

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 1741

6 By: Coffee

7 COMMITTEE SUBSTITUTE

8 An Act relating to campaign finance; amending 21 O.S.  
9 2001, Sections 187 and 187.2, which relate to  
10 corporate contributions; modifying definitions;  
11 deleting prohibition on certain corporate  
12 expenditures; amending 51 O.S. 2001, Section 304,  
13 which relates to the Political Subdivisions Ethics  
14 Act; modifying definitions; and declaring an  
15 emergency.

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

17 SECTION 1. AMENDATORY 21 O.S. 2001, Section 187, is  
18 amended to read as follows:

19 Section 187. As used in Sections ~~1 through 3 of this act~~ 187  
20 through 187.2 of this title:

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

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

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

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

- 15           a. has filed a declaration of candidacy for any state  
16           office with the Secretary of the State Election Board,
- 17           b. has filed a declaration of candidacy for any local  
18           office with the secretary of any county election  
19           board,
- 20           c. has filed a declaration of candidacy with the  
21           Secretary of State and has drawn active opposition,
- 22           d. is nominated as a "substitute candidate" pursuant to  
23           Section 1-105 of Title 26 of the Oklahoma Statutes, or  
24

1 e. solicits or accepts contributions, makes expenditures  
2 or gives consent to an individual, organization, party  
3 committee, or other committee to solicit or accept  
4 contributions or make expenditures to secure election  
5 to any state or local office at any time, whether or  
6 not the office for which the individual will seek  
7 nomination or election is known when the:

- 8 (1) solicitation is made,  
9 (2) contribution is accepted, or  
10 (3) expenditure is made.

11 The term "candidate" shall include a person whose candidacy is  
12 unopposed;

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

18 6. "Committee" means a candidate committee, political action  
19 committee, or party committee;

20 7. a. "Contribution" means and includes:

- 21 (1) a gift, subscription, loan, guarantee or  
22 forgiveness of a loan, conveyance, advance,  
23 payment, distribution, or deposit of money or  
24 anything of value made to and with the knowledge

1 and for the benefit of a committee for use in a  
2 campaign, or for reducing the debt of a  
3 committee,

4 (2) an expenditure made by a person or committee,  
5 other than a candidate committee, with the  
6 cooperation of, or in consultation with, a  
7 committee, a candidate, candidate committee, or  
8 candidate's agent or that is made in concert  
9 with, or at the request or suggestion of, a  
10 candidate, candidate committee, or candidate's  
11 agent,

12 (3) the difference between the payment to a person,  
13 other than a candidate or committee, of  
14 compensation for personal services or products to  
15 the candidate or committee, and the reasonable  
16 and customary rate charged by the person for like  
17 services or products in like quantities when the  
18 candidate or committee has knowledge of the  
19 discounted services or products,

20 (4) anything of value received by a committee that is  
21 transferred from another committee or other  
22 source,

23 (5) sums paid for tickets for a political event such  
24 as a reception, rally, or a similar fundraising

1 event; however, the amount of any such  
2 contribution may be reduced for the purpose of  
3 complying with the reporting and contribution  
4 limitations requirements of Section ~~2 of this act~~  
5 187.1 of this title, by the actual cost of  
6 consumables furnished by the committee in  
7 connection with the purchase of the tickets, and  
8 only the excess over the actual cost of the  
9 consumables shall be deemed a contribution,

10 (6) the candidate's own money used on behalf of that  
11 candidate's candidacy, and

12 (7) the difference between the open market value and  
13 a discount or rebate:

14 (a) not extended to the public generally, or

15 (b) by a television or radio station not  
16 extended equally to all candidates for the  
17 same office.

18 b. The term "contribution" shall not include:

19 (1) the value of services provided without  
20 compensation by any individual who volunteers on  
21 behalf of a candidate or committee,

22 (2) for purposes of the contribution limits set forth  
23 in Section ~~2 of this act~~ 187.1 of this title, the  
24 transfer of any funds by a political action

1 committee to another political action committee,  
2 provided the committees have been established as  
3 provided by law and the transferring committee  
4 and the receiving committee have been  
5 established, directly or indirectly, and are  
6 administered or financially supported, directly  
7 or indirectly, by a common entity,

8 (3) any payment or obligation incurred by a  
9 corporation, labor organization, membership  
10 organization, cooperative or corporation without  
11 capital stock for the establishment,  
12 administration, and solicitation of contributions  
13 to a separate segregated fund or political action  
14 committee to be utilized for political purposes,

15 (4) a nonreimbursed payment made by an individual for  
16 the individual's own travel expenses on behalf of  
17 a committee,

18 (5) a payment made by an occupant of a residence or  
19 office for costs related to a meeting or  
20 fundraising event held in the occupant's  
21 residence or office if the costs for the meeting  
22 or fundraising event do not exceed Five Hundred  
23 Dollars (\$500.00). However, if the occupant  
24 hosts more than one event in an election cycle

1 for the same beneficiary, all subsequent payments  
2 that exceed Five Hundred Dollars (\$500.00) in the  
3 aggregate are contributions,

4 (6) a loan of money made in the ordinary course of  
5 business by a financial institution authorized to  
6 transact business in this state at terms and  
7 interest rates generally available to a member of  
8 the public without regard to that person's status  
9 as a state or local officer or state or local  
10 employee or a candidate for state or local office  
11 by the institution,

12 (7) a communication by a corporation, labor  
13 organization, or association aimed at its  
14 employees, members, owners, stockholders,  
15 directors, executive administrative personnel, or  
16 their families that is not coordinated with a  
17 candidate committee or a party committee, or

18 (8) a tender of a contribution if the tender is not  
19 accepted, including use as collateral, or is  
20 transferred to the state as provided in Rule 10-  
21 1-2 of the Rules of the Ethics Commission,~~74~~  
22 ~~O.S. Supp. 1994, Chapter 62, App.;~~

23 8. "Expenditure" means a purchase, payment, distribution, loan,  
24 advance, compensation, reimbursement, fee deposit, transfer of funds

1 between committees, or a gift made by a committee. An expenditure  
2 does not include the following:

- 3 a. a loan of money, made in the ordinary course of  
4 business, by a financial institution authorized to  
5 transact business in this state,
- 6 b. a communication by a corporation, labor organization,  
7 or association aimed at its employees, members,  
8 owners, stockholders, executive administrative  
9 personnel, or their families, ~~except a communication~~  
10 ~~by the corporation's political action committee~~  
11 ~~promoting or opposing a candidate or candidates,~~
- 12 c. uncompensated services provided by an individual  
13 volunteering the individual's time, or
- 14 d. a transfer of funds to another committee if such  
15 transfer is not accepted;

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

19 10. "Local office" means all elective offices for which a  
20 declaration of candidacy is filed with the secretary of any county  
21 election board;

22 11. "Party committee" means a political party or any affiliated  
23 or connected entity;

24

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

6 13. "Political action committee":

7 a. means a combination of at least two individuals, or a  
8 person other than an individual:

9 (1) with the primary purpose of:

10 (a) supporting or opposing a candidate or  
11 candidates, or a party committee, except  
12 those required to file with the Federal  
13 Election Commission, or

14 (b) supporting or opposing a ballot measure, and

15 (2) which accepts or gives contributions or makes  
16 expenditures from a joint account aggregating at  
17 least Five Hundred Dollars (\$500.00) during a  
18 calendar year, and

19 b. does not include:

20 (1) a party committee or a candidate committee,

21 (2) a person other than an individual, when that  
22 person makes an expenditure or expenditures from  
23 an account to which contributions have not been  
24 solicited or accepted from any other persons or

1 individuals; and the expenditure or expenditures  
2 are required by law or by Chapter 10 of the Rules  
3 of the Ethics Commission to be reported by the  
4 recipient committee or committees as a  
5 contribution or contributions, ~~and~~

6 (3) a combination of individuals, or a person other  
7 than an individual, if the combination of  
8 individuals, or a person other than an  
9 individual, solicits contributions on behalf of a  
10 committee, and any contributions received as a  
11 result of the solicitation are forwarded to the  
12 committee without being deposited in any account;  
13 and the contributions are required by law or by  
14 Chapter 10 of the Rules of the Ethics Commission  
15 to be reported by the committee that receives the  
16 contributions,

17 (4) a corporation, or

18 (5) a labor union;

19 14. "Political party" means any political party so recognized  
20 for the purpose of having candidates appear on the ballot; and

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

1 SECTION 2. AMENDATORY 21 O.S. 2001, Section 187.2, is  
2 amended to read as follows:

3 Section 187.2 A. No corporation shall contribute to any  
4 campaign fund of any party committee of this state or to any other  
5 person for the benefit of such party committee or its candidates,  
6 nor shall it, through any agent, officer, representative, employee,  
7 attorney, or any other person or persons, so contribute. Nor shall  
8 any such corporation, directly or through such other person, make  
9 any loan of money or anything of value, or give or furnish any  
10 privilege, favor or other thing of value to any party committee, or  
11 to any representative of a party committee, or to any other person  
12 for it, or to any candidate upon the ticket of any political party.

13 B. A corporation shall not make a contribution ~~or expenditure~~  
14 ~~to, or for the benefit of,~~ a candidate or committee in connection  
15 with an election, except that this provision shall not apply to:

16 1. A campaign or committee solely for or against a ballot  
17 measure or local question; or

18 2. The establishment, administration, and solicitation of  
19 contributions to a political action committee to be utilized for  
20 political purposes by a corporation.

21 C. No candidate, candidate committee, or other committee shall  
22 knowingly accept contributions given in violation of the provisions  
23 of subsection A or B of this section.

24

1 D. The provisions of this section shall not apply to a bank,  
2 savings and loan association or credit union loaning money to a  
3 candidate in connection with his or her own campaign which is to be  
4 repaid with interest at a rate comparable to that of loans for  
5 equivalent amounts for other purposes.

6 E. Any person who knowingly and willfully violates any  
7 provision of this section where the aggregate amount contributed  
8 exceeds Five Thousand Dollars (\$5,000.00), upon conviction, shall be  
9 guilty of a felony punishable by a fine of up to four times the  
10 amount of the prohibited contribution or by imprisonment in the  
11 State Penitentiary for up to one (1) year, or by both such fine and  
12 imprisonment.

13 F. Any person who knowingly and willfully violates any  
14 provision of this section where the aggregate amount contributed is  
15 Five Thousand Dollars (\$5,000.00) or less, upon conviction, shall be  
16 guilty of a misdemeanor punishable by a fine of not more than three  
17 times the amount of the prohibited contribution or One Thousand  
18 Dollars (\$1,000.00), whichever is greater, or by imprisonment in the  
19 county jail for up to one (1) year, or by both such fine and  
20 imprisonment.

21 SECTION 3. AMENDATORY 51 O.S. 2001, Section 304, is  
22 amended to read as follows:

23 Section 304. As used in the Political Subdivisions Ethics Act:  
24

1        1. "Business" means any corporation, partnership, sole  
2 proprietorship, firm, enterprise, franchise, association,  
3 organization, self-employed individual, holding company, joint stock  
4 company, receivership, trust, or any legal entity through which  
5 business is conducted for profit;

6        2. "Calendar quarter" means each three-month period of a  
7 calendar year, beginning on January 1, April 1, July 1 and October 1  
8 of each year;

9        3. "Campaign" means and includes all activities for or against  
10 the election of a candidate to a specific local office for a  
11 specific term from the date of the first contribution, the making of  
12 the first expenditure, the filing of a declaration of candidacy or a  
13 public announcement of intent to seek such election, whichever is  
14 first;

15       4. "Candidate" means a person who has filed a notification and  
16 declaration of candidacy for any public office with the secretary of  
17 any county election board. The term "candidate" shall include a  
18 person whose candidacy is unopposed, but shall not include any  
19 person who has withdrawn such notification and declaration of  
20 candidacy;

21       5. "Candidate committee" means the committee, consisting of one  
22 or more persons who may be the candidate only, designated by a  
23 candidate to promote the candidate's candidacy and serve as the  
24

1 recipient of all contributions and the disbursing officer of all expenditures  
2 for the candidate;

3 6. "Committee" means a candidate committee, political action  
4 committee, political party, or organization;

5 7. "Compensation" means money, service, facility or thing of  
6 value or financial benefit which is received or is to be received in  
7 return for or in connection with services rendered or to be  
8 rendered;

9 8. "Complainant" means a person filing a complaint pursuant to  
10 the provisions of Section ~~21 of this act~~ 307 of this title;

11 9. "Contributor" means and includes every person or committee  
12 who makes a contribution;

13 10. "Contribution" means and includes any money, property, or  
14 in-kind services, including but not limited to, printing or  
15 engraving, radio or television time, billboards, advertising,  
16 subscription, forgiveness of indebtedness, personal or professional  
17 services or any other thing of value whatsoever which is given or  
18 loaned to be used in a campaign. The term "contribution" shall not  
19 include:

20 a. money loaned to a candidate in connection with his own  
21 campaign by a bank, savings and loan association or  
22 credit union which is to be repaid with interest at a  
23 rate comparable to that of loans for equivalent  
24 amounts for other purposes,

1           b.    the value of services provided without compensation by  
2                    individuals volunteering a portion or all of their  
3                    time on behalf of a candidate, organization, political  
4                    action committee or political party,

5           c.    for purposes of the contribution limits set forth in  
6                    Section ~~2 of this act~~ 187.1 of Title 21 of the  
7                    Oklahoma Statutes, the transfer of any funds by a  
8                    political action committee to another political action  
9                    committee, provided the committee has been established  
10                   as provided by law if the transferring committee and  
11                   the receiving committee have been established,  
12                   directly or indirectly, and are administered or  
13                   financially supported, directly or indirectly, by a  
14                   common organization, or

15          d.    any payment or obligation incurred by a corporation,  
16                   labor organization, membership organization,  
17                   cooperative or corporation without capital stock for  
18                   the establishment, administration, and solicitation of  
19                   contributions to a separate segregated fund or  
20                   political action committee to be utilized for  
21                   political purposes;

22          11.   "Commission" means the Ethics Commission;

23          12.   "Election" means a Primary, Run-off Primary, General, or

24          Special Election in which a candidate is on the ballot;

1 13. "Election board" means the appropriate county election board  
2 in reference to candidates who file a declaration of candidacy with  
3 the county election board;

4 14. "Expenditure" means a payment, distribution, contribution,  
5 loan, advance, compensation, reimbursement, fee deposit or gift of  
6 money securement, or any other thing of value, or services including  
7 but not limited to postage, telephone, telegraph, printing,  
8 advertising, travel, lodging, meals or entertainment for which  
9 payment is made with private or public funds, and includes a  
10 contract, promise or agreement to make an expenditure, whether or  
11 not legally enforceable;

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

15 16. "Governmental entity" means any department, commission,  
16 authority, council, board, bureau, committee, legislative body,  
17 agency, public trust, or other establishment of a political  
18 subdivision of this state;

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

1 18. "Local office" means all elective offices for which  
2 declarations of candidacy are filed with the secretary of any county  
3 election board;

4 19. "Ministerial action" means an action that a person performs  
5 in a prescribed manner which involves no discretionary judgment;

6 20. "Organization" includes a corporation, government or  
7 governmental subdivision or agency, business trust, estate, trust,  
8 partnership or association, union, education or action group or  
9 committee or entity with two or more persons having a joint or  
10 common political interest;

11 21. "Person" means an individual, corporation, association,  
12 firm, partnership, labor union or labor organization, committee,  
13 club or other organization, or a group of persons who are  
14 voluntarily acting in concert;

15 22. "Political action committee" means a combination of at least  
16 two individuals, or a person other than an individual, except a  
17 corporation or labor union:

18 a. with the primary or incidental purpose of supporting  
19 or opposing a candidate or political party, except  
20 those required to file with the Federal Election  
21 Commission or the Ethics Commission, and

22 b. which accepts contributions or makes expenditures  
23 aggregating at least Two Hundred Dollars (\$200.00)  
24 during a calendar year;

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

3 24. "Public employee" means any person who is employed by and  
4 receives compensation from any governmental entity, but shall not  
5 mean independent contractors or public officials;

6 25. "Public official" means an elected or appointed official in  
7 the executive or legislative branch of a political subdivision of  
8 the state;

9 26. "Represent" or "representation" means any formal or informal  
10 attendance before, or any written or oral communication with, or the  
11 filing of documents with any governmental entity on behalf of a  
12 person or organization;

13 27. "Respondent" means a person named in a complaint filed  
14 pursuant to the provisions of Section ~~21 of this act~~ 307 of this  
15 title;

16 28. "Source" means the name, address, and description of the  
17 principal business activity of a person or organization; and

18 29. "Substantial financial interest" means an interest that  
19 could result in directly or indirectly receiving a substantial  
20 pecuniary gain or sustaining a substantial pecuniary loss as a  
21 result of ownership or interest in a business entity, or as a result  
22 of salary, gratuity or other compensation or remuneration from any  
23 person, partnership, organization or association.

24

1 SECTION 4. It being immediately necessary for the preservation  
2 of the public peace, health and safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval.

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