An Act

ENROLLED SENATE
BILL NO. 908

By: Bingman of the Senate

and

Sears of the House

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

SUBJECT: Gifts to the state

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

SECTION 1. AMENDATORY 60 O.S. 2011, Section 383, as amended by Section 296, Chapter 304, O.S.L. 2012 (60 O.S. Supp. 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, commission, or agency and except as provided in subsections B and C of this section, the Governor of the State of Oklahoma is hereby authorized to accept, upon behalf of this state, any gift, testamentary or otherwise, of any property presented to this state or to any state institution, department, or agency.

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

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

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

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

Section 384. Any property involved in a gift, testamentary or otherwise, given to the State of Oklahoma or some state officer, board, commission, or agency for the use or benefit of a specified state institution, department, or agency, whether one or more, when accepted by the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives or Chief Justice of the Supreme Court, and delivered to the Office of Management and Enterprise Services as provided for in Section 383 of this title, shall be allotted by ~~said~~ the Office of Management and Enterprise Services to such state institution, department, or agency, in accordance, as nearly as possible, with the terms of the gift.

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

Rule 257:20-1-9. (a) Influence of official act, fraud or official duty. No state officer and no state employee shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for the state

officer or employee or for any other person or entity, in return for being:

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

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

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

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

(c) Calendar year limits on things of value.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) anything of value which is accepted by the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives or Chief Justice of the Supreme Court, on behalf of the state of Oklahoma or a governmental entity pursuant to Section 381 et seq. of Title 60 of the Oklahoma Statutes. In order to be deemed accepted, the ~~Governor~~ appropriate state officer 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~~ appropriate state officer within the next thirty (30)

days. Upon lack of a response from the ~~Governor~~ appropriate state officer within thirty (30) days of receipt of the notice, the gift is deemed rejected and must be returned to the donor; or

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

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

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

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

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

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

(1) a loan of money made by a commercial lending institution, in the regular course of business, on the same terms ordinarily available to members of the public, and which is not secured or

guaranteed by a lobbyist or lobbyist principal or any other person on behalf of a lobbyist or lobbyist principal; or

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

(h) Ban on elective officers receiving cash or cash equivalent honoraria. Except for the compensation an elective officer is entitled to by law for the performance of official duties, no elective officer shall solicit or accept cash, check or cash equivalent compensation for an article, appearance or speech, or for participation at an event, unless the article, appearance or participation is made as part of the normal course of business in the member's private occupation.

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

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

B. The report must be verified and must include:

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

2. In the case of unclaimed funds of Fifty Dollars ($50.00) or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last-known address of the

insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

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

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

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

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

7. Any other information reasonably required by the Treasurer.

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

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

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

informing the owner that the holder is in possession of property subject to the Uniform Unclaimed Property Act if:

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

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

3. The property has a value of Fifty Dollars ($50.00) or more, or the property has a value of less than Fifty Dollars ($50.00) and is one of a recurring number of continuous payments, including, but not limited to, royalties, annuities, dividends, distributions and other recurring sums presumed abandoned pursuant to subsection D of Section 655 of this title. The holder is not required to send written notice to the owner if the holder has previously attempted to communicate with the owner, or otherwise exercised due diligence to ascertain the whereabouts of the owner. The mailing of notice by first-class mail to the last-known address of the owner by the holder shall constitute compliance with this subsection and, if done, no further act on the part of the holder shall be necessary.

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

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

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

Passed the Senate the 13th day of May, 2013.

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Presiding Officer of the Senate

Passed the House of Representatives the 25th day of April, 2013.

_____
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____