

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 485

Introduced by Brashear, 4; Brown, 6; Bruning, 3; Wickersham, 49;
Smith, 48

Read first time January 10, 2001

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to political accountability and disclosure; to
2 amend sections 49-1446, 49-14,122, 49-14,129, and
3 49-14,140, Reissue Revised Statutes of Nebraska, and
4 sections 49-1447, 49-1455, 49-1463.01, 49-14,123, and
5 49-14,124 to 49-14,126, Revised Statutes Supplement,
6 2000; to repeal the Campaign Finance Limitation Act and
7 provisions relating to independent expenditures; to
8 harmonize provisions; to repeal the original sections;
9 and to outright repeal sections 32-1601 to 32-1604,
10 32-1605 to 32-1614, and 77-27,119.04, Reissue Revised
11 Statutes of Nebraska, and sections 32-1604.01 and
12 49-1446.05, Revised Statutes Supplement, 2000.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 49-1446, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 49-1446. (1) Each committee shall have a treasurer who
4 is a qualified elector of this state. A candidate may appoint
5 himself or herself as the candidate committee treasurer.

6 (2) ~~Except for funds received as provided in the Campaign~~
7 ~~Finance Limitation Act, each~~ Each committee shall designate one
8 account in a financial institution in this state as an official
9 depository for the purpose of depositing all contributions which it
10 receives in the form of or which are converted to money, checks, or
11 other negotiable instruments and for the purpose of making all
12 expenditures. Secondary depositories shall be used for the sole
13 purpose of depositing contributions and promptly transferring the
14 deposits to the committee's official depository.

15 (3) No contribution shall be accepted and no expenditure
16 shall be made by a committee which has not filed a statement of
17 organization and which does not have a treasurer. When the office
18 of treasurer in a candidate committee is vacant, the candidate
19 shall be the treasurer until the candidate appoints a new
20 treasurer.

21 (4) No expenditure shall be made by a committee without
22 the authorization of the treasurer or the assistant treasurer. The
23 contributions received or expenditures made by a candidate or an
24 agent of a candidate shall be considered received or made by the
25 candidate committee.

26 (5) Contributions received by an individual acting in
27 behalf of a committee shall be reported promptly to the committee's
28 treasurer not later than five days before the closing date of any

1 campaign statement required to be filed by the committee and shall
2 be reported to the committee treasurer immediately if the
3 contribution is received less than five days before the closing
4 date.

5 (6) A contribution shall be considered received by a
6 committee when it is received by the committee treasurer or a
7 designated agent of the committee treasurer notwithstanding the
8 fact that the contribution is not deposited in the official
9 depository by the reporting deadline.

10 (7) Contributions received by a committee shall not be
11 commingled with any funds of an agent of the committee or of any
12 other person except for funds received or disbursed by a separate
13 segregated political fund for the purpose of supporting or opposing
14 candidates and committees in elections in states other than
15 Nebraska and candidates for federal office, as provided in section
16 49-1469, including independent expenditures made in such elections.

17 (8) Any person who violates section 49-1445 or this
18 section shall be guilty of a Class IV misdemeanor.

19 Sec. 2. Section 49-1447, Revised Statutes Supplement,
20 2000, is amended to read:

21 49-1447. (1) The committee treasurer shall keep detailed
22 accounts, records, bills, and receipts necessary to substantiate
23 the information contained in a statement or report filed pursuant
24 to sections 49-1445 to 49-1479 or rules and regulations adopted and
25 promulgated under the Nebraska Political Accountability and
26 Disclosure Act.

27 (2)(a) For any committee other than a candidate
28 committee, the committee treasurer shall be responsible for filing

1 all statements and reports of the committee required to be filed
2 under the act and shall be personally liable subject to section
3 49-1461.01 for any late filing fees, civil penalties, and interest
4 that may be due under the act as a result of a failure to make such
5 filings.

6 (b) For candidate committees, the candidate shall be
7 responsible for filing all statements and reports required to be
8 filed by his or her candidate committee under the Nebraska
9 Political Accountability and Disclosure Act. ~~or the Campaign~~
10 ~~Finance Limitation Act.~~ The candidate shall be personally liable
11 for any late filing fees, civil penalties, and interest that may be
12 due under ~~either the~~ the act as a result of a failure to make such
13 filings and may use funds of the candidate committee to pay such
14 fees, penalties, and interest.

15 (3) The committee treasurer shall record the name and
16 address of each person from whom a contribution is received except
17 for contributions of fifty dollars or less received pursuant to
18 subsection (2) of section 49-1472.

19 (4) The records of a committee shall be preserved for
20 five years and shall be made available for inspection as authorized
21 by the commission.

22 (5) Any person violating the provisions of this section
23 shall be guilty of a Class III misdemeanor.

24 Sec. 3. Section 49-1455, Revised Statutes Supplement,
25 2000, is amended to read:

26 49-1455. ~~(1)~~ The campaign statement of a committee,
27 other than a political party committee, shall contain the following
28 information:

1 ~~(a)~~ (1) The filing committee's name, address, and
2 telephone number and the full name, residential and business
3 addresses, and telephone numbers of its committee treasurer;

4 ~~(b)~~ (2) Under the heading RECEIPTS, the total amount of
5 contributions received during the period covered by the campaign
6 statement; under the heading EXPENDITURES, the total amount of
7 expenditures made during the period covered by the campaign
8 statement; and the cumulative amount of those totals for ~~the~~
9 ~~election period that~~ election. If a loan was repaid during the
10 period covered by the campaign statement, the amount of the
11 repayment shall be subtracted from the total amount of
12 contributions received. Forgiveness of a loan shall not be
13 included in the totals. Payment of a loan by a third party shall
14 be recorded and reported as a contribution by the third party but
15 shall not be included in the totals. In-kind contributions or
16 expenditures shall be listed at fair market value and shall be
17 reported as both contributions and expenditures;

18 ~~(c)~~ (3) The balance of cash and cash equivalents on hand
19 at the beginning and the end of the period covered by the campaign
20 statement;

21 ~~(d)~~ (4) The full name of each individual from whom
22 contributions totaling more than two hundred fifty dollars are
23 received during the period covered by the report, together with the
24 individual's street address, the amount contributed, the date on
25 which each contribution was received, and the cumulative amount
26 contributed by that individual for ~~the election period that~~
27 election;

28 ~~(e)~~ (5) The full name of each person, except those

1 individuals reported under subdivision ~~(1)(d)~~ (4) of this section,
2 which contributed a total of more than two hundred fifty dollars
3 during the period covered by the report together with the person's
4 street address, the amount contributed, the date on which each
5 contribution was received, and the cumulative amount contributed by
6 person for ~~the election period~~ that election;

7 ~~(f)~~ (6) The name of each committee which is listed as a
8 contributor shall include the full name of the committee's
9 treasurer;

10 ~~(g)~~ (7) The full name and street address of each person
11 to whom expenditures totaling more than two hundred fifty dollars
12 were made, together with the date and amount of each separate
13 expenditure to each such person during the period covered by the
14 campaign statement; the purpose of the expenditure; and the full
15 name and street address of the person providing the consideration
16 for which any expenditure was made if different from the payee;

17 ~~(h)~~ (8) The amount and the date of expenditures for or
18 against a candidate or ballot question during the period covered by
19 the campaign statement and the cumulative amount of expenditures
20 for or against that candidate or ballot question for ~~the election~~
21 ~~period~~ that election. An expenditure made in support of more than
22 one candidate or ballot question, or both, shall be apportioned
23 reasonably among the candidates or ballot questions, or both; and

24 ~~(i)~~ (9) The total amount of funds disbursed by a separate
25 segregated political fund, by state, for the purpose of supporting
26 or opposing candidates and committees in elections in states other
27 than Nebraska and candidates for federal office, including
28 independent expenditures made in such elections.

1 ~~(2) For purposes of this section, election period means~~
2 ~~(a) the period beginning January 1 of the calendar year prior to~~
3 ~~the year of the election in which the candidate is seeking office~~
4 ~~through the end of the calendar year of such election for candidate~~
5 ~~committees of candidates seeking covered elective offices as~~
6 ~~defined in subdivision (1)(a) of section 32-1603, (b) the period~~
7 ~~beginning July 1 of the calendar year prior to the year of the~~
8 ~~election in which the candidate is seeking office through the end~~
9 ~~of the calendar year of such election for candidate committees of~~
10 ~~candidates seeking covered elective offices so defined in~~
11 ~~subdivision (1)(b) of section 32-1603, and (c) the calendar year of~~
12 ~~the election for all other committees.~~

13 Sec. 4. Section 49-1463.01, Revised Statutes Supplement,
14 2000, is amended to read:

15 49-1463.01. (1) A person required to pay a late filing
16 fee imposed under section ~~32-1604.01, 49-1446.05,~~ 49-1449, 49-1458,
17 49-1463, 49-1467, 49-1469, 49-1478.01, or 49-1479.01 may apply to
18 the commission for relief. The commission by order may reduce the
19 amount of a late filing fee imposed and waive any or all of the
20 interest due on the fee upon a showing by such person that (a) the
21 circumstances indicate no intent to file late, (b) the person has
22 not been required to pay late filing fees for two years prior to
23 the time the filing was due, (c) the late filing shows that less
24 than five thousand dollars was raised, received, or expended during
25 the reporting period, and (d) a reduction of the late fees and
26 waiver of interest would not frustrate the purposes of the Nebraska
27 Political Accountability and Disclosure Act.

28 (2) A person required to pay a late filing fee imposed

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

7 Sec. 5. Section 49-14,222, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 49-14,122. The commission shall make random field
10 investigations and audits with respect to campaign statements and
11 activity reports filed with the commission under ~~the Campaign~~
12 ~~Finance Limitation Act~~ and the Nebraska Political Accountability
13 and Disclosure Act. ~~Except for audits conducted pursuant to the~~
14 ~~Campaign Finance Limitation Act,~~ any Any audit or investigation
15 conducted of a candidate's campaign statements during a campaign
16 shall include an audit or investigation of the statements of his or
17 her opponent or opponents as well. The commission may also carry
18 out field investigations or audits with respect to any campaign
19 statement, registration, report, or other statement filed under the
20 ~~Nebraska Political Accountability and Disclosure Act~~ act if the
21 commission or the executive director deems such investigations or
22 audits necessary to carry out the purposes of the act.

23 Sec. 6. Section 49-14,123, Revised Statutes Supplement,
24 2000, is amended to read:

25 49-14,123. In addition to any other duties prescribed by
26 law, the commission shall:

27 (1) Prescribe and publish, after notice and opportunity
28 for public comment, rules and regulations to carry out ~~the Campaign~~

1 ~~Finance Limitation Act~~ and the Nebraska Political Accountability
2 and Disclosure Act pursuant to the Administrative Procedure Act;

3 (2) Prescribe forms for statements and reports required
4 to be filed pursuant to ~~the Campaign Finance Limitation Act~~ and the
5 Nebraska Political Accountability and Disclosure Act and furnish
6 such forms to persons required to file such statements and reports;

7 (3) Prepare and publish one or more manuals explaining
8 the duties of all persons and other entities required to file
9 statements and reports by the ~~acts~~ act and setting forth
10 recommended uniform methods of accounting and reporting for such
11 filings;

12 (4) Accept and file any reasonable amount of information
13 voluntarily supplied that exceeds the requirements of the ~~acts~~ act;

14 (5) Make statements and reports filed with the commission
15 available for public inspection and copying during regular office
16 hours and make copying facilities available at a cost of not more
17 than fifty cents per page;

18 (6) Compile and maintain an index of all reports and
19 statements filed with the commission to facilitate public access to
20 such reports and statements;

21 (7) Prepare and publish summaries of statements and
22 reports filed with the commission and special reports and technical
23 studies to further the purposes of the ~~acts~~ act;

24 (8) Review all statements and reports filed with the
25 commission in order to ascertain whether any person has failed to
26 file a required statement or has filed a deficient statement;

27 (9) Preserve statements and reports filed with the
28 commission for a period of not less than five years from the date

1 of receipt;

2 (10) Issue and publish advisory opinions on the
3 requirements of the ~~aets~~ act upon the request of a person or
4 governmental body directly covered or affected by the ~~aets~~ act.
5 Any such opinion rendered by the commission, until amended or
6 revoked, shall be binding on the commission in any subsequent
7 charges concerning the person or public body who requested the
8 opinion and who acted in reliance on it in good faith unless
9 material facts were omitted or misstated by the person in the
10 request for the opinion;

11 (11) Act as the primary civil and criminal enforcement
12 agency for violations of the ~~Nebraska Political Accountability and~~
13 ~~Disclosure Act~~ act and the rules or regulations promulgated
14 thereunder; ~~7~~ act as the primary civil enforcement agency for
15 violations of the ~~Campaign Finance Limitation Act~~ and the rules or
16 regulations promulgated thereunder, ~~and act concurrently with the~~
17 ~~Attorney General in prosecuting criminal violations of the Campaign~~
18 ~~Finance Limitation Act;~~

19 (12) Receive all late filing fees, civil penalties, and
20 interest imposed pursuant to the ~~Campaign Finance Limitation Act~~ or
21 ~~the Nebraska Political Accountability and Disclosure Act;~~ seek the
22 return of any amount as provided in section ~~32-1606;~~ and seek the
23 repayment of any amount as provided in section ~~32-1607~~ and remit
24 all such funds to the State Treasurer for credit to the ~~Campaign~~
25 ~~Finance Limitation Cash Fund~~ act; and

26 (13) Prepare and distribute to the appropriate local
27 officials statements of financial interest, campaign committee
28 organization forms, filing instructions and forms, and such other

1 forms as the commission may deem appropriate.

2 Sec. 7. Section 49-14,124, Revised Statutes Supplement,
3 2000, is amended to read:

4 49-14,124. Upon a complaint signed under oath by any
5 person which contains sufficient information to indicate that there
6 is at least a reasonable belief that a violation has occurred, upon
7 the recommendation of the executive director, or upon its own
8 motion, the commission shall, by way of preliminary investigation,
9 investigate any alleged violation of the Nebraska Political
10 Accountability and Disclosure Act or any rule or regulation adopted
11 and promulgated thereunder. ~~Upon the recommendation of the~~
12 ~~executive director or upon its own motion, the commission shall, by~~
13 ~~way of preliminary investigation, investigate any alleged violation~~
14 ~~of the Campaign Finance Limitation Act or any rule or regulation~~
15 ~~promulgated thereunder.~~ Each governmental body shall cooperate
16 with the commission in the conduct of its investigations. All
17 commission proceedings and records relating to preliminary
18 investigations shall be confidential until a final determination is
19 made by the commission unless the person alleged to be in violation
20 of the ~~Nebraska Political Accountability and Disclosure Act or the~~
21 ~~Campaign Finance Limitation Act~~ act requests that the proceedings
22 be public. The executive director shall notify any person under
23 investigation by the commission of the investigation and of the
24 nature of the alleged violation within five days after the
25 commencement of the investigation. Within fifteen days after the
26 filing of a sworn complaint by a person alleging a violation, and
27 every thirty days thereafter until the matter is terminated, the
28 executive director shall notify the complainant and the alleged

1 violator of the action taken to date by the commission together
2 with the reasons for such action or for nonaction.

3 Sec. 8. Section 49-14,125, Revised Statutes Supplement,
4 2000, is amended to read:

5 49-14,125. (1) If, after a preliminary investigation, it
6 is determined by a majority vote of the commission that there is no
7 probable cause for belief that a person has violated the Nebraska
8 Political Accountability and Disclosure Act ~~or the Campaign Finance~~
9 ~~Limitation Act~~ or any rule or regulation adopted and promulgated
10 thereunder or if the commission determines that there is
11 insufficient evidence to reasonably believe that the person could
12 be found to have violated ~~either the~~ the act, the commission shall
13 terminate the investigation and so notify the complainant and the
14 person who had been under investigation.

15 (2) If, after a preliminary investigation, it is
16 determined by a majority vote of the commission that there is
17 probable cause for belief that the ~~Nebraska Political~~
18 ~~Accountability and Disclosure Act or the Campaign Finance~~
19 ~~Limitation Act~~ act or a rule or regulation adopted and promulgated
20 thereunder has been violated and if the commission determines that
21 there is sufficient evidence to reasonably believe that the person
22 could be found to have violated ~~either the~~ the act, the commission
23 shall initiate appropriate proceedings to determine whether there
24 has in fact been a violation. All proceedings of the commission
25 pursuant to this subsection shall be by closed session attended
26 only by those persons necessary to the investigation of the alleged
27 violation, unless the person alleged to be in violation of ~~either~~
28 the act or any rule or regulation adopted and promulgated

1 thereunder requests an open session. The commission shall have the
2 powers possessed by the courts of this state to issue subpoenas and
3 cause them to be served and enforced. All testimony shall be under
4 oath which shall be administered by a member of the commission.
5 Any person who appears before the commission shall have all of the
6 due process rights, privileges, and responsibilities of a witness
7 appearing before the courts of this state. All witnesses summoned
8 before the commission shall receive reimbursement as paid in like
9 circumstances in the district court. Any person whose name is
10 mentioned during a proceeding of the commission and who may be
11 adversely affected thereby shall be notified and may appear
12 personally before the commission on that person's own behalf or
13 file a written statement for incorporation into the record of the
14 proceeding. The commission shall cause a record to be made of all
15 proceedings pursuant to this subsection. At the conclusion of
16 proceedings concerning an alleged violation, the commission shall
17 immediately begin deliberations on the evidence and then proceed to
18 determine by majority vote of the members present whether there has
19 been a violation of the ~~Campaign Finance Limitation Act or the~~
20 ~~Nebraska Political Accountability and Disclosure Act~~ act. If the
21 commission determines that there was no violation of ~~either the~~ the act
22 or any rule or regulation, the records and actions relative to the
23 investigation and determination shall remain confidential unless
24 the alleged violator requests that the records and actions be made
25 public. If the commission determines that there was a violation,
26 the records and actions shall be made public as soon as practicable
27 after the determination is made.

28 Sec. 9. Section 49-14,126, Revised Statutes Supplement,

1 2000, is amended to read:

2 49-14,126. ~~(1)~~ The commission, upon finding that there
 3 has been a violation of the Nebraska Political Accountability and
 4 Disclosure Act or any rule or regulation promulgated thereunder,
 5 may begin civil or criminal prosecution for the imposition of civil
 6 or criminal penalties provided by the act. If the commission finds
 7 a violation of the act or any rule or regulation thereunder, it may
 8 issue an order requiring the violator to:

9 ~~(a)~~ (1) Cease and desist violation;

10 ~~(b)~~ (2) File any report, statement, or other information
 11 as required; or

12 ~~(c)~~ (3) Pay a civil penalty of not more than two thousand
 13 dollars for each violation of the act, rule, or regulation.

14 ~~(2) If the commission finds a violation of the Campaign~~
 15 ~~Finance Limitation Act, the commission shall assess a civil penalty~~
 16 ~~as required under section 32-1612.~~

17 Sec. 10. Section 49-14,129, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 49-14,129. The commission, by order, may suspend or
 20 modify any of the reporting requirements of ~~the Campaign Finance~~
 21 ~~Limitation Act or~~ the Nebraska Political Accountability and
 22 Disclosure Act, in a particular case, for good cause shown, or if
 23 it finds that literal application of ~~such acts~~ the act works a
 24 manifestly unreasonable hardship and if it also finds that such
 25 suspension or modification will not frustrate the purposes of ~~such~~
 26 ~~acts~~ the act. Any such suspension or modification shall be only to
 27 the extent necessary to substantially relieve the hardship. The
 28 commission shall suspend or modify any reporting requirements only

1 if it determines that facts exist that are clear and convincing
2 proof of the findings required by this section.

3 Sec. 11. Section 49-14,140, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 49-14,140. The Nebraska Accountability and Disclosure
6 Commission Cash Fund is ~~hereby~~ created. The fund shall consist of
7 funds received by the commission pursuant to sections 49-1470,
8 49-1480.01, 49-1482, 49-1495, 49-14,123, and 49-14,123.01. The
9 fund shall not include late filing fees or civil penalties assessed
10 and collected by the commission. The fund shall be used by the
11 commission in administering the Nebraska Political Accountability
12 and Disclosure Act. Any money in the fund available for investment
13 shall be invested by the state investment officer pursuant to the
14 Nebraska Capital Expansion Act and the Nebraska State Funds
15 Investment Act. Any money in the Campaign Finance Limitation Cash
16 Fund on the effective date of this act shall be transferred to the
17 Nebraska Accountability and Disclosure Commission Cash Fund.

18 Sec. 12. Original sections 49-1446, 49-14,122,
19 49-14,129, and 49-14,140, Reissue Revised Statutes of Nebraska, and
20 sections 49-1447, 49-1455, 49-1463.01, 49-14,123, and 49-14,124 to
21 49-14,126, Revised Statutes Supplement, 2000, are repealed.

22 Sec. 13. The following sections are outright repealed:
23 Sections 32-1601 to 32-1604, 32-1605 to 32-1614, and 77-27,119.04,
24 Reissue Revised Statutes of Nebraska, and sections 32-1604.01 and
25 49-1446.05, Revised Statutes Supplement, 2000.