Risk of loss/ insurance. Jennifer, I don't know but I am assuming that the library does not have any additional property insurance than that offered by the state(which is quite low on property damage -\$25,000.) Do we or should we insert a clause about the University not assuming any responsibility in case of loss by theft, fire or other natural disaster and that the University need not specially insure the materials?

Sounds like a good idea to me.

2. Do we need to make any provisions about copying of the materials, by the Library as it deems necessary or researchers, others for their own personal research ? (Don't know if copying is even something that is allowed.)

Probably good to cover.

3. Once the restriction is lifted and/or as to items released to the public, do we need anything about the University's right to notify the public by any means it deems advisable (catalogs, ads, etc.) of these materials?

I was thinking the "in accordance with standard archival or special collections practices" would take care of that issue, but Jennifer can help us there.

4. How should the required "notices" to the Senator or his designated representative be handled, e.g. on the subpoena, by phone, fax, regular mail???

Since this should be a rare occurrence perhaps we might do fax and regular mail.

If you think I am getting to picky and/or its not necessary, just let me know.

I didn't think a lawyer could be too picky. ☺ These are very good questions.

Gary

"This transmission may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is strictly prohibited. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you."



Jennifer F
Paustenbaugh

10/18/2004 08:11 AM

To: Paula D Johnson/legal/regents/Okstate@Okstate
cc: gclark@osuf.org
Subject: RE: Nickles draft agreement

Paula and Gary,

Sorry for the delay in responding. I was out all day Friday. My responses are in red below.

About the fax you sent me, Paula...

The information that you sent me is good info. However, I believe that it is something that should be in our collection development policy and not in the deed of gift.

My daughter is sick today and I will be working from home. Feel free to contact me there if there are any more things we need to discuss. I should be back there by 9:00 and home all day except for when I take her to the doctor.

Jennifer

OSU is currently changing the campus e-mail system and my e-mail will be extremely unreliable until at least the end of the summer. If you have sent a message which I did not respond to, please try to resend it.

Jennifer Paustenbaugh, Ph.D.
Head, Special Collections & University Archives
and Puterbaugh Professor of Library Service
Oklahoma State University Library
Stillwater, OK 74078-1071 USA
405. 744.6596 405.744.7579 FAX
jennifer.paustenbaugh@okstate.edu
Paula D Johnson

Paula D Johnson

10/14/2004 01:31 PM

To: gclark@osuf.org
cc: gclark@osuf.org, jennifer.paustenbaugh@okstate.edu
Subject: RE: Nickles draft agreement

All: I am in the process of reviewing the drafts that you forwarded to me. I will have some suggested changes, but before I begin with those, I have a couple of concerns on which I would like your input.

1. Risk of loss/ insurance. Jennifer, I don't know but I am assuming that the library does not have any additional property insurance than that offered by the state(which is quite low on property damage -\$25,000.) Do we or should we insert a clause about the University not assuming any responsibility in case of loss by theft, fire or other natural disaster and that the University need not specially insure the materials? I agree with Gary that this is a good idea!

2. Do we need to make any provisions about copying of the materials, by the Library as it deems necessary or researchers, others for their own personal research ? (Don't know if copying is even something that is allowed.) This is part of our standard operating procedure, so I am not sure to what extent it needs to be addressed in the deed of gift. That being said, I don't know if it's in our best interests to proceed under the assumption that if there is not a specific bar to doing some, we can do it.

3. Once the restriction is lifted and/or as to items released to the public, do we need anything about the University's right to notify the public by any means it deems advisable (catalogs, ads, etc.) of these materials? My feeling is that they are counting on us to do this and we have a plan to do so. If you think it should be spelled out, that's fine with me.

4. How should the required "notices" to the Senator or his designated representative be handled, e.g. on the subpoena, by phone, fax, regular mail???

I defer to you and Gary on this one.

If you think I am getting to picky and/or its not necessary, just let me know. pj

gclark@osuf.org



gclark@osuf.org

10/14/2004 11:36 AM

To: jennifer.paustenbaugh@okstate.edu, gclark@osuf.org
cc: paula.johnson@okstate.edu, (bcc: Paula D
Johnson/legal/regents/Okstate)
Subject: RE: Nickles draft agreement

Jennifer and Paula,

I am in Dallas but able to remain in contact through email during breaks etc. After Paula has reviewed the drafts with your changes, and adds hers, we will incorporate them quickly and let you forward them to GT Bynum.

Gary

"This transmission may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is strictly prohibited. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you."

Tevebaugh, Karilyn

From: Goodbary, Al
Sent: Thursday, October 07, 2004 6:27 PM
To: Paustenbaugh, Jennifer
Cc: Tevebaugh, Karilyn
Subject: RE: Nickles Papers deed of gift

Follow Up Flag: Follow up
Flag Status: Yellow

Thanks Jennifer. We'll try to set up a meeting ASAP.
Al

-----Original Message-----

From: Jennifer F Paustenbaugh [mailto:jennifer.paustenbaugh@okstate.edu]
Sent: Thursday, October 07, 2004 4:20 PM
To: Goodbary, Al
Cc: gclark@osuf.org; sheila@okstate.edu; Elliott, Emily
Subject: Nickles Papers deed of gift

Dear General Goodbary:

At last Friday's meeting with Bret Bernhardt, Bret asked me to work with G.T. Bynum in Senator Nickles' office on the deed of gift for the Nickles papers. G.T. faxed me a copy of the draft they want to use as a starting point. My initial reaction to this document was alarm. This is a deposit agreement that states that at some time or maybe never the Senator will draw up a deed giving us irrevocable title to the papers. In the meantime we get to bear all the expense and for nearly any reason he can move the collection someplace else. Gary Clark at the Foundation concurred that it was not very favorable to us. We do not have a single collection in our special collections and university archives that is on deposit. We have legal title to all of our collections, so this is uncharted territory for us.

G.T. would like to have a conference call next Tuesday morning to discuss the deposit agreement. I talked to Emily Elliott this afternoon to get her advice about how to proceed. I don't want to have a conversation with G.T. in which we might appear to not be all on the same page. Although I know President Schmidly has committed the funds to processing the Nickles Papers, I don't have a good feel for what or if there are any breaking points to this deal. Dean Sheila Johnson and I would like to have a meeting with you and Gary Clark either tomorrow or Monday, if possible. Sheila will be in Washington the rest of next week. Can you suggest some times that would be possible for you to meet with us?

In the meantime, I am faxing you the draft deposit agreement for your information. Thank you for help with this!

Regards,

Jennifer Paustenbaugh

OSU is currently changing the campus e-mail system and my e-mail will be extremely unreliable until at least the end of the summer. If you have sent a message which I did not respond to, please try to resend it.



gclark@osuf.org

10/13/2004 08:48 AM

To: jennifer.paustenbaugh@okstate.edu, paula.johnson@okstate.edu
cc: (bcc: Paula D Johnson/legal/regents/Okstate)
Subject: RE: Nickles draft agreement

Jennifer and Paula,

Attached are rough drafts of the Deposit Agreement and a Deed of Gift. I will be in Dallas through Friday attending a conference. I will be in touch through voice mail at least. Feel free to proceed without me, if need be.

Gary

"This transmission may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is strictly prohibited. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you."



Nickles deed of gift.doc Nickles Deposit Agreement.doc



Jennifer F
Paustenbaugh
<jennifer.paustenbaugh
h@okstate.edu>

To: gclark@osuf.org
cc: jennifer.paustenbaugh@okstate.edu, paula.johnson@okstate.edu, (bcc:
Paula D Johnson/legal/regents/Okstate)
Subject: RE: Nickles draft agreement

10/13/2004 02:28 PM

Gary,

Thanks for your quick turnaround of these documents. I have read through them and think this is a very fine start. I am attaching the changes I am recommending in revised copies of the documents. I have a few questions that are in brackets and bolded. Any changes I'm suggesting are underlined, so you can easily (except for a comma) see them. Let me know when we're at the point that you want to send the documents to G.T. Bynum. I can either forward them or you or Paula can send them directly to [G.T. Bynum@Nickles.senate.gov](mailto:G.T._Bynum@Nickles.senate.gov)

Jennifer

OSU is currently changing the campus e-mail system and my e-mail will be extremely unreliable until at least the end of the summer. If you have sent a message which I did not respond to, please try to resend it.

Jennifer Paustenbaugh, Ph.D.
Head, Special Collections & University Archives
and Puterbaugh Professor of Library Service
Oklahoma State University Library
Stillwater, OK 74078-1071 USA
405. 744.6596 405.744.7579 FAX



jennifer.paustenbaugh@okstate.edu Nickles Deposit Agreement.rev1.doc Nickles deed of gift.rev1.doc



Jennifer F
Paustenbaugh

10/12/2004 05:34 PM

To: gclark@osuf.org, Paula D Johnson/legal/regents/Okstate@Okstate
cc: Sheila Johnson
Subject: Nickles draft agreement

Gary and Paula,

Please find attached (1) a electronic version of the Nickles' draft deposit agreement; (2) my notes about changes to be made and a few suggestions about language to include; and (3) the first start on the draft for the Coburn gift, which may contain helpful language. I appreciate your work on this. Feel free to call me if there is anything else I can provide.

Jennifer



nickles.draft.doc



Deedgift-coburn.doc



nickles.notes.doc

OSU is currently changing the campus e-mail system and my e-mail will be extremely unreliable until at least the end of the summer. If you have sent a message which I did not respond to, please try to resend it.

Jennifer Paustenbaugh, Ph.D.
Head, Special Collections & University Archives
and Puterbaugh Professor of Library Service
Oklahoma State University Library
Stillwater, OK 74078-1071 USA
405. 744.6596 405.744.7579 FAX
jennifer.paustenbaugh@okstate.edu

DEED OF GIFT
TO THE
OKLAHOMA STATE UNIVERSITY LIBRARY
SPECIAL COLLECTIONS AND UNIVERSITY ARCHIVES

For the purpose of furthering scholarly research and teaching at Oklahoma State University, I, The Honorable Tom A. Coburn, hereinafter referred to as the Donor, hereby give, donate, transfer, convey, and deliver to the Edmon Low Library at Oklahoma State University Library for inclusion in the Special Collections and University Archives and for maintenance therein by the authorities and staff thereof, the following described property:

See attached description of materials [to be provided by Rep. Coburn's office]

In making this gift, it is my purpose and intention to vest in Oklahoma State University all the incidents of absolute ownership of the above-described property, and any additional papers, materials, or other property that I may send to the Special Collections and University Archives from time to time in the future, subject to the following terms and conditions:

1. Title. Title to the above described property, and any additional papers, materials or other property that I may send to the Special Collections and University Archives from time to time in the future, shall pass to Oklahoma State University as of the date of receipt of said property by the University Library.

2. Access. It is the Donor's wish that the papers, materials, and other property donated to Oklahoma State University by the terms of this instrument be made available for research and/ or public view in Special Collections and University Archives. At the same time, it is the Donor's wish to guard against the possibility of these materials being used to embarrass or otherwise injure any living person. Therefore, in furtherance of these objectives, the following stipulations concerning the use of the donated materials are imposed by the Donor:

All materials not placed under seal in accordance with the foregoing stipulations shall be made available for research and/or public view in accordance with the policies and procedures of the Library's Special Collections and University Archives governing access to its holdings.

3. Subpoena.

4. Copyright. The Donor hereby formally gives, donates transfers, conveys and delivers to Oklahoma State University all possessory, literary, artistic, and intellectual property rights in the materials that have hereby given or that may later be given by the terms of this instrument to the Library's Special Collections and University Archives, including without limitation the rights to reproduce, adapt, publish, perform, or publicly display said materials.

4. Copyright. The Donor retains to himself/herself during his/her personal lifetime all non-possessory, literary, artistic, and intellectual property rights in the materials that have hereby been given or that may be later given by the terms of this instrument to the Library's Special Collections and University Archives, following which these contingent rights will automatically merge with the unconditional rights established in this instrument and become the sole property of Oklahoma State University.

4. Copyright. The Donor retains to himself/herself, his/her heirs, successors, and assigns, all literary, artistic, and intellectual property rights in the materials that have hereby been given or that may later be given by the terms of this instrument to the Library's Special Collections and University Archives.

5. Disposition. Any portions of the papers, materials, and other property donated to Oklahoma State University by the terms of this instrument that are not retained by the Library's Special Collections and University Archives should be returned to the Donor.

5. Disposition. Any portions of the papers, materials, and other property donated to Oklahoma State University by the terms of this instrument that are not retained by the Library's Special Collections and University Archives should be disposed of by the Library in accordance with its established policies.

Signed: _____
Name

Address

Date

Acceptance: Oklahoma State University

Head, Special Collections &
University Archives

4a. We need to wait until we hear from G.T. so we know whether we need to change who is going to bear the costs associated with bringing the papers to OSU.

4b. Can you put something in there that would allow the copyright to revert to us upon Senator Nickles' death? Once he's gone, the hassle factor involved in obtaining permission from someone to use his copyrighted work may inhibit scholarship. To emphasize this need, perhaps you might want to start the sentence, "in the interest of furthering scholarship, the Senator retains to himself during his lifetime...., (some possible wording is found in the second copyright option in the draft Coburn deed of gift).

4d. Build in the 10-year time period with the exclusion should Nickles still be in public office at the end of 10 years. However, what do we do should he be out of and then return to public office after this period? I would like the permission required in exhibiting materials to end after the 10-year period, too.

4f. Include a statement that gives us the right to dispose of through our regular channels, without seeking special permission, copies of materials representing a third copy or beyond. The last sentence of 4f is also problematic in that "reasonable time" is not defined. Maybe there is a legal standard of what is a reasonable time, I don't know.

7. Can something be included in this section that requires the Senator to notify us in writing who this representative is (or if this changes later on).

Add:

Subpoena clause

Loan clause (stolen from Penn States Dept. of Special Collections)

The University is authorized to make all materials in the collection available to any person in its discretion and in accordance with standard archival or special collections practices. Note: you might want to work this into 4d and not draw attention to it as "loan clause."



Jennifer F
Paustenbaugh

10/12/2004 01:09 PM

To: "Goodbary, Al" <al.goodbary@okstate.edu>
cc: Paula D Johnson/legal/regents/Okstate@Okstate, gclark@osuf.org,
rclyne@osuf.org, emily.elliott@okstate.edu, Sheila Johnson
Subject: today's call with G.T. Bynum

General Goodbary:

I think this morning's call with G.T. Bynum was very productive and friendly. In addition to Gary Clark, Paula Johnson and I participating in it, Bob Clyne was also with us. I am copying them in case there is anything they want to add to this summary of what happened.

1. Deposit vs. Deed of Gift: G.T. indicated that this was entirely driven by a bill that is currently pending in the Senate. Passage of this bill would eliminate the conditions they believe are unfavorable to Senator Nickles making an outright gift. He said the Senator had been counseled by Senate Legal--as had all other retiring senators-- to make a deposit agreement instead of a deed of gift. G.T. did assure us that the Senator has no intention of moving the papers elsewhere and that if the bill passes before he leaves office, he will execute a deed of gift. (Follow-up: G.T. said that he would send me the bill number, so we can follow this here). Gary assured G.T. that we did not want to do anything that would put the Senator in a disadvantageous tax situation. We are more or less going to have to live with this.

2. We went through the deposit agreement to get clarification on the problem items we discussed yesterday. Using the numbering scheme from the deed of gift, this is what we discussed:

4A. G.T. will do some checking to see if their office can pay the expense of shipping the materials to OSU. Based on what we read in the Senate archivist's handbook and our prior experience, they should be able to do this.

4B. We need to firm up the copyright section. G.T. agreed to find out who the "designated representative" will be, so we know this from the start.

4D. They want to restrict access to the material for 10 years. The only caveat is if Nickles is in public office later on, they will want to extend the time period until he is no longer in public office. This is standard and we can live with that. We asked about making materials that were already part of the record available when they were accessioned and organized (i.e., well in advance of the 10 years). G.T. did not see this as being a problem. G.T. will find out who is supposed to be the "designated representative" for working with us on exhibiting the material. He understands that we don't want to wait 10 years to begin building the Senator's legacy on campus--at least not as far as his papers are concerned.

4F. This needs to be clarified to give us the authority to weed out duplicate materials.

Other: We will draft language to cover subpoenas and loans.

Gary offered for he and Paula to work together to draft a new deposit agreement that incorporates language from the original document and that addresses the above items. Gary will send this to G.T. in the next few days and they will have Senate Legal review it. At the same time Paula and Gary will work on a deed of gift for the Senator's review so this document is ready to be signed when his situation changes. This gift will largely be the same as the deposit agreement but it will be an irrevocable gift instrument. G.T. thought this would be ideal.

This still isn't the perfect situation, but I think we are making the best out of it and minimizing the university's risk. It was very helpful that Bob hosted the conference call and we could be in the same room together while talking to G.T. Thanks for your continued interest in this project.

Best regards,

Jennifer Paustenbaugh

OSU is currently changing the campus e-mail system and my e-mail will be extremely unreliable until at least the end of the summer. If you have sent a message which I did not respond to, please try to resend it.

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