

An Act

ENROLLED SENATE
BILL NO. 1744

By: Griffin, Sparks and Ivester
of the Senate

and

Russ of the House

An Act relating to campaign finance; amending 21 O.S. 2011, Sections 187, 187.1 and 187.2, which relate to criminal penalties for unlawful campaign contributions and expenditures; modifying definitions; modifying amounts which may be contributed to political party committees, political action committees, candidate committees and candidates; modifying prohibitions relating to contributions made by corporations, labor unions, limited liability companies and partnerships; prohibiting certain entities from accepting unlawful contributions; and providing an effective date.

SUBJECT: Campaign finance

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 187, is amended to read as follows:

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

1. ~~"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;~~

~~2. "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;~~

~~3. "Campaign" means and includes all activities for or against the election of a candidate to a specific state or local 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 for elective state office or for or against a state question;~~

~~4. 2. "Candidate" means a person who seeks nomination or election to state or local office. An individual is a candidate when the individual:~~

- ~~a. has filed a declaration of candidacy for any state office with the Secretary of the State Election Board,~~
- ~~b. has filed a declaration of candidacy for any local office with the secretary of any county election board,~~
- ~~c. has filed a declaration of candidacy with the Secretary of State and has drawn active opposition,~~
- ~~d. is nominated as a "substitute candidate" pursuant to Section 1-105 of Title 26 of the Oklahoma Statutes, or~~
- ~~e. 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 or local office at any time, whether or not the office for which the individual will seek nomination or election is known when the:~~

- ~~(1) solicitation is made,~~
- ~~(2) contribution is accepted, or~~
- ~~(3) expenditure is made.~~

~~The term "candidate" shall include a person whose candidacy is unopposed an individual who has filed or should have filed a statement of organization for a candidate committee for state office with the Ethics Commission as required by its Rules. A candidate committee shall include committees for candidates for partisan elective offices, for nonpartisan judicial offices and for judicial retention offices;~~

~~5. 3. "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 the only committee authorized by a candidate to accept contributions or make expenditures on behalf of the candidate's campaign, including the campaign of a judicial retention candidate;~~

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

~~7. a.~~

~~4. "Contribution" means and includes:~~

- ~~(1) 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 for use in a campaign, or for reducing the debt of a committee,~~
- ~~(2) an expenditure 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,~~

- ~~(3) 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,~~
- ~~(4) anything of value received by a committee that is transferred from another committee or other source,~~
- ~~(5) 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 Section 2 of this act, 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,~~
- ~~(6) the candidate's own money used on behalf of that candidate's candidacy, and~~
- ~~(7) the difference between the open market value and a discount or rebate:
 - ~~(a) not extended to the public generally, or~~
 - ~~(b) by a television or radio station not extended equally to all candidates for the same office.~~~~

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

- ~~(1) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or committee,~~
- ~~(2) for purposes of the contribution limits set forth in Section 2 of this act, the transfer of any funds by a political action committee to another political action 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,~~
- ~~(3) 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,~~
- ~~(4) a nonreimbursed payment made by an individual for the individual's own travel expenses on behalf of a committee,~~
- ~~(5) 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 (\$500.00). However, if the occupant hosts more than one event in an election cycle for the same beneficiary, all subsequent payments that exceed Five Hundred Dollars (\$500.00) in the aggregate are contributions,~~
- ~~(6) 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 or local officer or state or local employee or a candidate for state or local office by the institution,~~

- ~~(7) a communication by a corporation, labor organization, or association aimed at its members, owners, stockholders, directors, executive administrative personnel, or their families, or~~
- ~~(8) a tender of a contribution if the tender is not accepted, including use as collateral, or is transferred to the state as provided in Rule 10-1-2 of the Rules of the Ethics Commission, 74 O.S. Supp. 1994, Chapter 62, App. any gift, subscription, loan, guarantee or forgiveness of a loan, conveyance, advance, payment, distribution or deposit of money made to, or anything of value given to, or an expenditure other than an independent expenditure made on behalf of a political party, political action committee or candidate committee, but shall not include the value of services provided without compensation by an individual who volunteers those services;~~

~~8- 5. "Expenditure" means a purchase, payment, distribution, loan, advance, compensation, reimbursement, fee deposit, transfer of funds between committees, or a gift made by a committee. 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,~~

~~e. 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 political party, political action committee, candidate committee or other individual or entity that is used to expressly advocate the election, retention or defeat of one or more clearly identified candidates or for or against one or more state questions;~~

~~9. "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;~~

~~10. 6. "Limited committee" means a political action committee organized to make contributions to candidates; a limited committee may make independent expenditures or electioneering communications, but may not accept contributions in excess of the limits prescribed for limited committees;~~

~~7. "Local office" means all elective offices for which a declaration of candidacy is filed with the secretary of any county election board;~~

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

~~12. "Person" means an individual, corporation, association, proprietorship, firm, 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;~~

~~13. 8. "Political action committee"±~~

~~a. means a combination of at least two individuals, or a person other than an individual±~~

~~(1) with the primary purpose of:~~

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

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

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

~~b. does not include:~~

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

~~(2) 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 law or by Chapter 10 of the Rules of the Ethics Commission to be reported by the recipient committee or committees as a contribution or contributions, and~~

~~(3) 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 law or by Chapter 10 of the Rules of the Ethics Commission to be reported by the committee that receives the contributions means a limited or unlimited committee that has filed or should have filed a statement of organization with the Ethics Commission as required by its Rules;~~

~~14.~~ 9. "Political party" means ~~any a~~ political party ~~so~~ recognized ~~for the purpose of having candidates appear on the ballot~~ under the laws of this state; and

~~15.~~ 10. "Political party committee" means a committee authorized by the political party to accept contributions or make expenditures on behalf of the political party; a political party committee may include a state committee, a Congressional District committee, a county committee, a precinct committee or any other committee or entity of the party officially recognized in the party's bylaws or similar governing document;

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

12. "State question" means an initiative or referendum petition for which the Governor has issued a proclamation setting the date on which an election shall be held or a legislative referendum referred by the Legislature for a vote of the people; and

13. "Unlimited committee" means an independent judicial retention committee, a political action committee organized exclusively for the purpose of making independent expenditures or electioneering communications or a political action committee organized exclusively for the purpose of advocating the approval or defeat of a state question.

SECTION 2. AMENDATORY 21 O.S. 2011, Section 187.1, is amended to read as follows:

Section 187.1 A. No person ~~or family~~ may contribute more than:

1. ~~Five Thousand Dollars (\$5,000.00) in any calendar year~~ The limits set forth in the Rules of the Ethics Commission to a committee other than a candidate committee political party committee or political action committee;

2. ~~Five Thousand Dollars (\$5,000.00)~~ The limits set forth in the Rules of the Ethics Commission to a candidate committee for a candidate for state office, ~~to a candidate for municipal office in a~~

~~municipality with a population of over two hundred fifty thousand (250,000) persons, according to the most recent Federal Decennial Census, to a candidate for county office in a county with a population of over two hundred fifty thousand (250,000) persons, according to the most recent Federal Decennial Census, or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his or her behalf, for any campaign; or~~

3. ~~One Thousand Dollars (\$1,000.00) to a candidate for other local office, or to a candidate committee authorized by such a candidate to receive contributions or make expenditures on his or her behalf, for any campaign~~ The limits set forth in the Rules of the Ethics Commission to a campaign committee for a candidate for municipal office or to a campaign committee for a candidate for county office or to a municipal or county political committee.

B. No candidate, candidate committee, or other committee shall knowingly accept contributions in excess of the amounts provided herein.

C. These restrictions shall not apply to a committee supporting or opposing a ~~ballet measure~~ state question or local question or to a candidate making a contribution of his or her own funds to his or her own campaign.

D. It shall be prohibited for a campaign contribution to be made to a particular candidate or committee through an intermediary or conduit for the purpose of:

1. Evading requirements of effective Rules of the Ethics Commission promulgated pursuant to Article XXIX of the Oklahoma Constitution or laws relating to the reporting of contributions and expenditures; or

2. Exceeding the contribution limitations imposed by subsection A of this section.

Any person making a contribution in violation of this subsection or serving as an intermediary or conduit for such a contribution, upon conviction, shall be subject to the penalties prescribed in subsections E and F of this section.

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

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

G. No lobbyist or lobbyist principal as defined in ~~Section 4249 of Title 74 of the Oklahoma Statutes~~ the Rules of the Ethics Commission shall make or promise to make a contribution to, or solicit or promise to solicit a contribution for a member of the Oklahoma Legislature or a candidate for a state legislative office during any regular legislative session, beginning the first Monday in February, through its adjournment, and for five (5) calendar days following sine die adjournment. A member of the Oklahoma Legislature or a candidate for a state legislative office shall not intentionally solicit or accept a contribution from a lobbyist or lobbyist principal as defined in ~~Section 4249 of Title 74 of the Oklahoma Statutes~~ the Rules of the Ethics Commission during any regular legislative session and for five (5) calendar days after sine die adjournment. For the purposes of this subsection, a candidate shall mean any person who has filed a statement of organization for a state legislative office pursuant to ~~Oklahoma Statutes, Title 74, Chapter 62 Appendix, Rule 257:10-1-8~~ the Rules of the Ethics Commission.

H. Any person who knowingly and willfully violates any provision of subsection G of this section, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not more than One

Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for up to one (1) year, or by both such fine and imprisonment.

SECTION 3. AMENDATORY 21 O.S. 2011, Section 187.2, is amended to read as follows:

Section 187.2 A. 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.~~

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

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

~~2. The establishment, administration, and solicitation of contributions to a political action committee to be utilized for political purposes by a corporation or labor union may make a contribution to a political party, a political action committee or a candidate committee, and no political party committee, political action committee or candidate committee may accept a contribution from a corporation or labor union, except as permitted by law or the Rules of the Ethics Commission.~~

2. No limited liability company that has one or more incorporated members may make a contribution to a political party committee, a political action committee or a candidate committee, except as permitted by law or the Rules of the Ethics Commission.

3. No partnership that has one or more incorporated partners may make a contribution to a political party committee, a political action committee or a candidate committee, except as permitted by law or the Rules of the Ethics Commission.

~~C.~~ B. No candidate, candidate committee, political party committee, political action committee or other committee shall knowingly accept contributions given in violation of the provisions of subsection A ~~or B~~ of this section.

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

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

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

SECTION 4. This act shall become effective January 1, 2015.

Passed the Senate the 13th day of May, 2014.

James J. Cook
Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2014.

W. Dennis Johnston
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 14th
day of May, 20 14, at 2:48 o'clock P M.

By: *Audrey Redwell*

Approved by the Governor of the State of Oklahoma this 19
day of May, 20 14, at 11:55 o'clock A M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 19th
day of May, 20 14, at 12:09 o'clock P. M.

By: *Ch. Benz*