

**Legislative Changes – EC Recommendations for 2011 Session**

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**ETHICS COMMISSION**

1 An Act relating to campaign finance; amending 21 O.S. 2001,  
2 Sections 187 and 187.2, which relate to corporate  
3 contributions; modifying definitions; deleting prohibition on  
4 certain corporate expenditures; amending 51 O.S. 2001,  
5 Section 304, which relates to the Political Subdivisions  
6 Ethics Act; modifying definitions; and declaring an  
7 emergency.

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

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

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

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

18 2. "Ballot measure" means an initiative, referendum, legislative  
19 referendum, legislative initiative, state question, or any  
20 proposition or measure submitted to voters for their approval or  
21 rejection at a municipal, county or statewide election;

22 3. "Campaign" means and includes all activities for or against  
23 the election of a candidate to a specific state or local office for a  
24 specific term or the passage or defeat of a ballot measure from the  
25 date of acceptance of the first contribution, the making of the first

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1 expenditure, or the filing of a declaration of candidacy, whichever  
2 is first, until a final campaign contributions and expenditures  
3 report is filed;

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

- 7 a. has filed a declaration of candidacy for any state  
8 office with the Secretary of the State Election Board,
- 9 b. has filed a declaration of candidacy for any local  
10 office with the secretary of any county election board,
- 11 c. has filed a declaration of candidacy with the Secretary  
12 of State and has drawn active opposition,
- 13 d. is nominated as a "substitute candidate" pursuant to  
14 Section 1-105 of Title 26 of the Oklahoma Statutes, or
- 15 e. solicits or accepts contributions, makes expenditures  
16 or gives consent to an individual, organization, party  
17 committee, or other committee to solicit or accept  
18 contributions or make expenditures to secure election  
19 to any state or local office at any time, whether or  
20 not the office for which the individual will seek  
21 nomination or election is known when the:

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

4           The term "candidate" shall include a person whose candidacy is  
5 unopposed;

6           5. "Candidate committee" means the committee, consisting of one  
7 or more persons who may be the candidate only, designated by a  
8 candidate to promote the candidate's candidacy and serve as the  
9 recipient of all contributions and the disburser of all expenditures  
10 for the candidate;

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

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

- 14                   (1) a gift, subscription, loan, guarantee or  
15                   forgiveness of a loan, conveyance, advance,  
16                   payment, distribution, or deposit of money or  
17                   anything of value made to and with the knowledge  
18                   and for the benefit of a committee for use in a  
19                   campaign, or for reducing the debt of a committee,
- 20                   (2) an expenditure made by a person or committee,  
21                   other than a candidate committee, with the

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1 cooperation of, or in consultation with, a  
2 committee, a candidate, candidate committee, or  
3 candidate's agent or that is made in concert with,  
4 or at the request or suggestion of, a candidate,  
5 candidate committee, or candidate's agent,  
6 (3) the difference between the payment to a person,  
7 other than a candidate or committee, of  
8 compensation for personal services or products to  
9 the candidate or committee, and the reasonable and  
10 customary rate charged by the person for like  
11 services or products in like quantities when the  
12 candidate or committee has knowledge of the  
13 discounted services or products,  
14 (4) anything of value received by a committee that is  
15 transferred from another committee or other  
16 source,  
17 (5) sums paid for tickets for a political event such  
18 as a reception, rally, or a similar fundraising  
19 event; however, the amount of any such  
20 contribution may be reduced for the purpose of  
21 complying with the reporting and contribution

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- 1 limitations requirements of Section ~~2 of this act~~  
2 187.1 of this title, by the actual cost of  
3 consumables furnished by the committee in  
4 connection with the purchase of the tickets, and  
5 only the excess over the actual cost of the  
6 consumables shall be deemed a contribution,
- 7 (6) the candidate's own money used on behalf of that  
8 candidate's candidacy, and
- 9 (7) the difference between the open market value and a  
10 discount or rebate:
- 11 (a) not extended to the public generally, or  
12 (b) by a television or radio station not extended  
13 equally to all candidates for the same  
14 office.
- 15 b. The term "contribution" shall not include:
- 16 (1) the value of services provided without  
17 compensation by any individual who volunteers on  
18 behalf of a candidate or committee,
- 19 (2) for purposes of the contribution limits set forth  
20 in Section ~~2 of this act~~ 187.1 of this title, the  
21 transfer of any funds by a political action

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1                   committee to another political action committee,  
2                   provided the committees have been established as  
3                   provided by law and the transferring committee and  
4                   the receiving committee have been established,  
5                   directly or indirectly, and are administered or  
6                   financially supported, directly or indirectly, by  
7                   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 residence  
21                  or office if the costs for the meeting or

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1                   fundraising event do not exceed Five Hundred  
2                   Dollars (\$500.00). However, if the occupant hosts  
3                   more than one event in an election cycle for the  
4                   same beneficiary, all subsequent payments that  
5                   exceed Five Hundred Dollars (\$500.00) in the  
6                   aggregate are contributions,

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

15                  (7) a communication by a corporation, labor  
16                  organization, or association aimed at its  
17                  employees, members, owners, stockholders,  
18                  directors, executive administrative personnel, or  
19                  their families that is not coordinated with,  
20                  requested by, or made upon consultation with a  
21                  candidate or party committee or the treasurer,

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1                    deputy treasurer or agent of a candidate committee

2                    or party committee, or

3                    (8) a tender of a contribution if the tender is not  
4                    accepted, including use as collateral, or is  
5                    transferred to the state as provided in Rule 10-1-  
6                    2 of the Rules of the Ethics Commission, ~~74 O.S.~~  
7                    ~~Supp. 1994, Chapter 62, App.;~~

8                    8. "Expenditure" means a purchase, payment, distribution, loan,  
9                    advance, compensation, reimbursement, fee deposit, transfer of funds  
10                    between committees, or a gift made by a committee. An expenditure  
11                    does not include the following:

12                    a. a loan of money, made in the ordinary course of  
13                    business, by a financial institution authorized to  
14                    transact business in this state,

15                    b. a communication by a corporation, labor organization,  
16                    or association aimed at its employees, members, owners,  
17                    stockholders, executive administrative personnel, or  
18                    their families, ~~except a communication by the~~  
19                    ~~corporation's political action committee promoting or~~  
20                    ~~opposing a candidate or candidates,~~

21                    c. uncompensated services provided by an individual

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1                   volunteering the individual's time, or

2                   d.    a transfer of funds to another committee if such  
3                   transfer is not accepted;

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

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

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

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

17          13.   "Political action committee":

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

20                   (1) with the primary purpose of:

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

5 (b) supporting or opposing a ballot measure, and  
6 (2) which accepts or gives contributions or makes  
7 expenditures from a joint account aggregating at  
8 least Five Hundred Dollars (\$500.00) during a  
9 calendar year, and

10 b. does not include:

11 (1) a party committee or a candidate committee,  
12 (2) a person other than an individual, when that  
13 person makes an expenditure or expenditures from  
14 an account to which contributions have not been  
15 solicited or accepted from any other persons or  
16 individuals; and the expenditure or expenditures  
17 are required by law or by Chapter 10 of the Rules  
18 of the Ethics Commission to be reported by the  
19 recipient committee or committees as a  
20 contribution or contributions, ~~and~~

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

12                   (4) a corporation, or

13                   (5) a labor union;

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

16                  15. "State office" means all elective offices for which  
17                  declarations of candidacy are filed with the Secretary of the State  
18                  Election Board.

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

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

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

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

16           2.    A committee formed solely to make independent expenditures or  
17  electioneering communications as defined in Rules 1-1-2 of the Rules  
18  of the Ethics Commission; or

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

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1 C. No candidate, candidate committee, or other committee shall  
2 knowingly accept contributions given in violation of the provisions  
3 of subsection A or B of this section.

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

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

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

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1 imprisonment.

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

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

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

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

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

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

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1 who has withdrawn such notification and declaration of candidacy;

2 5. "Candidate committee" means the committee, consisting of one  
3 or more persons who may be the candidate only, designated by a  
4 candidate to promote the candidate's candidacy and serve as the  
5 recipient of all contributions and the disburser of all expenditures  
6 for the candidate;

7 6. "Committee" means a candidate committee, political action  
8 committee, political party, or organization;

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

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

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

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

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- 1           a.    money loaned to a candidate in connection with his own  
2                    campaign by a bank, savings and loan association or  
3                    credit union which is to be repaid with interest at a  
4                    rate comparable to that of loans for equivalent amounts  
5                    for other purposes,  
6           b.    the value of services provided without compensation by  
7                    individuals volunteering a portion or all of their time  
8                    on behalf of a candidate, organization, political  
9                    action committee or political party,  
10          c.    for purposes of the contribution limits set forth in  
11                    Section ~~2 of this act~~ 187.1 of Title 21 of the Oklahoma  
12                    Statutes, the transfer of any funds by a political  
13                    action committee to another political action committee,  
14                    provided the committee has been established as provided  
15                    by law if the transferring committee and the receiving  
16                    committee have been established, directly or  
17                    indirectly, and are administered or financially  
18                    supported, directly or indirectly, by a common  
19                    organization, or  
20          d.    any payment or obligation incurred by a corporation,  
21                    labor organization, membership organization,

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1 cooperative or corporation without capital stock for  
2 the establishment, administration, and solicitation of  
3 contributions to a separate segregated fund or  
4 political action committee to be utilized for political  
5 purposes;

6 11. "Commission" means the Ethics Commission;

7 12. "Election" means a Primary, Run-off Primary, General, or  
8 Special Election in which a candidate is on the ballot;

9 13. "Election board" means the appropriate county election board  
10 in reference to candidates who file a declaration of candidacy with  
11 the county election board;

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

20 15. "Family" means an individual, his or her spouse, if any, and  
21 all children under the age of eighteen (18) years residing in the

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1 same household;

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

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

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

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

17 20. "Organization" includes a corporation, government or  
18 governmental subdivision or agency, business trust, estate, trust,  
19 partnership or association, union, education or action group or  
20 committee or entity with two or more persons having a joint or common  
21 political interest;

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1        21. "Person" means an individual, corporation, association, firm,  
2        partnership, labor union or labor organization, committee, club or  
3        other organization, or a group of persons who are voluntarily acting  
4        in concert;

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

8            a. with the primary or incidental purpose of supporting or  
9            opposing a candidate or political party, except those  
10           required to file with the Federal Election Commission  
11           or the Ethics Commission, and

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

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

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

20        25. "Public official" means an elected or appointed official in  
21        the executive or legislative branch of a political subdivision of the

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1 state;

2 26. "Represent" or "representation" means any formal or informal  
3 attendance before, or any written or oral communication with, or the  
4 filing of documents with any governmental entity on behalf of a  
5 person or organization;

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

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

11 29. "Substantial financial interest" means an interest that could  
12 result in directly or indirectly receiving a substantial pecuniary  
13 gain or sustaining a substantial pecuniary loss as a result of  
14 ownership or interest in a business entity, or as a result of salary,  
15 gratuity or other compensation or remuneration from any person,  
16 partnership, organization or association.

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