

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 384

By: Branan

AS INTRODUCED

An Act relating to labor organizations; amending Rules 1-1-2 and 10-1-2 of the Rules of the Ethics Commission (74 O.S. Supp. 2004, Ch. 62, App.), which relate to definitions and contributions; modifying definitions and defining terms; imposing certain restrictions on organizations accepting contributions or making expenditures; specifying certain duties of organizations; requiring certain notice to employees; allowing union dues to be used for certain purposes; providing for administration of organization funds; specifying unlawful acts; providing penalties; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Rule 1-1-2 of the Rules of the Ethics Commission (74 O.S. Supp. 2004, Ch. 62, App.), is amended to read as follows:

Section 1-1-2. Masculine words, whenever used in this title, shall include the feminine and neuter, and the singular includes the plural, unless otherwise specified. In addition, the following words or terms, when used in this title, shall have the following meaning, unless the context clearly indicates otherwise:

"Accept", with reference to a contribution, means failure by a candidate, treasurer, deputy treasurer or agent of a committee to expressly and unconditionally reject and return a tendered contribution to the contributor within six (6) business days from receipt of the tender.

"Act" means the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes.

"Address" means mailing address unless otherwise specified in this title.

"Affiliated" or "Connected entity" means any entity which directly or indirectly establishes, administers or financially supports a political entity.

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

(1) These terms, to the extent that consideration of equal or greater value is not received, include the following:

- (A) a pecuniary item, including money, or a bank bill or note;
- (B) a promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
- (C) a contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
- (D) a stock, bond, note, or other investment interest in an entity;
- (E) a receipt given for the payment of money or other property;
- (F) a right in action;
- (G) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel, except as provided in subparagraphs (C), (D) and (N) of Paragraph (2) of this definition;
- (H) a loan or forgiveness of indebtedness, except as otherwise provided in subparagraph (I) of Paragraph (2) of this definition;
- (I) a work of art, antique, or collectible;
- (J) an automobile or other means of personal transportation;

- (K) real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested in realty, a leasehold interest, or other beneficial interest in realty;
 - (L) an honorarium or compensation for services, except as otherwise provided in subparagraph (M) of Paragraph (2) of this definition;
 - (M) a rebate or discount in the price of anything of value or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public, except as provided in subparagraph (J) of Paragraph (2) of this definition;
 - (N) a promise or offer of employment;
 - (O) transportation, lodging or entertainment; or
 - (P) any other thing of value not excluded by Paragraph (2) of this definition.
- (2) These terms do not include:
- (A) a campaign contribution properly received and reported;
 - (B) any books, written materials, audio tapes, videotapes, or other informational promotional material related to the performance of a state officer's or state employee's official duties;
 - (C) a gift that:
 - (i) is not used, and
 - (ii) no later than thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;

- (D) a gift, devise, or inheritance from an individual's spouse, child, step-child, parent, step-parent, grandparent, step-grandparent, sibling, step-sibling, parent-in-law, sibling-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of that individual, if the donor is not acting as the agent or intermediary for someone other than a person covered by this subparagraph;
- (E) a plaque or trophy with a value that does not exceed two hundred dollars (\$200);
- (F) modest items of food and refreshments, such as soft drinks, coffee, and donuts, offered other than as part of a meal;
- (G) food and beverage consumed on the occasion when participating in a charitable, civic, or community event, or at any event to which all members of the Legislature are invited, which bears a relationship to the state officer's or state employee's office and the officer or employee is attending in an official capacity;
- (H) greeting cards and items with little intrinsic value, such as certificates, which are intended solely for presentation;
- (I) loans from banks and other financial institutions on terms generally available to the public;
- (J) opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all state government employees, whether or not restricted on the basis of geographic consideration;
- (K) rewards and prizes given to competitors in contests or events, including random drawings, which are open to

the public; rewards and prizes from contests or events which are not open to the public are also excepted if the state officer's or state employee's entry into the contest is required as part of his official duties;

- (L) pension and other benefits resulting from participation in a retirement plan offered by an employer or former employer of a state officer or state employee;
- (M) anything which is paid for by the state government or secured by the state government under state government contract;
- (N) any gift accepted on behalf of the state of Oklahoma or a governmental entity by the Governor under Section 381 et seq. of Title 60 of the Oklahoma Statutes. In order to be deemed accepted, the Governor must be notified in writing of any gift received by a governmental entity, or person on behalf of a governmental entity, within ten (10) days of receipt of the gift. Notice of acceptance must be received from the Governor within the next thirty (30) days. Upon lack of a response from the Governor within thirty (30) days of receipt of the notice, the gift is deemed rejected and must be returned to the donor;
- (O) anything for which market value is paid by the state officer or state employee;
- (P) transportation furnished to a state officer or state employee for the purpose of assisting the officer or employee in the performance of the officer's or employee's official duties and from which the officer or employee receives only incidental personal benefits ancillary to said purpose;

- (Q) food, transportation or entertainment provided by a governmental agency or governmental enterprise of a foreign nation as a gesture of hospitality;
- (R) prescription drugs or similar items given to the recipient for distribution to patients in need of treatment which are not used by the recipient;
- (S) a meal or other food served at a meeting at which the state officer or state employee is an invited guest;
and
- (T) any gratuity provided at a meeting, conference, or seminar by sponsors, exhibitors, etc., the cost of which is not borne by a registrant to such meeting, conference, or seminar.

"Associated", when used with reference to an entity, includes an entity in which an individual or a member of his or her immediate family is a director, officer, fiduciary, trustee, agent, or partner, or owns or controls, in the aggregate, at least two percent (2%) or a value of five thousand dollars (\$5,000) of the outstanding equity.

"Ballot measure" means an initiative, referendum, legislative referendum, legislative initiative, state question, or any proposition or measure submitted to voters for their approval or rejection at a statewide election.

"Business" means any corporation, limited liability company, partnership, limited liability partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit.

"Business day" means any day except a Saturday, Sunday or a legal holiday designated in Section 82.1 of Title 25 of the Oklahoma Statutes.

"Campaign" means and includes all activities for or against the election of a candidate to a specific state office for a specific term or the passage or defeat of a ballot measure from the date of acceptance of the first contribution, the making of the first expenditure, or the filing of a declaration of candidacy, whichever is first, until a final campaign contributions and expenditures report is filed.

"Campaign expenditure" is an expenditure not otherwise prohibited which is used to defray the costs of a candidate's campaign including, without limitation, advertising, travel and food while campaigning, and costs for campaign workers, whether paid or volunteers.

"Candidate" means a person who seeks nomination or election to state office. An individual is a candidate when the individual:

(1) has filed a declaration of candidacy for any state office with the Secretary of the State Election Board;

(2) has filed a declaration of candidacy with the Secretary of State and has drawn active opposition;

(3) is nominated as a "substitute candidate" pursuant to Section 1-105 of Title 26 of the Oklahoma Statutes; or

(4) solicits or accepts contributions, makes expenditures or gives consent to an individual, organization, party committee, or other committee to solicit or accept contributions or make expenditures to secure election to any state office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(A) solicitation is made;

(B) contribution is accepted; or

(C) expenditure is made.

The term "candidate" shall include a person whose candidacy is unopposed.

"Candidate committee" means the committee, consisting of one or more persons who may be the candidate only, designated by a candidate to promote the candidate's candidacy and serve as the recipient of all contributions and the disbursing officer of all expenditures for the candidate.

"Charitable organization" means an entity described in 501 (c) (3) of Title 26 of the United States Code, 26 U.S.C., Section 501 (c) (3), as it currently exists or as it may be amended.

"Classified employee" means a state employee or a state employee on leave from employment who is under the jurisdiction of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes.

"Commission" means the Ethics Commission.

"Committee" means a candidate committee, political action committee, or party committee.

"Compensation"

(1) means:

(A) an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge, or transfer of money or anything of value; or

(B) a contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge, or transfer of money or anything of value,

for services rendered or to be rendered.

(2) The term does not include reimbursement of expenses:

(A) if the reimbursement:

(i) does not exceed the amount expended for the expenses; and

(ii) is substantiated by an itemization of expenses;
or

(B) if the reimbursement is authorized by law.

"Contribution"

(1) means and includes:

- (A) a gift, subscription, loan, guarantee or forgiveness of a loan, conveyance, advance, payment, distribution, or deposit of money or anything of value made to and with the knowledge and for the benefit of a committee, which expressly advocates the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures, or for reducing the debt of such committee;
- (B) an expenditure expressly advocating the election or defeat of a clearly identified candidate or candidates or the passage or defeat of a ballot measure or ballot measures made by a person or committee, other than a candidate committee, with the cooperation of, or in consultation with, a committee, a candidate, candidate committee, or candidate's agent or that is made in concert with, or at the request or suggestion of, a candidate, candidate committee, or candidate's agent;
- (C) the difference between the payment to a person, other than a candidate or committee, of compensation for personal services or products to the candidate or committee, and the reasonable and customary rate charged by the person for like services or products in like quantities when the candidate or committee has knowledge of the discounted services or products;
- (D) anything of value received by a committee that is transferred from another committee or other source;
- (E) sums paid for tickets for a political event such as a reception, rally, or a similar fundraising event; however, the amount of any such contribution may be

reduced for the purpose of complying with the reporting and contribution limitations requirements of Chapter 10 of this title, by the actual cost of consumables furnished by the committee in connection with the purchase of the tickets, and only the excess over the actual cost of the consumables shall be deemed a contribution;

- (F) the candidate's own money used on behalf of that candidate's candidacy; and
 - (G) the difference between the open market value and a discount or rebate:
 - (i) not extended to the public generally; or
 - (ii) by a television or radio station not extended equally to all candidates for the same office.
- (2) The term "contribution" shall not include:
- (A) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or committee;
 - (B) for purposes of the contribution limits set forth in Section 2 of Chapter 10, the transfer of any funds by a political action committee to an affiliated or connected political action committee or by a party committee to an affiliated or connected party committee, provided the committees have been established as provided by law and the transferring committee and the receiving committee have been established, directly or indirectly, and are administered or financially supported, directly or indirectly, by a common entity; or
 - (C) any payment or obligation incurred by a corporation, labor organization, membership organization, cooperative or corporation without capital stock for

the establishment, administration, and solicitation of contributions to a separate segregated fund or political action committee to be utilized for political purposes;

- (D) a nonreimbursed payment made by an individual for the individual's own travel expenses on behalf of a committee;
- (E) a payment made by an occupant of a residence or office for costs related to a meeting or fundraising event held in the occupant's residence or office if the costs for the meeting or fundraising event do not exceed five hundred dollars (\$500). However, if the occupant hosts more than one (1) event in an election cycle for the same beneficiary, all subsequent payments that exceed five hundred dollars (\$500) in the aggregate are contributions;
- (F) a loan of money made in the ordinary course of business by a financial institution authorized to transact business in this state at terms and interest rates generally available to a member of the public without regard to that person's status as a state officer or state employee or a candidate for state office by the institution;
- (G) a communication by a corporation, labor organization, or association aimed at its members, owners, stockholders, directors, executive administrative personnel, or their families;
- (H) a tender of a contribution if the tender is not accepted, including use as collateral, or is transferred to the state as provided in Subsection (i) of Section 2 of Chapter 10 of this title;

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

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

"Contributor" means and includes every person who makes a contribution.

"Day" means calendar day, except that in instances where a report or other document is required to be filed with the Commission and the calendar day upon which such a report or document must be filed falls on a day other than a business day, any such report or document may be filed on the immediate next business day.

"Economic interest" means a personal financial interest in a state purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services when the person who has the economic interest is taking action to influence the state purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services.

"Election" means a Primary, Run-off Primary, General, or Special Election in which a candidate or ballot measure is on the ballot.

"Election board" means the State Election Board in reference to candidates who file a declaration of candidacy with the State Election Board.

"Election cycle" means the period beginning the day after the General Election, up to and including the following General Election, including a Primary, Special Primary and the following Special General Election.

"Elective officer" means an individual elected to a state office or an individual who is appointed to fill a vacancy in a state office.

"Expenditure":

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

(2) An expenditure does not include the following:

- (A) a loan of money, made in the ordinary course of business, by a financial institution authorized to transact business in this state;
- (B) a communication by a corporation, labor organization, or association aimed at its members, owners, stockholders, executive administrative personnel, or their families, except a communication by the corporation's political action committee promoting or opposing a candidate or candidates;
- (C) uncompensated services provided by an individual volunteering the individual's time; or
- (D) a transfer of funds to another committee if such transfer is not accepted.

"Expenditures incurred" means an amount owed to a creditor for purchase of delivered goods or completed services.

"Family" means an individual, his or her spouse, if any, and all children under the age of eighteen (18) years residing in the same household.

"Filer" means an individual who is required to file a report or statement pursuant to this title.

"Gift" means "anything of value", as defined in this section, to the extent that consideration of equal or greater value is not received in exchange therefor.

"Governmental entity"

(1) means any department, commission, authority, council, board, bureau, committee, legislative body, agency, state beneficial public trust, or other establishment of the executive, legislative or judicial branch of the State of Oklahoma.

(2) shall not mean entities of political subdivisions of the State of Oklahoma.

"Immediate family" means a child under the age of eighteen (18) years residing in a state officer's or state employee's household, a spouse of a state officer or state employee, and an individual claimed by the state officer or state employee or the state officer's or state employee's spouse as a dependent for tax purposes.

"Income" means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, gift, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof; provided, the term "income" shall not include campaign contributions.

"Independent expenditure" means an expenditure made by a person to advocate the election or defeat of a clearly identified candidate, but which is not made to, controlled by, coordinated with, requested by, or made upon consultation with a candidate, committee, treasurer, deputy treasurer or agent of a committee.

"In-kind contribution or expenditure" means goods or services provided to or by a person at no charge or for less than their fair market value, but shall not include services provided by a volunteer.

"Judicial office" means all elective offices for district judge, associate district judge and offices for which declarations of candidacy are filed with the secretary of state.

"Legislation" means a bill, resolution, amendment, nomination or other matter pending in either house of the Legislature; any other matter which may be the subject of action by either house of the Legislature, including the introduction, consideration, passage, defeat, approval or veto of the matter; or any matter pending in or which may be the subject of action by a constitutional convention.

"Loan" means a transfer of money, property, guarantee, or anything of value in exchange for an obligation, conditional or not, to repay in whole or part.

"Lobbying", or any derivative of the word thereof, means any oral or written communication with a member of the Legislature or with the Governor or with a member of the judiciary or with an employee of the Legislature or the Governor or the judiciary on behalf of a lobbyist principal with regard to the passage, defeat, formulation, modification, interpretation, amendment, adoption, approval or veto of any legislation, rules, regulation, executive order or any other program, policy or position of the state government; provided, however, it shall not mean testimony given before, or submitted in writing to, a committee or subcommittee of the Legislature, nor a speech, article, publication or other material that is widely distributed, published in newspapers, magazines or similar publications or broadcast on radio or television; provided further, it shall not mean representation of himself or a client by an attorney, acting in a professional capacity as an attorney, in a court proceeding or quasi-judicial proceeding.

"Lobbyist" means any individual who is employed or retained by another for financial or other compensation to perform services that include lobbying, other than an individual whose lobbying activities

are only incidental to, and are not a significant part of, the services provided by such individual to the client, except as exempted by Section 4228 of Title 74 of the Oklahoma Statutes or as it may hereafter be renumbered or recodified.

"Lobbyist principal" means any person who employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of the lobbyist principal; provided, however, it shall not mean any individual members, partners, officers or shareholders of a corporation, association, firm, joint venture, joint stock company, syndicate, business trust, estate, trust, company, partnership, limited partnership, organization, committee, or club, or a group of persons who are voluntarily acting in concert.

"Official action" means any judicial, executive, legislative or administrative action which shall include, but is not limited to, the promulgation of rules and regulations and the setting of rates.

"Organization" means a:

- (1) labor organization;
- (2) collective bargaining organization;
- (3) local, state, or national organization to which a labor organization pays membership or per capita fees, based upon its affiliation and membership; or
- (4) trade or professional association that receives its funds exclusively from membership dues or service fees, whether organized inside or outside the state.

The term "organization" shall include any association or organization of employees, and any agency, employee representation committee, or plan in which employees participate that exists, in whole or in part, to advocate on behalf of employees about grievances, labor disputes, wages, rates of pay, hours or conditions of employment. The term "organization" shall also include each employee association and union for employees of public and private

sector employers. For purposes of subsection (p) of Section 2 of Chapter 10 of this title, the term "organization" shall not include any organization covered by the National Labor Relations Act, 29 U.S.C., Section 151 et seq., or the Railway Labor Act, 45 U.S.C., Section 151 et seq.

"Organization fund" means a separate segregated fund established by an organization for political purposes according to the procedures and requirements set forth in subsection (p) of Section 2 of Chapter 10 of this title.

"Participation" includes decision, approval, disapproval, recommendation, the rendering of advice, or vote.

"Particular matter" includes a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, inquiry, investigation, charge, accusation, arrest, rulemaking, or legislation.

"Party committee" means a political party or any affiliated or connected entity.

"Person" means an individual, corporation, limited liability company, association, proprietorship, firm, partnership, limited liability partnership, limited partnership, joint venture, joint stock company, syndicate, business trust, estate, trust, company, organization, committee, or club, or a group of persons who are voluntarily acting in concert.

"Political action committee"

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

(A) with the primary purpose of:

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

(ii) supporting or opposing a ballot measure; and

- (B) which accepts or gives contributions or makes expenditures from a joint account aggregating at least five hundred dollars (\$500) during a calendar year.
- (2) does not include:
- (A) a party committee or a candidate committee;
 - (B) a person other than an individual, when that person makes an expenditure or expenditures from an account to which contributions have not been solicited or accepted from any other persons or individuals; and, the expenditure or expenditures are required by these rules to be reported by the recipient committee or committees as a contribution or contributions; and
 - (C) a combination of individuals, or a person other than an individual, if the combination of individuals, or a person other than an individual, solicits contributions on behalf of a committee; and, any contributions received as a result of the solicitation are forwarded to the committee without being deposited in any account; and, the contributions are required by these rules to be reported by the committee that receives the contributions.

"Political activities", for purposes of subsection (p) of Section 2 of Chapter 10 of this title, means electoral activities, independent expenditures or contributions made to any candidate, party committee, political action committee, voter registration effort or any other political or legislative cause, including ballot measures.

"Political party" means any political party so recognized for the purpose of having candidates appear on the ballot.

"Public member" means a member appointed to a compensated or uncompensated part-time position on a board, commission, council, authority, bureau, committee, state beneficial public trust, or

other establishment of the executive, legislative or judicial branch of the State of Oklahoma.

(1) A public member does not lose this status by receiving reimbursement of expenses or a per diem payment for services.

(2) A public member does not include:

(A) members of advisory bodies to the legislative, executive, or judicial branch of state government;

(B) Postadjudication Review Board members appointed pursuant to Section 1116.2 of Title 10 of the Oklahoma Statutes;

(C) board members of guaranty associations created pursuant to state statute; and

(D) precinct inspectors, judges, clerks and counters.

"Registered lobbyist" means a person that has filed as a lobbyist with the Commission.

"Represent" or "representation" means any formal or informal attendance before, or any written or oral communication with, or the filing of documents with any governmental entity on behalf of a person or organization whether gratuitous or for compensation.

"Securities" means evidences of debts, property or obligations to pay money or of rights to participate in earnings and distribution of corporate trust, and other property, including but not limited to, stocks, bonds, notes, convertible debentures, warrants, or other documents that represent a share in a company or a debt owed by a company.

"State employee"

(1) means:

(A) an elective or appointed officer or an employee of any governmental entity, except members of the House of Representatives or State Senate; and

(B) an employee, other than an adjunct professor, in the service of an institution of higher education

comprising the Oklahoma State System of Higher Education.

(2) does not mean a public member.

"State office" means all elective offices for which declarations of candidacy are filed with the Secretary of the State Election Board.

"State officer" means an elective, appointed or employed officer, including a public member, in the executive, judicial or legislative branch of the State of Oklahoma.

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

"Surplus funds" arise:

(1) when a candidate committee has an unexpended balance of funds not otherwise obligated for the purposes specified in Paragraph (1) of Subsection (a) of Section 20 of Chapter 10 of this title; or

(2) when a committee formed to support or oppose a ballot measure has an unexpended balance of funds not otherwise obligated for any campaign expenditure; or

(3) when a committee, other than a candidate committee or a ballot measure committee, has an unexpended balance of funds not otherwise obligated to further the committee's purposes.

"Transfer" means the movement or exchange of anything of value between committees, except the disposition of surplus funds or material assets by a candidate committee to a party committee in accordance with the dissolution procedure in Sections 19 and 20 of Chapter 10 of this title.

"Union dues" means dues, fees or other monies required as a condition of membership in an organization.

SECTION 2. AMENDATORY Rule 10-1-2 of the Rules of the Ethics Commission (74 O.S. Supp. 2004, Ch. 62, App.), is amended to read as follows:

Section 10-1-2. (a) Limitations on contributions from a person.

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

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

(3) These restrictions do not apply to:

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

or

- (B) a candidate making a contribution of his or her own funds, to his or her campaign; or
- (C) a political party making a contribution according to the restrictions set forth in Subsection (b) of this section.

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

- (A) begins a campaign for a specific state office;
- (B) accepts one or more contributions for such campaign but prior to the election therefor chooses not to run for such office and becomes a candidate for a different office; and
- (C) transfers all or any part of the contributions accepted for the first campaign to the second campaign;

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

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

- (A) does not dissolve his or her candidate committee after the election at which the office at stake is decided;
- (B) accepts one or more contributions for such committee after such election; and
- (C) begins a campaign for the same or another office in a subsequent election cycle;

any contributions accepted within six (6) months prior to the beginning of the campaign for the same or another office in a subsequent election cycle shall be applied to the limit specified in Paragraph (2) of this subsection for such campaign.

(6) The \$5,000 limitation is to be applied collectively and cumulatively so that any contribution made by the entities as set forth in the definition of "person" in Section 2 of Chapter 1 of this title, shall be allocated to the individuals owning such entities in their percentage of ownership. Once the limit of \$5,000

is reached, applying all sources to the individual or family, no further contributions can be made during the campaign or calendar year.

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

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

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

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

(c) Contributor statement. Within ten (10) business days of accepting a single contribution exceeding fifty dollars (\$50.00), or before accepting multiple contributions from a single source which exceed fifty dollars (\$50.00) in the aggregate, persons accepting contributions must obtain from each contributor a statement which shall include:

(1) the date the contribution was given;

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

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

(4) a declaration that the contribution is freely and voluntarily given from the contributor's personal property, if an

individual, or the person or committee's property, if other than an individual;

(5) a declaration that the contributor has not been directly or indirectly compensated or reimbursed for the contribution, if an individual, and, if a person other than an individual or a committee, that the person or committee has not been compensated or reimbursed for the contribution by persons:

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

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

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

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

(d) Prohibitions and exceptions to corporate contributions.

(1) No corporation shall contribute to any campaign fund of any party committee of this state or to any other person for the benefit of such party committee or its candidates, nor shall it, through any agent, officer, representative, employee, attorney, or any other person or persons, so contribute. Nor shall any such corporation, directly or through such other person, make any loan of money or anything of value, or give or furnish any privilege, favor or other thing of value to any party committee, or to any representative of a party committee, or to any other person for it, or to any candidate upon the ticket of any political party.

(2) A corporation shall not make a contribution or an expenditure to, or for the benefit of, a candidate or committee in connection with an election, except that this provision shall not apply to:

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

(B) the establishment, administration, and solicitation of contributions to a political action committee to be utilized for political purposes by a corporation.

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

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

(5) The provisions of this subsection shall not apply to independent expenditures made by a corporation that:

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

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

(C) was not established by a business corporation or other business entity, by a professional association, or by a labor union and does not receive substantial revenue from such entities. Substantial revenue is rebuttably presumed to be more than ten percent (10%) of total revenues in a calendar year.

(e) Prohibitions relating to committee solicitations and funds. It shall be prohibited for:

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

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

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

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

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

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

(f) Prohibition on transfer of funds between committees.

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

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

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

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

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

- (A) share the majority of members on their boards of directors;
- (B) are owned or controlled by the same majority shareholder or shareholders;
- (C) are in a parent subsidiary relationship; or
- (D) have by laws so stating; or
- (E) are affiliated or connected entities.

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

(h) Attribution and aggregation of family contributions.

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

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

shall be considered to be a contribution made by the single custodial parent.

(i) Restrictions on loans.

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

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

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

(A) by a commercial lending institution;

(B) made in the regular course of business;

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

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

are not subject to the contribution limits of this section.

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

(j) Anonymous and earmarked contributions.

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

(2) For purposes of the contribution limitations imposed by this section, all contributions made by a person, either directly or indirectly, to or for the benefit of a particular candidate committee, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate committee, shall be treated as contributions from such person to such candidate committee. It shall be prohibited for an

intermediary or a conduit to make a contribution to a committee in his or her own name rather than the name of the original source of such contribution. For purposes of this paragraph, an intermediary or conduit means a person, who is not the treasurer, deputy treasurer or agent of a committee, but who is given a contribution by another with the understanding that it will be contributed to that committee. The reports shall show the correct name of the person actually making the contribution.

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

(l) Cash contributions.

(1) An individual shall not make to a candidate committee or a committee supporting or opposing a ballot measure and a candidate committee or a committee supporting or opposing a ballot measure shall not accept a contribution of more than fifty dollars (\$50) in cash during a campaign as defined in Chapter 1, Section 2. Agents accepting and delivering cash shall deliver contributor statements disclosing cash contributions equal to the aggregate amount of cash delivered.

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

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

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

(2) A committee, or a person other than an individual, shall not make a contribution, other than in-kind, except by written instrument containing the name of the contributor and the name of the payee.

(n) Use of other funds.

(1) Anything of value which is solicited from the public in the name of or for the benefit of an elective officer or candidate, and which is accepted by an elective officer or candidate, shall be subject to the reporting requirements of this chapter. This would include, but not be limited to, things of value given for an inauguration or renovation of public property. Anything of value accepted by an agent or representative of an elective officer or candidate or by a committee established by, in the name of, or for the benefit of, an elective officer or candidate shall be deemed to be accepted by such elective officer or candidate for purposes of this section.

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

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

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

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

(2) If an item is sold at the established fair market value, the donor thereof shall be deemed to have made a contribution in the

amount of the established fair market value and the buyer thereof shall not be deemed to have made a contribution.

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

(p) Organization contributions and expenditures.

(1) An organization may only accept contributions or make expenditures for political activities if the organization establishes a separate, segregated fund that meets the requirements of this subsection.

(2) An organization shall ensure that:

(A) In soliciting contributions for an organization fund, the person soliciting discloses, in clear and unambiguous language on the face of the solicitation, that contributions are voluntary and that the organization fund is a political fund and will be expended for political activities;

(B) Union dues are not used for political activities, transferred to an organization fund, or commingled in any way with monies in an organization fund;

(C) The cost of administering an organization fund is paid from fund contributions and not from union dues; and

(D) Each contribution is voluntary and shall be made by the member and may not come from or be remitted by the employer of the member.

(3) At the time the organization is soliciting contributions for an organization fund from an employee, the organization shall:

(A) Affirmatively inform the employee, orally or in writing, of the fund's political purpose; and

(B) Affirmatively inform the employee, orally or in writing, of the employee's right to refuse to contribute without fear of reprisal or loss of membership in the organization.

(4) The organization has the burden of proof to establish that the requirements of Paragraphs (2) and (3) of this subsection are met.

(5) Notwithstanding the requirements of subparagraph (B) of Paragraph (2) of this subsection, an organization may use union dues to communicate directly with its members about political candidates, ballot measures and other political issues.

(6) Each organization fund established by an organization shall be administered by a separate political action committee established by the organization. Each such political action committee shall be required to file a statement of organization and file all appropriate reports as required by this chapter.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 187.3 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Contribution" means and includes anything of value given or conveyed to an organization to be used for political activities and reportable as a campaign contribution under the Rules of the Ethics Commission;

2. "Expenditure" means a purchase, payment or distribution by an organization for political activities and reportable as an expenditure under the Rules of the Ethics Commission;

3. "Organization" means:

- a. labor organization,
- b. collective bargaining organization,
- c. local, state, or national organization to which a labor organization pays membership or per capita fees, based upon its affiliation and membership, or

- d. trade or professional association that receives its funds exclusively from membership dues or service fees, whether organized inside or outside the state.

The term "organization" shall include any association or organization of employees, and any agency, employee representation committee, or plan in which employees participate that exists, in whole or in part, to advocate on behalf of employees about grievances, labor disputes, wages, rates of pay, hours or conditions of employment. The term "organization" shall also include each employee association and union for employees of public and private sector employers. The term "organization" shall not include any organization covered by the National Labor Relations Act, 29 U.S.C., Section 151 et seq., or the Railway Labor Act, 45 U.S.C., Section 151 et seq.;

4. "Organization fund" means a separate segregated fund established by an organization for political purposes according to the procedures and requirements set forth in subsection (p) of Rule 10-1-2 of the Rules of the Ethics Commission;

5. "Political activities" means electoral activities, independent expenditures or contributions made to any candidate, party committee, political action committee, voter registration effort or any other political or legislative cause, including ballot measures; and

6. "Union dues" means dues, fees or other monies required as a condition of membership in an organization.

B. It is unlawful for an organization to make expenditures for political activities by using contributions:

1. Secured by physical force or threat of force, job discrimination or threat of job discrimination, or economic reprisals or threat of economic reprisals; or

2. From union dues.

C. When an organization is soliciting contributions for an organization fund from an employee, it is unlawful for an organization to fail to:

1. Affirmatively inform the employee, orally or in writing, of the fund's political purpose; and

2. Affirmatively inform the employee, orally or in writing, of the employee's right to refuse to contribute without fear of reprisal or loss of membership in the organization.

D. It is unlawful for an organization to pay a member for contributing to an organization fund by providing a bonus, expense account, rebate of union dues, or by any other form of direct or indirect compensation.

E. Any person violating the provisions of this section shall be guilty of a misdemeanor.

SECTION 4. This act shall become effective November 1, 2005.

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