

## LEGISLATIVE BILL 242

Approved by the Governor May 25, 2001

Introduced by Wickersham, 49; Schimek, 27

AN ACT relating to accountability and disclosure; to amend sections 49-1464, 49-1480, 49-1494, 49-1495, 49-1499, 49-1499.01, 49-14,101, 49-14,103.01, 49-14,103.02, and 49-14,103.07, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-1449, 49-1463.01, 49-1467, 49-1483, 49-1493, 79-544, and 79-818, Revised Statutes Supplement, 2000; to require disclosure of information relating to campaign expenditures; to provide, change, and eliminate filing requirements and conflict of interest provisions; to change lobbyist registration requirements; to provide and change penalty provisions; to change school board membership provisions as prescribed; to harmonize provisions; to repeal the original sections; and to outright repeal section 49-1446.05, Revised Statutes Supplement, 2000.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 49-1401, Revised Statutes Supplement, 2000, is amended to read:

49-1401. Sections 49-1401 to 49-14,141 and sections 2, 13, 14, 16, 17, 19, and 20 of this act shall be known and may be cited as the Nebraska Political Accountability and Disclosure Act. Any reference to sections 49-1401 to 49-14,138 shall be construed to include sections 49-1499.01 and 49-14,103.01 to 49-14,103.07. After August 25, 1989, any reference to sections 49-1401 to 49-14,138 shall be construed to include sections 49-14,123.01 and 49-14,140.

Sec. 2. (1) Any person who makes an expenditure reportable under the Nebraska Political Accountability and Disclosure Act to disseminate by any means of telecommunication a prerecorded message or a recorded message relating to a candidate or ballot question shall include in the message the name of the person, including committees, making the expenditure.

(2) Any person who makes an expenditure reportable under the act to disseminate by any means of telecommunication a message relating to a candidate or ballot question which is not a recorded message or a prerecorded message shall, immediately upon the request of the recipient of the message, disclose the name of the person, including committees, making the expenditure. If the message is disseminated through an employee or agent of the person making the expenditure, the employee or agent shall, immediately upon the request of the recipient of the message, disclose the name of the person, including committees, making the expenditure.

(3) Any person who makes an expenditure reportable under the act to disseminate by any electronic means, including the Internet or email, a message relating to a candidate or ballot question shall include in the message the name of the person, including committees, making the expenditure.

Sec. 3. Section 49-1449, Revised Statutes Supplement, 2000, is amended to read:

49-1449. Each committee shall file a statement of organization with the filing officials designated in section 49-1464 to receive the committee's campaign statements commission. Such statement of organization shall be filed within ten days after a committee is formed. Any committee in existence on July 1, 1977, and desiring to remain in existence shall file a statement with the appropriate filing officials within thirty days after July 1, 1977. Any committee in existence on July 1, 1977, and not filing a statement within thirty days after such date shall be dissolved. The filing official The commission shall maintain a statement of organization filed by a committee until notified of the committee's dissolution. Any person who fails to file with the commission a statement of organization required by this section shall pay to the commission a late filing fee of twenty-five dollars for each day the statement remains not filed in violation of this section, not to exceed seven hundred fifty dollars.

Sec. 4. Section 49-1463.01, Revised Statutes Supplement, 2000, is amended to read:

49-1463.01. (1) A person required to pay a late filing fee imposed under section 32-1604.01, ~~49-1446.05,~~ 49-1449, 49-1458, 49-1463, 49-1467, 49-1469, 49-1478.01, or 49-1479.01 may apply to the commission for relief. The commission by order may reduce the amount of a late filing fee imposed and waive any or all of the interest due on the fee upon a showing by such person

that (a) the circumstances indicate no intent to file late, (b) the person has not been required to pay late filing fees for two years prior to the time the filing was due, (c) the late filing shows that less than five thousand dollars was raised, received, or expended during the reporting period, and (d) a reduction of the late fees and waiver of interest would not frustrate the purposes of the Nebraska Political Accountability and Disclosure Act.

(2) A person required to pay a late filing fee imposed for failure to file a statement of exemption under subsection (2) of section 49-1459 may apply to the commission for relief. The commission by order may reduce or waive the late filing fee and waive any or all of the interest due on the fee, and the person shall not be required to make a showing as provided by subsection (1) of this section.

Sec. 5. Section 49-1464, Reissue Revised Statutes of Nebraska, is amended to read:

49-1464. ~~(1) The campaign statement of any committee, including a candidate committee, a ballot question committee, or a political party committee, shall be filed with the commission. The commission shall make all campaign statements available to the public on its web site as soon as practicable. A campaign statement shall be available on the web site for the duration of the election period for which the statement is filed and for an additional six months thereafter. and a copy with the election commissioner or, if there is no election commissioner, the clerk of the county of residence of the candidate.~~

~~(2) The campaign statement of a ballot question committee supporting or opposing (a) a statewide ballot question or (b) a ballot question to be voted upon in more than one county, but not statewide, shall be filed with the commission. A ballot question committee supporting or opposing a ballot question to be voted upon within a single county shall file a statement with the commission and with the election commissioner or, if there is no election commissioner, the clerk of that county.~~

~~(3) The campaign statement of a political party committee that is a state central, district, or county committee shall be filed with the commission. A copy of the campaign statement of a district political party committee shall be filed with the election commissioner or, if there is no election commissioner, the clerk of the most populous county in the district. A copy of the campaign statement of a county committee shall be filed with the election commissioner or, if there is no election commissioner, the clerk of that county.~~

~~(4) The campaign statement of any other committee not covered under this section shall be filed with the commission.~~

Sec. 6. Section 49-1467, Revised Statutes Supplement, 2000, is amended to read:

49-1467. (1) Any person, other than a committee, who makes an independent expenditure advocating the election of a candidate or the defeat of a candidate's opponents or the qualification, passage, or defeat of a ballot question, which is in an amount of more than two hundred fifty dollars, shall file a report of the independent expenditure, within ten days, with the commission and the election commissioner or, if there is no election commissioner, the clerk of the county of residence of that person. The report shall be made on an independent expenditure report form provided by the commission and shall include the date of the expenditure, a brief description of the nature of the expenditure, the amount of the expenditure, the name and address of the person to whom it was paid, the name and address of the person filing the report, together with the name, address, occupation, employer, and principal place of business of each person who contributed more than two hundred fifty dollars to the expenditure. The commission shall make all independent expenditure reports available to the public on its web site as soon as practicable. An independent expenditure report shall be available on the web site for the duration of the election period for which the report is filed and for an additional six months thereafter. The commission shall forward copies, as required, to the appropriate filing officers as described in section 49-1464.

(2) Any person who fails to file a report of an independent expenditure with the commission as required by this section shall pay to the commission a late filing fee of twenty-five dollars for each day the statement remains not filed in violation of this section not to exceed seven hundred fifty dollars.

(3) Any person who violates the provisions of this section shall be guilty of a Class IV misdemeanor.

Sec. 7. Section 49-1480, Reissue Revised Statutes of Nebraska, is amended to read:

49-1480. Every person employed, retained, or authorized as a

lobbyist shall, before commencing any lobbying activity, file an application with the Clerk of the Legislature for registration as a lobbyist, and if the clerk is satisfied that the application has been properly prepared the registration shall be deemed to be complete. The application shall be on a form prescribed by the clerk and approved by the Executive Board of the Legislative Council, and shall include as a minimum the following:

(1) The name, permanent residence address, and office address of the lobbyist; ~~and, if the applicant is an individual, the applicant's social security number;~~

(2) The name and address of the principal of such lobbyist;

(3) The nature of the business of such principal and the amounts or sums given or to be given the lobbyist as compensation or reimbursement for lobbying. A lobbyist who is salaried or retained by a principal need only report that portion of compensation or reimbursement reasonably attributable to lobbying;

(4) A description of the business activity of the lobbyist;

(5) An identification of the matters on which the principal or lobbyist expects to lobby;

(6) If the principal is an industry, trade, or professional association, a specific description of the industry, trade, or profession represented by the principal and the names and addresses of its officers;

(7) If the principal is not an industry, trade, or professional association, a specific description of the interests and groups represented by the principal and the names and addresses of its officers; and

(8) The name and address of any official in the legislative or executive branch, and of any members of any such official's staff or immediate family, ~~who are~~ ~~who is~~ employed by the lobbyist or any person acting on behalf of such lobbyist if such information is known or reasonably should have been known to the lobbyist.

Sec. 8. Section 49-1483, Revised Statutes Supplement, 2000, is amended to read:

49-1483. (1) Every registered lobbyist for each of his or her principals, and every principal employing a registered lobbyist, shall file a separate statement for each calendar quarter with the Clerk of the Legislature within fifteen days after the end of each calendar quarter.

Each statement shall show the following:

(a) The total amount received or expended directly or indirectly for the purpose of carrying on lobbying activities, with the following categories of expenses each being separately itemized: (i) Miscellaneous expenses; (ii) entertainment, including expenses for food and drink as provided in subdivision (2)(b) of this section; (iii) lodging expenses; (iv) travel expenses; (v) lobbyist compensation, except that when a principal retains the services of a person who has only part-time lobbying duties, only the compensation paid which is reasonably attributable to influencing legislative action need be reported; (vi) lobbyist expense reimbursement; (vii) admissions to a state-owned facility or a state-sponsored industry or event as provided in subdivision (2)(b) of this section; and (viii) office expenses, if reported;

(b) A detailed statement of any money which is loaned, promised, or paid by a lobbyist, a principal, or anyone acting on behalf of either to an official in the executive or legislative branch or member of such official's staff. The detailed statement shall identify the recipient and the amount and the terms of the loan, promise, or payment; and

(c) The total amount expended for gifts, other than admissions to a state-owned facility or a state-sponsored industry or event, as provided in subdivision (2)(b) of this section.

(2)(a) The statement is not required to include office expenses.

(b) ~~For purposes of~~ In addition to the entertainment expenses reported under subdivision (1)(a)(ii) of this section, admissions reported under subdivision (1)(a)(vii) of this section, and gifts reported under subdivision (1)(c) of this section, the statement shall disclose the aggregate expenses for such entertainment, admissions, and gifts for each of the following categories of elected officials: Members of the Legislature; and officials in the executive branch of the state. ~~For purposes of this subdivision, entertainment expenses shall be limited to the average cost attributable to an official if an entertainment expense is for an event to which persons other than such officials are invited.~~

(c) For purposes of reporting aggregate expenses for entertainment for members of the Legislature and officials in the executive branch of the state as required by subdivision (2)(b) of this section, the reported amount shall include the actual amounts attributable to entertaining members of the Legislature and officials in the executive branch of the state. When the

nature of an event at which members of the Legislature are entertained makes it impractical to determine the actual cost, the cost of entertainment shall be the average cost per person multiplied by the number of members of the Legislature in attendance. When the nature of an event at which officials in the executive branch of the state are entertained makes it impractical to determine the actual cost, the cost of entertainment shall be the average cost per person multiplied by the number of officials in the executive branch of the state in attendance. For purposes of this subdivision, the average cost per person means the cost of the event divided by the number of persons expected to attend the event.

(d) The lobbyist shall also file any changes or corrections to the information set forth in the registration required pursuant to section 49-1480 so as to reflect the correctness of such information as of the end of each calendar quarter for which such statement is required by this section.

(3) If a lobbyist does not expect to receive lobbying receipts from or does not expect to make lobbying expenditures for a principal, the quarterly statements required by this section as to such principal need not be filed by the lobbyist if the principal and lobbyist both certify such facts in writing to the Clerk of the Legislature. A lobbyist exempt from filing quarterly statements pursuant to this section shall (a) file a statement of activity pursuant to section 49-1488 and (b) resume or commence filing quarterly statements with regard to such principal starting with the quarterly period the lobbyist receives lobbying receipts or makes lobbying expenditures for such principal.

(4) If a principal does not expect to receive lobbying receipts or does not expect to make lobbying expenditures, the quarterly statements required pursuant to this section need not be filed by the principal if the principal and lobbyist both certify such facts in writing to the Clerk of the Legislature. A principal exempt from filing quarterly statements pursuant to this section shall commence or resume filing quarterly statements starting with the quarterly period the principal receives lobbying receipts or makes lobbying expenditures.

(5) For purposes of sections 49-1480 to 49-1492.01, calendar quarter shall mean the first day of January through the thirty-first day of March, the first day of April through the thirtieth day of June, the first day of July through the thirtieth day of September, and the first day of October through the thirty-first day of December.

Sec. 9. Section 49-1493, Revised Statutes Supplement, 2000, is amended to read:

49-1493. The individuals listed in subdivisions (1) through ~~(11)~~ (12) of this section shall file with the commission a statement of financial interests as provided in sections 49-1496 and 49-1497 for the preceding calendar year on or before April 1 of each year in which such individual holds such a position. An individual who leaves office shall, within thirty days after leaving office, file a statement covering the period since the previous statement was filed. Disclosure of the interest named in sections 49-1496 to 49-1498 shall be made by:

(1) An individual holding a state executive office as provided in Article IV of the Constitution of Nebraska, including the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, Tax Commissioner, and heads of such other executive departments as set forth in the Constitution or as may be established by law;

(2) An individual holding the office of Commissioner of Education, member of the State Board of Education, member of the Board of Regents of the University of Nebraska with the exception of student members, or member of the Coordinating Commission for Postsecondary Education;

(3) A member of the Board of Parole;

(4) A member of the Public Service Commission;

(5) A member of the Legislature;

(6) A member of the board of directors or an officer of a district organized under the provisions of Chapter 70;

(7) A member of any board or commission of the state or any county which examines or licenses a business or which determines rates for or otherwise regulates a business;

(8) A member of a land-use planning commission, zoning commission, or authority of the state or any county with a population of more than one hundred thousand inhabitants;

(9) An elected official of a city of the primary or metropolitan class;

(10) An elected county official;

(11) An individual employed at the University of Nebraska-Lincoln in the position of Head Football Coach, Men's Basketball Coach, or Women's

Basketball Coach; and

~~(11)~~ (12) An official or employee of the state designated by rules and regulations of the commission who is responsible for taking or recommending official action of a nonministerial nature with regard to:

- (a) Contracting or procurement;
- (b) Administering or monitoring grants or subsidies;
- (c) Land-use planning or zoning;
- (d) Inspecting, licensing, regulating, or auditing any person; or
- (e) Any similar action.

Sec. 10. Section 49-1494, Reissue Revised Statutes of Nebraska, is amended to read:

49-1494. (1) An individual who files to appear on the ballot for election to an elective office specified in section 49-1493 shall file a statement of financial interests for the preceding calendar year at the same time and with the same official with whom the individual files and shall, within five days, file a copy of the statement with the commission. Candidates for the elective offices specified in section 49-1493 who qualify other than by filing shall, within fifteen days after becoming a candidate or within fifteen days after being appointed to that elective office, file a statement for the preceding calendar year with the commission. This section shall not apply to a person who has already filed a statement ~~in that~~ for the preceding calendar year. ~~pursuant to section 49-1493.~~ A filing to appear on the ballot shall not be accepted by a filing official unless a statement is properly filed. Financial interest statements shall be preserved for a period of not less than eighteen months by the officials other than the commission with whom they are filed, and for a period of not less than five years by the commission.

(2) If the candidate for an elective office specified in section 49-1493 files to appear on the ballot for election prior to January 1 of the year in which the election is held, the candidate shall file supplementary statements with the appropriate filing officials on or before April 1 of the year in which the election is held covering the preceding calendar year.

Sec. 11. Section 49-1495, Reissue Revised Statutes of Nebraska, is amended to read:

49-1495. (1) An individual appointed to an office specified in section 49-1493 shall, before assuming duties, file a statement for the preceding calendar year with the commission. When confirmation is required, the individual shall file a statement of financial interests for the preceding calendar year with the commission prior to the confirmation hearing or prior to assuming his or her duties, whichever comes first.

(2) An individual designated in section 49-1493 shall, within five days, file with the election commissioner of the county in which the individual resides a copy of any statement that individual files with the commission. If the county has no election commissioner, the individual shall file the copy of the statement with the clerk of the county in which the individual resides. The commission, election commissioners, and clerks of the counties shall make the statements available for public inspection during regular office hours and shall make copying facilities available at a cost of not to exceed fifty cents per page.

Sec. 12. Section 49-1499, Reissue Revised Statutes of Nebraska, is amended to read:

49-1499. ~~An individual designated in section 49-1493 or an official or employee of the executive branch of state government, who, in the discharge of his or her official duties,~~ (1) A member of the Legislature who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

~~(1)~~ (a) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict, and if he or she ~~is a member of the Legislature and~~ will not abstain from voting, deliberating, or taking other action on the matter, the statement shall state why, despite the potential conflict, he or she intends to vote or otherwise participate; and

~~(2)~~ (b) Deliver a copy of the statement to the commission and+

(a) ~~If he or she is a member of the Legislature, deliver a copy of the statement~~ to the Speaker of the Legislature who shall cause the statement to be filed with the Clerk of the Legislature to be held as a matter of public record. ~~He or she~~

(2) The member of the Legislature may abstain from voting, deliberating, or taking other action on the matter on which the potential conflict exists, in which case he or she may have the reasons for the abstention recorded in the journal or minutes of the Legislature. Nothing in this section shall be construed to prohibit any member of the Legislature from voting, deliberating, or taking other action on any matter that comes before the body. + or

(b) If he or she is not a member of the Legislature, deliver a copy of the statement to his or her immediate superior, if any, who shall assign the matter to another or, if he or she has no immediate superior, take such steps as the commission shall prescribe or advise to remove himself or herself from influence over actions and decisions on the matter. This restriction shall not prevent such a person from (i) making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made or (ii) making or participating in the making of a governmental decision if the potential conflict of interest is based upon a business association and the business association exists only as the result of his or her position on a commodity board. A person acting pursuant to subdivision (i) of this subdivision shall report the occurrence to the commission.

For purposes of this section, commodity board shall mean only the Corn Development, Utilization, and Marketing Board, the Nebraska Dairy Industry Development Board, the Grain Sorghum Development, Utilization, and Marketing Board, the Nebraska Wheat Development, Utilization, and Marketing Board, the Dry Bean Commission, the Nebraska Potato Development Committee, and the Nebraska Poultry and Egg Development, Utilization, and Marketing Committee.

Sec. 13. (1) An official or employee of the executive branch of state government who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(a) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict; and

(b) Deliver a copy of the statement to the commission and to his or her immediate superior, if any, who shall assign the matter to another. If the immediate superior does not assign the matter to another or if there is no immediate superior, the official or employee shall take such action as the commission shall advise or prescribe to remove himself or herself from influence over the action or decision on the matter.

(2) This section does not prevent such a person from (a) making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made or (b) making or participating in the making of a governmental decision if the potential conflict of interest is based upon a business association and the business association exists only as the result of his or her position on a commodity board. A person acting pursuant to subdivision (a) of this subsection shall report the occurrence to the commission.

(3) For purposes of this section, commodity board means only the Corn Development, Utilization, and Marketing Board, the Nebraska Dairy Industry Development Board, the Grain Sorghum Development, Utilization, and Marketing Board, the Nebraska Wheat Development, Utilization, and Marketing Board, the Dry Bean Commission, the Nebraska Potato Development Committee, and the Nebraska Poultry and Egg Development, Utilization, and Marketing Committee.

Sec. 14. (1) An official of a political subdivision designated in section 49-1493 and a member of any school board who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(a) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict; and

(b) Deliver a copy of the statement to the commission and to the person in charge of keeping records for the political subdivision who shall

enter the statement onto the public records of the subdivision. The official shall take such action as the commission shall advise or prescribe to remove himself or herself from influence over the action or decision on the matter.

(2) This section does not prevent such a person from making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made. A person acting pursuant to this subsection shall report the occurrence to the commission.

(3) Either sections 49-14,102 and 49-14,103 or sections 49-14,103.01 to 49-14,103.06 apply to interests in contracts by officials of a political subdivision.

Sec. 15. Section 49-1499.01, Reissue Revised Statutes of Nebraska, is amended to read:

49-1499.01. (1) An official or employee of the executive branch of state government shall not employ or recommend or supervise the employment of an immediate family member in state government.

(2) This section does not apply to an immediate family member of an official or employee of the executive branch of state government who (a) was previously employed in a position subject to this section prior to the election or appointment of the official or employee or (b) was employed in a position subject to this section prior to the effective date of this act. Prior to, upon, or as soon as reasonably possible after the official date of taking office, a newly elected or appointed official or employee in the executive branch of state government shall make a full disclosure of any immediate family member employed in a position subject to this section.

(3) Any person violating this section shall be guilty of a Class III misdemeanor. Notwithstanding section 49-1499 and subsection (3) of section 49-14,101, a public official or public employee may employ, recommend the employment of, or supervise the employment of an immediate family member if he or she does not abuse his or her official position and makes a full disclosure on the record to the governing body or a written disclosure to the person in charge of keeping records for the governing body. No public official or public employee shall employ an immediate family member without first having made a reasonable solicitation and consideration of applications for such employment.

Except for making a full disclosure provided by sections 49-1499.01 and 49-14,103.01 to 49-14,103.06, this section shall not apply to an immediate family member of a public official or public employee who (1) was previously employed in a position subject to this section prior to the election or appointment of the public official or public employee or (2) was employed in a position subject to this section prior to July 17, 1986. Any newly elected or appointed public official or employee shall make a full disclosure of any immediate family member employed in a position subject to this section, prior to or as soon as reasonably possible after the official date of taking office.

Any person who violates this section shall be guilty of a Class III misdemeanor.

Sec. 16. (1) An official or employee of a political subdivision may employ or recommend or supervise the employment of an immediate family member if (a) he or she does not abuse his or her official position as described in section 17 of this act, (b) he or she makes a full disclosure on the record to the governing body of the political subdivision and a written disclosure to the person in charge of keeping records for the governing body, and (c) the governing body of the political subdivision approves the employment or supervisory position.

(2) No official or employee shall employ an immediate family member (a) without first having made a reasonable solicitation and consideration of applications for such employment, (b) who is not qualified for and able to perform the duties of the position, (c) for any unreasonably high salary, or (d) who is not required to perform the duties of the position.

(3) No official or employee of a political subdivision shall terminate the employment of another employee so as to make funds or a position available for the purpose of hiring an immediate family member.

(4) This section does not apply to an immediate family member of an official or employee who (a) was previously employed in a position subject to this section prior to the election or appointment of the official or employee or (b) was employed in a position subject to provisions similar to this section prior to the effective date of this act. Prior to, upon, or as soon as reasonably possible after the official date of taking office, a newly elected or appointed official or employee shall make a full disclosure of any immediate family member employed in a position subject to this section.

Sec. 17. An official or employee shall not abuse his or her official position. Abuse of an official position includes, but is not limited

to, employing an immediate family member (1) who is not qualified for and able to perform the duties of the position, (2) for any unreasonably high salary, or (3) who is not required to perform the duties of the position.

Sec. 18. Section 49-14,101, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,101. (1) No person shall offer or give to the following persons anything of value, including a gift, loan, contribution, reward, or promise of future employment, based on an agreement that the vote, official action, or judgment of any public official, public employee, or candidate would be influenced thereby:

(a) A public official, public employee, or candidate;

(b) A member of the immediate family of an individual listed in subdivision (a) of this subsection; or

(c) A business with which an individual listed under subdivision (a) or (b) of this subsection is associated.

(2) No person listed in subsection (1) of this section shall solicit or accept anything of value, including a gift, loan, contribution, reward, or promise of future employment based on an agreement that the vote, official action, or judgment of the public official, public employee, or candidate would be influenced thereby.

(3) ~~No public official or public employee shall use that person's public office or any confidential information received through the holding of a public office to obtain financial gain, other than compensation provided by law, for himself or herself, a member of his or her immediate family, or a business with which the individual is associated.~~

~~(4) No public official or public employee shall use personnel, resources, property, or funds under that individual's official care and control, other than in accordance with prescribed constitutional, statutory, and regulatory procedures, or use such items, other than compensation provided by law, for personal financial gain, except that the Executive Board of the Legislative Council may adopt policies that allow a member of the Legislature to install and use with private funds a telephone line, telephone, and telefax machine in his or her public office for private purposes.~~

~~(5) Except as provided in section 23-3113, any person violating the provisions of this section shall be guilty of a Class III misdemeanor, except that no vote by any member of the Legislature shall subject such member to any criminal sanction under this section.~~

Sec. 19. (1) A public official or public employee shall not use or authorize the use of, for personal financial gain, financial gain of a member of his or her immediate family, or financial gain of a business with which he or she is associated, other than compensation provided by law, (a) that person's public office or any confidential information received through the holding of a public office or (b) personnel, resources, property, or funds under that person's official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures.

(2) This section does not prohibit the Executive Board of the Legislative Council from adopting policies that allow a member of the Legislature to install and use with private funds a telephone line, telephone, and telefax machine in his or her public office for private purposes.

(3) Except as provided in section 23-3113, any person violating this section shall be guilty of a Class III misdemeanor, except that no vote by any member of the Legislature shall subject such member to any criminal sanction under this section.

Sec. 20. (1) Except as otherwise provided in this section, a public official or public employee shall not use or authorize the use of personnel, property, resources, or funds under his or her official care and control for the purpose of campaigning for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question.

(2) This section does not prohibit a public official or public employee from making government facilities available to a person for campaign purposes if the identity of the candidate or the support for or opposition to the ballot question is not a factor in making the government facility available or a factor in determining the cost or conditions of use.

(3) This section does not prohibit a governing body from discussing and voting upon a resolution supporting or opposing a ballot question or a public corporation organized under Chapter 70 from otherwise supporting or opposing a ballot question concerning the sale or purchase of its assets.

(4) This section does not prohibit a public official from responding to specific inquiries by the press or the public as to his or her opinion regarding a ballot question or from providing information in response to a request for information.

(5) This section does not prohibit a member of the Legislature from



making use of public resources in expressing his or her opinion regarding a candidate or a ballot question or from communicating that opinion to his or her constituents. A member is not authorized by this section to utilize mass mailings or other mass communications at public expense for the purpose of qualifying, supporting, or opposing a ballot question or for the purpose of campaigning for or against the nomination or election of a candidate.

(6) This section does not prohibit a public employee from engaging in campaign activity except during his or her government work time or when otherwise engaged in his or her official duties.

Sec. 21. Section 49-14,103.01, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,103.01. (1) For purposes of sections 49-14,103.01 to 49-14,103.06, unless the context otherwise requires, officer ~~shall mean~~ means (a) a member of the board of directors of a natural resources district, (b) a member of any board or commission of any county, school district, city, or village which spends and administers its own funds, who is dealing with a contract made by such board or commission, (c) any elected county, school district, educational service unit, city, or village official, and (d) a member of any board of directors or trustees of a district hospital as provided by the Nebraska Local Hospital District Act or a county hospital as provided by sections 23-3501 to 23-3519. Officer ~~shall~~ does not mean volunteer firefighters or ambulance drivers with respect to their duties as firefighters or ambulance drivers.

(2) Except as provided in ~~sections 49-1499.01 and section 16 of this act or section 70-624.04~~, no officer may have an interest in any contract to which his or her governing body, or anyone for its benefit, is a party. The existence of such an interest in any contract shall render the contract voidable by decree of a court of competent jurisdiction as to any person who entered into the contract or took assignment of such contract with actual knowledge of the prohibited conflict. An action to have a contract declared void under this section may be brought by the county attorney, the governing body, or any resident within the jurisdiction of the governing body and shall be brought within one year after the contract is signed or assigned. The decree may provide for the reimbursement of any person for the reasonable value of all money, goods, material, labor, or services furnished under the contract, to the extent that the governing body has benefited thereby.

The prohibition in this subsection shall apply only when the officer or his or her parent, spouse, or child (a) has a business association as defined in section 49-1408 with the business involved in the contract or (b) will receive a direct pecuniary fee or commission as a result of the contract.

(3) ~~The provisions in subsection~~ Subsection (2) of this section ~~shall~~ does not apply if the contract is an agenda item approved at a board meeting and the interested officer:

(a) Makes a declaration on the record to the governing body responsible for approving the contract regarding the nature and extent of his or her interest prior to official consideration of the contract;

(b) Does not vote on the ~~matter~~ matters of granting the contract, making payments pursuant to the contract, or accepting performance of work under the contract, or similar matters relating to the contract, except that if the number of members of the governing body declaring an interest in the contract would prevent the body with all members present from securing a quorum on the issue, then all members may vote on the ~~matter~~ matters; and

(c) Does not act for the governing body which is party to the contract as to inspection or performance under the contract in which he or she has an interest.

(4) An officer who (a) has no business association as defined in section 49-1408 with the business involved in the contract or (b) will not receive a direct pecuniary fee or commission as a result of the contract shall not be deemed to have an interest within the meaning of this section.

(5) The receiving of deposits, cashing of checks, and buying and selling of warrants and bonds of indebtedness of any such governing body by a financial institution shall not be considered a contract for purposes of this section. The ownership of less than five percent of the outstanding shares of a corporation shall not constitute an interest within the meaning of this section.

(6) If an officer's parent, spouse, or child is an employee of his or her governing body, the officer may vote on all issues of the contract which are generally applicable to (a) all employees or (b) all employees within a classification and do not single out his or her parent, spouse, or child for special action.

(7) ~~Any contract entered into with an interested officer of the governing body shall be subject to applicable competitive bidding requirements~~

~~and shall be fair and reasonable to the governing body. Section 49-14,102 shall not apply to contracts covered by sections 49-14,103.01 to 49-14,103.06.~~

(8) Nothing in this section shall prohibit a director of a natural resources district from acting as a participant in any of the conservation or other general district programs which are available for like participation to other residents and landowners of the district or from granting, selling, or otherwise transferring to such district any interest in real property necessary for the exercise of its powers and authorities if the cost of acquisition thereof is equal to or less than that established by a board of three registered, licensed, certified residential, or certified general real estate appraisers or by a court of competent jurisdiction in an eminent domain proceeding.

District payments to a director of a natural resources district of the fair market value for real property owned by him or her and needed for district projects, or for cost sharing for conservation work on such director's land or land in which a director may have an interest, shall not be deemed subject to this section.

Sec. 22. Section 49-14,103.02, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,103.02. The person charged with keeping records for each governing body shall maintain separately from other records a ledger containing the information listed in subdivisions (1) ~~to~~ through (5) of this section about every contract entered into by the governing body in which an officer of the body has an interest and for which disclosure is made pursuant to section ~~49-1499.01 or~~ 49-14,103.01. Such information shall be kept in the ledger for five years from the date of the officer's last day in office and shall include the:

- (1) Names of the contracting parties;
- (2) Nature of the interest of the officer in question;
- (3) Date that the contract was approved by the governing body;
- (4) Amount of the contract; and
- (5) Basic terms of the contract.

The information supplied relative to the contract shall be provided no later than ten days after the contract has been signed by both parties. The ledger kept pursuant to this section shall be available for public inspection during the normal working hours of the office in which it is kept.

Sec. 23. Section 49-14,103.07, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,103.07. Individuals required to make disclosures pursuant to sections ~~49-1499.01 and~~ 49-14,103.01 to 49-14,103.06 or section 16 of this act shall not be required to file potential conflict of interest statements pursuant to section ~~49-1499.01~~ 14 of this act.

Sec. 24. Section 79-544, Revised Statutes Supplement, 2000, is amended to read:

79-544. No member of a school board ~~of a Class I, II, III, IV, or VI school district~~ shall be employed as a teacher by the school district ~~on which board~~ he or she serves as a board member.

Sec. 25. Section 79-818, Revised Statutes Supplement, 2000, is amended to read:

79-818. A majority of the members of a school board of any school district may enter into a contract of employment with a legally qualified teacher or administrator. Such majority has authority to designate one or more members of the board to sign such contract, which signature shall be binding upon the entire board. A duplicate of such contract shall be filed with the secretary. No member of the board shall enter into or execute on behalf of the district any contract with any teacher or administrator related to him or her or to the majority of the board by blood or marriage notwithstanding section ~~49-1499.01~~ 16 of this act. The secretary shall notify the State Department of Education, at the time the contract is made, of the length of the proposed term of school and the name of the teacher or administrator. No money belonging to the district shall be paid for teaching to any but legally qualified teachers, and a board shall not pay out money belonging to the school district to any teacher or administrator after such board has received a sworn statement upon behalf of a board that the services of the teacher or administrator in question are under previous contract to that board.

Sec. 26. Original sections 49-1464, 49-1480, 49-1494, 49-1495, 49-1499, 49-1499.01, 49-14,101, 49-14,103.01, 49-14,103.02, and 49-14,103.07, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-1449, 49-1463.01, 49-1467, 49-1483, 49-1493, 79-544, and 79-818, Revised Statutes Supplement, 2000, are repealed.

Sec. 27. The following section is outright repealed: Section

LB 242

LB 242

49-1446.05, Revised Statutes Supplement, 2000.