

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 908

By: Bingman of the Senate

and

Sears of the House

6  
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8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to gifts to the state; amending 60  
11 O.S. 2011, Sections 383 and 384, as amended by  
12 Sections 296 and 297, Chapter 304, O.S.L. 2012 (60  
13 O.S. Supp. 2012, Sections 383 and 384), and Rule  
14 257:20-1-9 of the Rules of the Ethics Commission (74  
15 O.S. 2011, Ch. 62, App.), which relate to authority  
16 to accept gifts to state; modifying persons  
17 authorized to accept gifts to state; amending 60 O.S.  
18 2011, Section 661, which relates to certain abandoned  
19 property; modifying provisions related to certain  
20 reporting methods; and providing an effective date.

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

22 SECTION 1. AMENDATORY 60 O.S. 2011, Section 383, as  
23 amended by Section 296, Chapter 304, O.S.L. 2012 (60 O.S. Supp.  
24 2012, Section 383), is amended to read as follows:

Section 383. A. Except to the extent that such authority is  
otherwise specifically vested in some other state officer, board,

1 commission, or agency and except as provided in subsections B and C  
2 of this section, the Governor of the State of Oklahoma is hereby  
3 authorized to accept, upon behalf of this state, any gift,  
4 testamentary or otherwise, of any property presented to this state  
5 or to any state institution, department, or agency.

6 B. The President Pro Tempore of the Senate and the Speaker of  
7 the House of Representatives are hereby authorized to accept, upon  
8 behalf of this state, any gift, testamentary or otherwise, of any  
9 property presented to the Legislature or either house thereof.

10 C. The Chief Justice of the Supreme Court is hereby authorized  
11 to accept, upon behalf of this state, any gift, testamentary or  
12 otherwise, of any property presented to the judiciary of this state.

13 D. Except as otherwise provided in Sections 391 through 396 of  
14 this title, and except for gifts of cash or the equivalent of cash,  
15 delivery of such property, possession thereof, and any muniments of  
16 title thereto shall be made to and receipted for by the Director of  
17 the Office of Management and Enterprise Services. Gifts of cash or  
18 the equivalent of cash shall be made to and receipted for by the  
19 Director of the Office of Management and Enterprise Services.

20 SECTION 2. AMENDATORY 60 O.S. 2011, Section 384, as  
21 amended by Section 297, Chapter 304, O.S.L. 2012 (60 O.S. Supp.  
22 2012, Section 384), is amended to read as follows:

23 Section 384. Any property involved in a gift, testamentary or  
24 otherwise, given to the State of Oklahoma or some state officer,

1 board, commission, or agency for the use or benefit of a specified  
2 state institution, department, or agency, whether one or more, when  
3 accepted by the Governor, President Pro Tempore of the Senate,  
4 Speaker of the House of Representatives or Chief Justice of the  
5 Supreme Court, and delivered to the Office of Management and  
6 Enterprise Services as provided for in Section 383 of this title,  
7 shall be allotted by ~~said~~ the Office of Management and Enterprise  
8 Services to such state institution, department, or agency, in  
9 accordance, as nearly as possible, with the terms of the gift.

10 SECTION 3. AMENDATORY Rule 257:20-1-9 of the Rules of  
11 the Ethics Commission (74 O.S. 2011, Ch. 62, App.), is amended to  
12 read as follows:

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

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

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

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

1 (b) Soliciting individually or on behalf of a regulatory  
2 governmental entity prohibited. No state officer and no state  
3 employee shall, directly or indirectly, ask, demand, exact, solicit,  
4 seek, accept, assign, receive or agree to receive anything of value  
5 individually or for or on behalf of a governmental entity from a  
6 business entity, its employees, officers or board members, or a  
7 person who has greater than a ten percent (10%) interest in such  
8 entity if the rates, charges, prices or fees charged by the business  
9 entity are subject to regulation by the governmental entity which  
10 the officer or employee serves. This provision does not apply to a  
11 campaign contribution properly received and reported, which is  
12 exempt from the definition of anything of value in Section 2 of  
13 Chapter 1 of this title, or to anything of value accepted on behalf  
14 of the state of Oklahoma pursuant to Subsection (e) of this  
15 subsection.

16 (c) Calendar year limits on things of value.

17 (1) State officers and state employees. No state officer,  
18 state employee or an immediate family member of such state officer  
19 or state employee shall, directly or indirectly, ask, demand, exact,  
20 solicit, seek, accept, assign receive or agree to receive things of  
21 value in a calendar year which, in the aggregate, are valued at more  
22 than one hundred dollars (\$100) from a person who the state officer  
23 or state employee knows or should know:  
24

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

3 (i) things of value received as a result of or  
4 arising out of employment by, or doing business  
5 with, a lobbyist or lobbyist principal; and

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

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

20 (C) has an economic interest in actions or matters before  
21 or affecting the governmental entity of which the  
22 state officer's or state employee's office or  
23 employment is a part.  
24

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

16 (d) Prohibition versus limit - Exception. Nothing in  
17 Subsection (c) shall allow a state officer or state employee to  
18 accept anything of value in violation of Subsection (a) of this  
19 section. Subsection (c) shall not apply to public members when  
20 things of value are received but are not given as a result of the  
21 public member's status as a public member.

22 (e) Exceptions for state officers and employees of judicial  
23 branch and corporations. Nothing in this section shall allow:  
24

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

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

10 (f) Exceptions for forms of compensation, gifts to state, gifts  
11 to charitable organizations, officers/directors of professional  
12 organizations, humanitarian efforts for state officers and state  
13 employees and financial aid awards, tuition waivers, scholarships,  
14 educational grants. Nothing in this section shall prohibit the  
15 acceptance or require the disclosure of:

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

19 (2) anything of value which is accepted by the Governor,  
20 President Pro Tempore of the Senate, Speaker of the House of  
21 Representatives or Chief Justice of the Supreme Court, on behalf of  
22 the state of Oklahoma or a governmental entity pursuant to Section  
23 381 et seq. of Title 60 of the Oklahoma Statutes. In order to be  
24 deemed accepted, the ~~Governor~~ appropriate state officer must be

1 notified in writing of any gift received by a governmental entity,  
2 or person on behalf of a governmental entity, within ten (10) days  
3 of receipt of the gift. Notice of acceptance must be received from  
4 the ~~Governor~~ appropriate state officer within the next thirty (30)  
5 days. Upon lack of a response from the ~~Governor~~ appropriate state  
6 officer within thirty (30) days of receipt of the notice, the gift  
7 is deemed rejected and must be returned to the donor; or

8 (3) the solicitation or acceptance of anything of value for or  
9 from a charitable organization when the solicitation or acceptance  
10 is directly related to the purposes or mission of the organization;

11 (4) the solicitation or acceptance of anything of value for or  
12 from a tax-exempt professional organization established by state  
13 statute or rules passed by the Oklahoma Supreme Court when a state  
14 officer or state employee is a member, officer or director of the  
15 organization and the receipt of anything of value results from the  
16 state officer or state employee attending a function, meeting or  
17 seminar on behalf of, or as a representative of, the organization;  
18 or

19 (5) the solicitation or acceptance of a thing or things of  
20 value by or on behalf of a state officer or state employee, or an  
21 immediate family of a state officer or state employee, as a  
22 humanitarian effort to assist a victim of a catastrophic accident or  
23 life threatening disease, illness or disability, or a victim of a  
24 natural disaster or similar event;

1 (6) the acceptance or award of need-based or merit-based  
2 financial aid awards, tuition waivers, scholarships and educational  
3 grants, in any form, accepted or awarded to a state officer, a state  
4 employee or a family member of a state officer or state employee.

5 Provided, nothing in this subsection shall authorize the  
6 solicitation or acceptance of anything of value in violation of the  
7 provisions of Subsection (a) of this section.

8 (g) Ban on borrowing from lobbyists. No state officer or state  
9 employee shall directly or indirectly borrow money from a lobbyist,  
10 or an immediate family member of a lobbyist, or an entity controlled  
11 by or employing a lobbyist. This subsection shall not apply to:

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

17 (2) a loan from a father, stepfather, father-in-law, mother,  
18 stepmother, mother-in-law, sister, step sister, brother, step  
19 brother, child, step child, adopted child or their spouses.

20 (h) Ban on elective officers receiving cash or cash equivalent  
21 honoraria. Except for the compensation an elective officer is  
22 entitled to by law for the performance of official duties, no  
23 elective officer shall solicit or accept cash, check or cash  
24 equivalent compensation for an article, appearance or speech, or for

1 participation at an event, unless the article, appearance or  
2 participation is made as part of the normal course of business in  
3 the member's private occupation.

4 SECTION 4. AMENDATORY 60 O.S. 2011, Section 661, is  
5 amended to read as follows:

6 Section 661. A. A person holding property, tangible or  
7 intangible, presumed abandoned and subject to custody as unclaimed  
8 property under the Uniform Unclaimed Property Act shall report to  
9 the State Treasurer concerning the property as provided in this  
10 section.

11 B. The report must be verified and must include:

12 1. The name, if known, and last-known address, if any, of each  
13 person appearing from the records of the holder to be the owner of  
14 property of the value of Fifty Dollars (\$50.00) or more presumed  
15 abandoned under the Uniform Unclaimed Property Act and items of  
16 value under Fifty Dollars (\$50.00), reported in the aggregate,  
17 except property which is one of a recurring number of continuous  
18 payments, including, but not limited to, royalties, annuities,  
19 dividends, distributions and other sums presumed abandoned pursuant  
20 to subsection D of Section 655 of this title, which shall be  
21 reported in the same manner as property with a value of Fifty  
22 Dollars (\$50.00) or more;

23 2. In the case of unclaimed funds of Fifty Dollars (\$50.00) or  
24 more held or owing under any life or endowment insurance policy or

1 annuity contract, the full name and last-known address of the  
2 insured or annuitant and of the beneficiary according to the records  
3 of the insurance company holding or owing the funds;

4 3. In the case of the contents of a safe deposit box or other  
5 safekeeping repository or of other tangible personal property, a  
6 description of the property and the place where it is held, which  
7 may be inspected by the State Treasurer, and any amounts, including  
8 offsets for drilling costs and rent, owing to the holder;

9 4. The description of the property, including type and  
10 identifying number if any, and the amount appearing from the records  
11 to be due;

12 5. The date when the property became payable, demandable or  
13 returnable, and the date of the last transaction with the owner with  
14 respect to the property;

15 6. In the case of a cashier's check, if known, the names and  
16 last-known addresses of the payee(s), the payor(s) and the  
17 purchaser(s); and

18 7. Any other information reasonably required by the Treasurer.

19 C. If the person holding property presumed abandoned and  
20 subject to custody as unclaimed property is a successor to other  
21 persons who previously held the property for the apparent owner or  
22 if the name of the holder has changed while holding the property,  
23 the holder shall file with the report all known names and addresses  
24 of each previous holder of the property.

1 D. The report must be filed before November 1 of each year for  
2 property reportable as of the preceding July 1, but the report of  
3 any life insurance company must be filed before May 1 of each year  
4 for property reportable as of the preceding March 1. The State  
5 Treasurer may postpone the reporting date upon written request by  
6 any person required to file a report.

7 E. Not more than one hundred twenty (120) days before filing  
8 the report required by this section, the holder in possession of  
9 property presumed abandoned and subject to custody as unclaimed  
10 property under the Uniform Unclaimed Property Act shall send written  
11 notice to the apparent owner at the owner's last-known address  
12 informing the owner that the holder is in possession of property  
13 subject to the Uniform Unclaimed Property Act if:

14 1. The holder has in the records of the holder an address for  
15 the apparent owner which the holder's records do not disclose to be  
16 inaccurate;

17 2. The claim of the apparent owner is not barred by the statute  
18 of limitations; and

19 3. The property has a value of Fifty Dollars (\$50.00) or more,  
20 or the property has a value of less than Fifty Dollars (\$50.00) and  
21 is one of a recurring number of continuous payments, including, but  
22 not limited to, royalties, annuities, dividends, distributions and  
23 other recurring sums presumed abandoned pursuant to subsection D of  
24 Section 655 of this title. The holder is not required to send

1 written notice to the owner if the holder has previously attempted  
2 to communicate with the owner, or otherwise exercised due diligence  
3 to ascertain the whereabouts of the owner. The mailing of notice by  
4 first-class mail to the last-known address of the owner by the  
5 holder shall constitute compliance with this subsection and, if  
6 done, no further act on the part of the holder shall be necessary.

7 F. Reports filed by a holder shall remain confidential except  
8 for that information required to be subject to public inspection  
9 pursuant to the Uniform Unclaimed Property Act.

10 G. The Treasurer may require a holder reporting fifteen or more  
11 items of property pursuant to this section to file the report  
12 ~~electronically~~ online. The Treasurer shall promulgate rules  
13 necessary to carry out provisions for ~~electronic~~ online filing.

14 SECTION 5. This act shall become effective November 1, 2013.

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16 54-1-7681 LRB 03/28/13

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