

1 STATE OF OKLAHOMA

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

3 SENATE BILL 456

By: Corn

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5  
6 AS INTRODUCED

7 An Act relating to ethics; amending 17 O.S. 2001,  
8 Section 48, which relates to the Corporation  
9 Commission; prohibiting persons subject to regulation  
10 of Corporation Commission, Insurance Commissioner or  
11 Insurance Department from giving anything of value or  
12 campaign contribution to member of Corporation  
13 Commission, Insurance Commissioner or employee  
14 thereof; providing penalty; amending 74 O.S. 2001,  
15 Section 4254, which relates to lobbying; prohibiting  
16 certain persons from receiving compensation or  
17 reimbursement for lobbying for certain time period;  
18 prohibiting certain persons from being registered as  
19 lobbyist for certain time period; amending Rules 20-  
20 1-9, 23-1-2 and 23-1-3 of the Rules of the Ethics  
21 Commission (74 O.S. Supp. 2008, Ch. 62, App.), which  
22 relates to restraints on and reporting of things of  
23 value; prohibiting state officers, state employees  
24 and their family members from requesting or receiving  
things of value from certain persons; deleting  
certain reporting requirements; prohibiting certain  
persons from giving things of value to state  
officers, state employees or their family members;  
providing for codification; providing an effective  
date; and declaring an emergency.

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

23 SECTION 1. AMENDATORY 17 O.S. 2001, Section 48, is  
24 amended to read as follows:

1 Section 48. A. No person who is subject to the regulations of  
2 the Corporation Commission, or has interests in any firm,  
3 corporation or business which is subject to regulation by the  
4 Corporation Commission shall furnish ~~transportation, presents, or~~  
5 ~~gratuities other than as provided~~ anything of value or any campaign  
6 contribution, as such terms are defined by the Rules of the Ethics  
7 Commission to any member of the Corporation Commission or any  
8 employee thereof; ~~provided, however, during a period beginning one~~  
9 ~~hundred twenty (120) days prior to a primary election, through one~~  
10 ~~hundred twenty (120) days following the general election, any person~~  
11 ~~may make contributions not otherwise prohibited by the Rules of the~~  
12 ~~Ethics Commission to the cost of any current candidate's political~~  
13 ~~campaign.~~ It shall be unlawful for any such member or employee to  
14 knowingly accept ~~any such transportation, presents or gratuities~~  
15 anything of value or any campaign contribution from any such person,  
16 firm or association.

17 B. A violation of the provisions of this section shall, upon  
18 conviction, be punishable as a misdemeanor.

19 SECTION 2. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 302.1 of Title 36, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. No person who is subject to the regulations of the Insurance  
23 Department or the Insurance Commissioner, or has interests in any  
24 firm, corporation or business which is subject to regulation by the

1 Insurance Department or the Insurance Commissioner shall furnish  
2 anything of value or any campaign contribution, as such terms are  
3 defined by the Rules of the Ethics Commission to the Insurance  
4 Commissioner or any employee of the Insurance Department. It shall  
5 be unlawful for any the Insurance Commissioner or employee to  
6 knowingly accept anything of value or any campaign contribution from  
7 any such person, firm or association.

8 B. A violation of the provisions of this section shall, upon  
9 conviction, be punishable as a misdemeanor.

10 SECTION 3. AMENDATORY 74 O.S. 2001, Section 4254, is  
11 amended to read as follows:

12 Section 4254. A. No state officer or state employee shall  
13 receive any additional compensation or reimbursement from any person  
14 for personally engaging in lobbying other than compensation or  
15 reimbursements provided by law for that member's job position.

16 B. No member of the Legislature shall receive any compensation  
17 or reimbursement from any person for personally engaging in lobbying  
18 for a period of two (2) years after the member's term of office has  
19 expired, nor shall any such member be eligible to register as a  
20 lobbyist during such time period.

21 SECTION 4. AMENDATORY Rule 20-1-9 of the Rules of the  
22 Ethics Commission (74 O.S. Supp. 2008, Ch. 62, App.), is amended to  
23 read as follows:

24

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

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

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

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

12 (b) Soliciting individually or on behalf of a regulatory  
13 governmental entity prohibited. No state officer and no state  
14 employee shall, directly or indirectly, ask, demand, exact, solicit,  
15 seek, accept, assign, receive or agree to receive anything of value  
16 individually or for or on behalf of a governmental entity from a  
17 business entity, its employees, officers or board members, or a  
18 person who has greater than a ten percent (10%) interest in such  
19 entity if the rates, charges, prices or fees charged by the business  
20 entity are subject to regulation by the governmental entity which  
21 the officer or employee serves. This provision does not apply to a  
22 campaign contribution properly received and reported, which is  
23 exempt from the definition of anything of value in Section 2 of

24

1 Chapter 1 of this title, or to anything of value accepted on behalf  
2 of the state of Oklahoma pursuant to Subsection (e) of this section.

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

4 ~~(1) Elective officers.~~ No elective state officer or state  
5 employee, or an and no immediate family member of ~~an elective a~~  
6 state officer or state employee shall, directly or indirectly, ask,  
7 demand, exact, solicit, seek, accept, assign, receive, or agree to  
8 receive things of value ~~in a calendar year which, in the aggregate,~~  
9 ~~are valued at more than one hundred dollars (\$100); and~~

10 ~~(2) Other state officers and state employees.~~ ~~Except for an~~  
11 ~~elective officer, no state officer, state employee or an immediate~~  
12 ~~family member of such state officer or state employee shall,~~  
13 ~~directly or indirectly, ask, demand, exact, solicit, seek, accept,~~  
14 ~~assign, receive or agree to receive things of value in a calendar~~  
15 ~~year which, in the aggregate, are valued at more than one hundred~~  
16 ~~dollars (\$100):~~

17 from a person who the state officer or state employee knows or  
18 should know:

19 (A) is a lobbyist or lobbyist principal, provided that the  
20 following shall not be subject to this subsection:

21 (i) things of value received as a result of or  
22 arising out of employment by, or doing business  
23 with, a lobbyist or lobbyist principal; and  
24

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

12 (B) is seeking to do business or doing business with the  
13 governmental entity of which the state officer's or  
14 state employee's office or employment is a part; or

15 (C) has an economic interest in actions or matters before  
16 or affecting the governmental entity of which the  
17 state officer's or state employee's office or  
18 employment is a part.

19 ~~A thing or things of value given by a lobbyist, the lobbyist~~  
20 ~~principal by whom the lobbyist is employed or retained, or a~~  
21 ~~stockholder, partner, agent, affiliate, member, employee or officer~~  
22 ~~of the lobbyist principal or lobbyist principals by whom the~~  
23 ~~lobbyist is employed or retained are aggregated for purposes of the~~  
24 ~~disclosure threshold and calendar year limits, regardless of how the~~

1 ~~thing or things of value are funded if, and only if, the thing or~~  
2 ~~things of value are given at the specific direction, and on behalf~~  
3 ~~of, the lobbyist principal. Lobbyists principals of contract~~  
4 ~~lobbyists shall not be aggregated together for purposes of this~~  
5 ~~provision. If more than one lobbyist is retained or employed by a~~  
6 ~~lobbyist principal, the disclosure and calendar year limits of the~~  
7 ~~first lobbyist to register on behalf of the lobbyist principal for a~~  
8 ~~calendar year are aggregated with each additional lobbyist employed~~  
9 ~~or retained by the same lobbyist principal.~~

10 (d) ~~Prohibition versus limit Exception. Nothing in~~  
11 ~~Subsection (c) shall allow a state officer or state employee to~~  
12 ~~accept anything of value in violation of Subsection (a) of this~~  
13 ~~section. Subsection The provisions of subsection (c) shall not~~  
14 ~~apply to public members when things of value are received but are~~  
15 ~~not given as a result of the public member's status as a public~~  
16 ~~member.~~

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

19 (1) a judicial officer, juror, referee, arbitrator or umpire to  
20 accept anything of value from a corporation or any other person,  
21 knowing that person to be a party in interest or the attorney or  
22 counsel of a party in interest to any action or proceeding then  
23 pending or about to be brought before him or her pursuant to Section  
24 386 of Title 21 of the Oklahoma Statutes; or

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

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

7 (1) compensation, bonuses, dividends, interest payments,  
8 employee benefits, expense reimbursements or other forms of  
9 compensation or earnings on investments;

10 (2) anything of value which is accepted by the Governor on  
11 behalf of the state of Oklahoma or a governmental entity pursuant to  
12 Section 381 et seq. of Title 60 of the Oklahoma Statutes. In order  
13 to be deemed accepted, the Governor must be notified in writing of  
14 any gift received by a governmental entity, or person on behalf of a  
15 governmental entity, within ten (10) days of receipt of the gift.  
16 Notice of acceptance must be received from the Governor within the  
17 next thirty (30) days. Upon lack of a response from the Governor  
18 within thirty (30) days of receipt of notice, the gift is deemed  
19 rejected and must be returned to the donor; or

20 (3) the solicitation or acceptance of anything of value for or  
21 from either:

22 (A) a charitable organization or an organization described  
23 in Section 501 (c) of Title 26 of the United States  
24

1 Code, 26 U.S.C., Section 501 (c), as it currently  
2 exists or as it may be amended; or

3 (B) a tax-exempt professional organization established by  
4 state statute or rules passed by the Oklahoma Supreme  
5 Court,

6 by a member, state officer or state employee, who is a member,  
7 officer or director of the organization, when receipt of anything of  
8 value results from the member, state officer or state employee  
9 attending a function, meeting or seminar on behalf of, or as a  
10 representative of, the organization.

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

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

20 (2) a loan from a father, stepfather, father-in-law, mother,  
21 stepmother, mother-in-law, sister, step sister, brother, step  
22 brother, child, step child, adopted child or their spouses.

23 (h) Except for the compensation an elective officer is entitled  
24 to by law for the performance of official duties, no elective

1 officer shall solicit or accept cash, check or cash equivalent  
2 compensation for an article, appearance or speech, or for  
3 participation at an event, unless the article, appearance or  
4 participation is made as part of the normal course of business in  
5 the member's private occupation.

6 SECTION 5. AMENDATORY Rule 23-1-2 of the Rules of the  
7 Ethics Commission (74 O.S. Supp. 2008, Ch. 62, App.), is amended to  
8 read as follows:

9 Rule 23-1-2. (a) ~~Required reports. Every lobbyist shall file~~  
10 ~~reports required by this section with the Ethics Commission~~  
11 ~~concerning the activities specified in this section. The reports~~  
12 ~~shall be filed whether or not the person has taken any action which~~  
13 ~~is required to be reported pursuant to the provisions of this~~  
14 ~~section. The reports shall be filed between the first and twentieth~~  
15 ~~day of January and the first and twentieth day of July of each~~  
16 ~~calendar year which shall cover the activities during the period~~  
17 ~~following the last report.~~

18 ~~(b) Disclosure of things of value. The report shall be signed~~  
19 ~~by the lobbyist, who shall attest to the report's accuracy and~~  
20 ~~veracity, and the signature shall be notarized. The reports shall~~  
21 ~~include the information specified in Subsection (d) of this section~~  
22 ~~for things of value given to an elective officer or the immediate~~  
23 ~~family member of an elective officer by the lobbyist or any lobbyist~~  
24 ~~principal by whom the lobbyist is employed or retained, the costs of~~

1 ~~which exceed ten dollars (\$10) in the aggregate or things of value~~  
2 ~~given to a state officer, excluding an elective officer, state~~  
3 ~~employee, or the immediate family member of a state officer,~~  
4 ~~excluding an elective officer, or a state employee, by the lobbyist~~  
5 ~~or any lobbyist principal by whom the lobbyist is employed or~~  
6 ~~retained, the costs of which exceed ten dollars (\$10) in the~~  
7 ~~aggregate during a six month period beginning January 1 and ending~~  
8 ~~June 30 or beginning July 1 and ending December 31.~~

9       ~~(e) Limits on things of value and exceptions. Lobbyists or~~  
10 ~~lobbyist principals shall not give things of value which, in the~~  
11 ~~aggregate, are valued at more than one hundred dollars (\$100)~~  
12 ~~annually to any elective state officer or state employee or the to~~  
13 ~~an immediate family member of an elective a state officer, or things~~  
14 ~~of value which, in the aggregate, are valued at more than one~~  
15 ~~hundred dollars (\$100) annually to any other state officer or state~~  
16 ~~employee, or the immediate family member of a state officer,~~  
17 ~~excluding an elective officer, or a state employee, provided that~~  
18 ~~the following shall not be subject to this subsection:~~

19       (1) things of value given by a lobbyist or lobbyist principal  
20 as a result of or arising out of employment of, or the lobbyist or  
21 lobbyist principal doing business with a state officer or state  
22 employee or the recipient; and

23       (2) things of value given to the recipient by any director,  
24 stockholder, partner, agent, affiliate, member, employee or officer

1 of a lobbyist principal if the donor is excepted in subparagraph (D)  
2 of Paragraph (2) from the definition of "anything of value" in  
3 Section 2 of Chapter 1 of this title, or if there exists between the  
4 recipient and the donor a close personal relationship of long  
5 standing in which the mutual exchange of gifts on special occasions,  
6 such as holidays or anniversaries, has become customary.

7 ~~A thing or things of value given by a lobbyist; the lobbyist~~  
8 ~~principal by whom the lobbyist is employed or retained; or a~~  
9 ~~stockholder, partner, agent, affiliate, member, employee or officer~~  
10 ~~of the lobbyist principal or lobbyist principals by whom the~~  
11 ~~lobbyist is employed or retained are aggregated for purposes of the~~  
12 ~~disclosure threshold and calendar year limits, regardless of how the~~  
13 ~~thing or things of value are funded if, and only if, the thing or~~  
14 ~~things of value are given at the specific direction, and on behalf~~  
15 ~~of, the lobbyist principal. If more than one lobbyist is retained~~  
16 ~~or employed by a lobbyist principal, the disclosure and calendar~~  
17 ~~year limits of the first lobbyist to register on behalf of the~~  
18 ~~lobbyist principal for a calendar year are aggregated with each~~  
19 ~~additional lobbyist, employed or retained by the same lobbyist~~  
20 ~~principal.~~

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

24

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

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

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

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

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

9       ~~(e) Prohibition against dividing costs among lobbyist~~  
10 ~~principals or other lobbyists. For purposes of reporting things of~~  
11 ~~value as required by this section, a lobbyist giving a thing of~~  
12 ~~value on behalf of more than one lobbyist principal shall not divide~~  
13 ~~the cost of the thing of value by the number of participating~~  
14 ~~lobbyist principals. Nor may a lobbyist divide the cost of a thing~~  
15 ~~of value with other lobbyists for any single expenditure.~~

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

21       ~~(g) Reporting of things of value given on behalf of lobbyist or~~  
22 ~~lobbyist principal. A lobbyist shall also report things of value~~  
23 ~~when given by other persons on behalf of the lobbyist or the~~  
24 ~~lobbyist principal at the specific direction of the lobbyist or~~

1 ~~lobbyist principal if they were made with the knowledge of the~~  
2 ~~lobbyist. When other persons, including lobbyist principals, give~~  
3 ~~things of value that the lobbyist is required to report, the other~~  
4 ~~persons shall provide a full, verified account of such things of~~  
5 ~~value to the lobbyist at least seven (7) days before the reports of~~  
6 ~~the lobbyists are due to be filed. When exact values are not known~~  
7 ~~and not ascertainable, a good faith estimate of the fair market~~  
8 ~~value shall be reported.~~

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

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

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

21 ~~(k) (b) Exceptions to reporting. Nothing in this section shall~~  
22 ~~prohibit the giving or require the disclosure of the giving of~~  
23 ~~anything of value by:~~

24

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

4 (2) a tax-exempt professional organization established by state  
5 statute or rules passed by the Oklahoma Supreme Court,  
6 to a state officer or state employee, who is an officer or director  
7 of the organization, when receipt of anything of value results from  
8 the state officer or state employee attending a function, meeting or  
9 seminar on behalf of, or as a representative of, the organization.

10 SECTION 6. AMENDATORY Rule 23-1-3 of the Rules of the  
11 Ethics Commission (74 O.S. Supp. 2008, Ch. 62, App.), is amended to  
12 read as follows:

13 Rule 23-1-3. Any person who:

14 (1) is employed or retained by another for financial or other  
15 compensation to perform services that include promoting, opposing or  
16 attempting to influence any executive or administrative action by a  
17 governmental entity, including, but not limited to, the promulgation  
18 of rules and regulations and the setting of rates, other than an  
19 individual whose lobbying activities are only incidental to, and are  
20 not a significant part of, the services provided by such individual  
21 to the client;

22 (2) is seeking to do business or doing business with a  
23 governmental entity; or

24

1 (3) has an economic interest in actions or matters before or  
2 affecting a governmental entity;  
3 shall ~~be required to file, by paper form, the same report required~~  
4 ~~to be filed by lobbyists by Section 2 of this chapter if, and only~~  
5 ~~if, such person gives~~ be prohibited from giving anything or things  
6 of value to a state officer or state employee ~~the cost of which~~  
7 ~~exceeds fifty dollars (\$50.00) in the aggregate during a six month~~  
8 ~~period beginning January 1 and ending June 30 or beginning July 1~~  
9 ~~and ending December 31.~~ This provision shall not apply, however, to  
10 things of value received as a result of or arising out of employment  
11 by, or doing business with, a lobbyist or lobbyist principal; and  
12 things of value received from any director, stockholder, partner,  
13 agent, affiliate, member, employee or officer of a lobbyist  
14 principal as a result of a personal or casual relationship with the  
15 recipient. Provided further, this provision shall not apply to  
16 things of value given to a public member when not given as a result  
17 of the public member's status as a public member.

18 SECTION 7. This act shall become effective July 1, 2009.

19 SECTION 8. It being immediately necessary for the preservation  
20 of the public peace, health and safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

23

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