

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 707

Introduced by Beutler, 28

Read first time January 17, 2001

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to political activities; to amend sections
2 32-1601, 32-1603, 32-1604, and 32-1606, Reissue Revised
3 Statutes of Nebraska, and sections 32-1604.01,
4 49-1463.01, 49-14,124, and 49-14,125, Revised Statutes
5 Supplement, 2000; to redefine a term; to change
6 provisions regarding campaign expenditures and public
7 funds; to provide for late fees; to change powers and
8 duties of the Nebraska Accountability and Disclosure
9 Commission; to eliminate unconstitutional provisions; to
10 harmonize provisions; to repeal the original sections;
11 and to outright repeal section 32-1614, Reissue Revised
12 Statutes of Nebraska.

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

1 Section 1. Section 32-1601, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-1601. Sections 32-1601 to ~~32-1614~~ 32-1613 shall be
4 known and may be cited as the Campaign Finance Limitation Act.

5 Sec. 2. Section 32-1603, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 32-1603. For purposes of the Campaign Finance Limitation
8 Act, the definitions found in sections 49-1404 to 49-1444 shall be
9 used, except that:

10 (1) Covered elective office means (a) the Legislature in
11 any election period and (b) the Governor, Lieutenant Governor,
12 State Treasurer, Secretary of State, Attorney General, Auditor of
13 Public Accounts, the Public Service Commission, the Board of
14 Regents of the University of Nebraska, and the State Board of
15 Education if designated as covered for a given election period
16 pursuant to section 32-1611;

17 (2) Election period means (a) the period beginning
18 January 1 of the calendar year prior to the year of the election in
19 which the candidate is seeking office through the end of the
20 calendar year of such election for covered elective offices listed
21 in subdivision (1)(a) of this section and (b) the period beginning
22 July 1 of the calendar year prior to the year of the election in
23 which the candidate is seeking office through the end of the
24 calendar year of such election for covered elective offices listed
25 in subdivision (1)(b) of this section;

26 (3) Expenditure means (a) the purchase for campaign
27 activities of ~~(a)~~ (i) services from a communications medium,
28 including production costs, ~~(b)~~ (ii) printing, photography, graphic

1 arts, or advertising services, ~~(e)~~ (iii) office supplies, ~~(d)~~ (iv)
2 postage and other commercial delivery services, ~~(e)~~ (v) meals,
3 lodging, and travel expenses, and ~~(f)~~ (vi) staff salaries and (b)
4 repayment of loans to the candidate committee;

5 (4) General election period means the period beginning
6 with the day following the end of the primary election period
7 through the end of the election period;

8 (5) Primary election period means the period beginning
9 with the first day of the election period through the thirty-fifth
10 day following the primary election; and

11 (6) Unrestricted spending means expenditures or transfers
12 of funds authorized under subdivision (1)(f) or (h) of section
13 49-1446.01.

14 Sec. 3. Section 32-1604, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 32-1604. (1) If the office is designated as covered for
17 a given election period pursuant to section 32-1611, any candidate
18 for Governor, Lieutenant Governor, State Treasurer, Secretary of
19 State, Attorney General, Auditor of Public Accounts, the Public
20 Service Commission, the Board of Regents of the University of
21 Nebraska, or the State Board of Education may qualify for public
22 funds to be used for the election period if he or she limits his or
23 her campaign spending for the election period and meets the other
24 requirements prescribed in this section.

25 (2) In any election period, any candidate for the
26 Legislature may qualify for public funds to be used for the
27 election period if he or she limits his or her campaign spending
28 for the election period and meets the other requirements prescribed

1 in this section.

2 (3) To qualify for public funds for the election period,
3 a candidate for Governor shall limit his or her spending, other
4 than unrestricted spending, for the election period to one million
5 five hundred thousand dollars, a candidate for Lieutenant Governor,
6 State Treasurer, Secretary of State, Attorney General, or Auditor
7 of Public Accounts shall limit his or her spending, other than
8 unrestricted spending, for the election period to one hundred fifty
9 thousand dollars, a candidate for the Legislature shall limit his
10 or her spending, other than unrestricted spending, for the election
11 period to seventy-three thousand dollars, and a candidate for the
12 Public Service Commission, the Board of Regents of the University
13 of Nebraska, or the State Board of Education shall limit his or her
14 spending, other than unrestricted spending, for the election period
15 to fifty thousand dollars, and such candidates shall limit their
16 spending, other than unrestricted spending, for the primary
17 election period to not exceed fifty percent of the limits provided
18 in this subsection for the election period.

19 (4) Each candidate for a covered elective office desiring
20 to receive public funds pursuant to this section shall (a)
21 beginning the first day of the election period, raise an amount
22 equal to at least twenty-five percent of the spending limitation
23 for the office from persons who are residents of Nebraska and (b)
24 file with the Nebraska Accountability and Disclosure Commission an
25 affidavit pursuant to section 32-1604.01 indicating his or her
26 intent to abide by the spending limitations and his or her
27 agreement to personally act as a guarantor for the lawful use of
28 such funds and to be held personally liable to the State of

1 Nebraska for any such funds not repaid to the state as required by
2 law. Money raised prior to filing the affidavit shall not count
3 toward the qualifying amount established in this subsection. Money
4 raised prior to the first day of the election period shall not
5 count toward the qualifying amount established in this subsection.
6 At least sixty-five percent of the qualifying amount established in
7 this subsection shall be received from individuals. For purposes
8 of this section, a business, corporation, partnership, limited
9 liability company, or association shall be deemed a resident if it
10 has an office in this state and transacts business in this state.

11 (5)(a) ~~Except as otherwise provided in section~~
12 ~~32-1604.01, any~~ Any candidate for a covered elective office who
13 does not file an affidavit pursuant to subsection (4) of this
14 section shall file with the commission an affidavit indicating his
15 or her intent not to abide by the spending limitations of this
16 section and shall include a reasonable estimate of his or her
17 maximum expenditures as defined in sections 32-1603 and 49-1419 for
18 the primary election period. The estimate of expenditures for the
19 primary election period may be amended up to thirty days prior to
20 the primary election by filing a subsequent affidavit. A candidate
21 nominated for a covered elective office in the primary election
22 shall file an estimate of expenditures for the general election
23 period on or before the fortieth day following the primary
24 election. The estimate of expenditures for the general election
25 period may be amended up to sixty days prior to the general
26 election by filing a subsequent affidavit.

27 (b) A candidate for a covered elective office whose
28 estimated maximum expenditures exceed the spending limitations of

1 this section as set forth in the affidavit filed under subdivision
2 (5)(a) of this section shall file an affidavit with the commission
3 when forty percent of his or her estimated maximum expenditures has
4 been spent for the primary election period or when his or her
5 expenditures for the primary election period exceed the spending
6 limitation set forth in this section for the primary election
7 period, whichever occurs first. The candidate shall file a second
8 affidavit with the commission when forty percent of his or her
9 estimated maximum expenditures has been spent for the general
10 election period or when his or her expenditures for the general
11 election period exceed the spending limitation set forth in this
12 section for the general election period, whichever occurs first.
13 Each affidavit shall be filed no later than ~~five~~ two days after the
14 forty percent has been expended or the respective spending
15 limitation has been exceeded. The affidavit may be filed by hand
16 delivery, facsimile transmission, telegraph, express delivery
17 service, or any other written means of communication. If the
18 filing is made by a means which does not include the original
19 signature of the affiant, an affidavit which includes the original
20 signature shall be filed with the commission within fourteen days
21 after the forty percent has been expended or the respective
22 spending limitation has been exceeded. A candidate who
23 intentionally fails to file the required affidavit within either
24 ~~five-day~~ two-day period shall be guilty of a Class II misdemeanor.

25 (c) A candidate who fails to file an estimate of
26 expenditures as required by this section shall pay to the
27 commission a late filing fee of twenty-five dollars for each day
28 the estimate remains not filed in violation of this section not to

1 exceed seven hundred fifty dollars. A candidate who fails to file
2 an affidavit as required by subdivision (5)(b) of this section
3 shall pay to the commission a late filing fee of twenty-five
4 dollars for each day the affidavit remains not filed in violation
5 of this section not to exceed seven hundred fifty dollars.

6 (6) If an affidavit required under subdivision (5)(b) or
7 (c) of this section is not filed, no public funds shall be
8 distributed to the candidates for such office who have qualified
9 for public funds for the election period unless preelection
10 campaign statements filed pursuant to subdivisions (1)(a) and (b)
11 of section 49-1459 or audits by the commission conducted pursuant
12 to section 49-14,122 reveal that a candidate has made expenditures
13 requiring the filing of an affidavit under subdivision (5)(b) or
14 (c) of this section.

15 Sec. 4. Section 32-1604.01, Revised Statutes Supplement,
16 2000, is amended to read:

17 32-1604.01. (1) ~~Except as otherwise provided in this~~
18 ~~section,~~ each Each candidate for a covered elective office listed
19 in subdivision (1)(a) of section 32-1603 shall file either an
20 affidavit to abide under subsection (4) of section 32-1604 or an
21 affidavit not to abide under subdivision (5)(a) of section 32-1604
22 with the Nebraska Accountability and Disclosure Commission within
23 ten days after a candidate committee is required to be formed
24 pursuant to sections 49-1413, 49-1445, and 49-1449 and on or before
25 the first day of each election period thereafter unless the
26 candidate has not filed and will not file to seek election or
27 reelection or has withdrawn his or her filing to seek election or
28 reelection. ~~Except as otherwise provided in this section,~~ each

1 Each candidate for a covered elective office listed in subdivision
2 (1)(b) of section 32-1603 shall file either an affidavit to abide
3 under subsection (4) of section 32-1604 or an affidavit not to
4 abide under subdivision (5)(a) of section 32-1604 with the Nebraska
5 Accountability and Disclosure Commission within ten days after a
6 candidate committee is required to be formed pursuant to sections
7 49-1413, 49-1445, and 49-1449 or within ten days after the office
8 is designated as a covered elective office under section 32-1611,
9 whichever is later, unless the candidate has not filed and will not
10 file to seek election or reelection or has withdrawn his or her
11 filing to seek election or reelection. If a candidate is not
12 required to form a candidate committee, the candidate is not
13 required to file an affidavit under section 32-1604.

14 (2) ~~Any candidate for a legislative district which is~~
15 ~~subject to election in 1998 for whom a candidate committee is in~~
16 ~~existence on September 13, 1997, shall file an affidavit to abide~~
17 ~~under subsection (4) of section 32-1604 or an affidavit not to~~
18 ~~abide under subdivision (5)(a) of section 32-1604 within thirty~~
19 ~~days after September 13, 1997.~~

20 (3) An affidavit to abide under subsection (4) of section
21 32-1604 and an affidavit not to abide under subdivision (5)(a) of
22 section 32-1604 shall be filed on forms prescribed by the
23 commission.

24 (4) (3) A candidate who fails to file an affidavit as
25 required by this section shall pay to the commission a late filing
26 fee of twenty-five dollars for each day the statement remains not
27 filed in violation of this section not to exceed seven hundred
28 fifty dollars.

1 ~~(5)~~ (4) It shall be a violation of the Campaign Finance
2 Limitation Act for a candidate for a covered elective office who
3 has filed an affidavit to abide under subsection (4) of section
4 32-1604 to exceed the spending limitations prescribed in section
5 32-1604.

6 Sec. 5. Section 32-1606, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 32-1606. (1) Any candidate for a covered elective office
9 who has satisfied the requirements of subsection (4) of section
10 32-1604 may, upon spending twenty-five percent of the spending
11 limitation for the election period prescribed in such section, file
12 an affidavit with the commission setting forth these facts and
13 requesting public funds. ~~If Subject to the limitation in this~~
14 subsection, if the highest estimated maximum expenditure filed by
15 any of the candidate's opponents for that same office in effect as
16 of the last date to amend an affidavit pursuant to subsection (5)
17 of section 32-1604 is greater than the spending limitations as
18 provided in subsection (3) of section 32-1604 for the office, the
19 candidate shall be entitled to receive the difference between the
20 spending limitation and the highest estimated maximum expenditure
21 filed by any of the candidate's opponents. For the primary
22 election period, no candidate shall be entitled to receive more
23 than three times the amount of the spending limit for the primary
24 election period. For the general election period, no candidate
25 shall be entitled to receive more than three times the amount of
26 the spending limit for the primary election period. The commission
27 shall compute the amount of the payment to be made to a candidate.
28 For purposes of this section, a candidate's opponent in a partisan

1 primary election shall include only those other candidates of the
2 same political party running for the same office and a candidate's
3 opponent in a nonpartisan primary election shall include all
4 candidates running for the same office.

5 (2) In either the primary election period or the general
6 election period, to the extent that the public funds received by a
7 candidate under this section when added to the spending limitation
8 for the primary election do not equal the highest estimated maximum
9 expenditure of the candidate's opponents, the candidate may raise
10 and spend the difference between the highest estimated maximum
11 expenditure and the total of (a) the spending limitation for the
12 primary election and (b) the public funds received by the
13 candidate. The expenditure of funds pursuant to this subsection
14 shall not be considered a failure to comply with the spending
15 limitations or spending in excess of the spending limitations.

16 (3) Except as otherwise provided ~~by~~ in subsection (6) of
17 section 32-1604, public funds to which a candidate is entitled
18 under this section shall be disbursed to that candidate ~~not later~~
19 ~~than two weeks after~~ no earlier than the last date to amend an
20 affidavit pursuant to subdivision (5)(a) of section 32-1604 and no
21 later than the day before the election.

22 ~~(3)~~ (4) Public funds received pursuant to this section
23 shall be kept in a separate account in a financial institution in
24 this state, shall be used only to make expenditures, and shall not
25 be counted against the spending limitations prescribed in section
26 32-1604. Any unexpended public funds shall be repaid to the state
27 on or before December 31 of the final year of the election period.

28 ~~(4)~~ (5) Expenditures from public funds received pursuant

1 to this section shall be reported to the commission on forms
2 prescribed by the commission and in accordance with rules and
3 regulations adopted and promulgated by the commission.

4 Sec. 6. Section 49-1463.01, Revised Statutes Supplement,
5 2000, is amended to read:

6 49-1463.01. (1) A person required to pay a late filing
7 fee imposed under section ~~32-1604~~, 32-1604.01, 49-1446.05, 49-1449,
8 49-1458, 49-1463, 49-1467, 49-1469, 49-1478.01, or 49-1479.01 may
9 apply to the commission for relief. The commission by order may
10 reduce the amount of a late filing fee imposed and waive any or all
11 of the interest due on the fee upon a showing by such person that
12 (a) the circumstances indicate no intent to file late, (b) the
13 person has not been required to pay late filing fees for two years
14 prior to the time the filing was due, (c) the late filing shows
15 that less than five thousand dollars was raised, received, or
16 expended during the reporting period, and (d) a reduction of the
17 late fees and waiver of interest would not frustrate the purposes
18 of the Nebraska Political Accountability and Disclosure Act.

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

26 Sec. 7. Section 49-14,124, Revised Statutes Supplement,
27 2000, is amended to read:

28 49-14,124. Upon a complaint signed under oath by any

1 person which contains sufficient information to indicate that there
2 is at least a reasonable belief that a violation has occurred, upon
3 the recommendation of the executive director, or upon its own
4 motion, the commission shall, by way of preliminary investigation,
5 investigate any alleged violation of the Nebraska Political
6 Accountability and Disclosure Act or any rule or regulation adopted
7 and promulgated thereunder. Upon the recommendation of the
8 executive director or upon its own motion, the commission shall, by
9 way of preliminary investigation, investigate any alleged violation
10 of the Campaign Finance Limitation Act or any rule or regulation
11 promulgated thereunder. For purposes of conducting preliminary
12 investigations under either act, the commission shall have the
13 powers possessed by the courts of this state to issue subpoenas,
14 and the district court shall enforce such subpoenas.

15 Each governmental body shall cooperate with the
16 commission in the conduct of its investigations. All commission
17 proceedings and records relating to preliminary investigations
18 shall be confidential until a final determination is made by the
19 commission unless the person alleged to be in violation of the
20 Nebraska Political Accountability and Disclosure Act or the
21 Campaign Finance Limitation Act requests that the proceedings be
22 public.

23 The executive director shall notify any person under
24 investigation by the commission of the investigation and of the
25 nature of the alleged violation within five days after the
26 commencement of the investigation. Within fifteen days after the
27 filing of a sworn complaint by a person alleging a violation, and
28 every thirty days thereafter until the matter is terminated, the

1 executive director shall notify the complainant and the alleged
2 violator of the action taken to date by the commission together
3 with the reasons for such action or for nonaction.

4 Sec. 8. Section 49-14,125, Revised Statutes Supplement,
5 2000, is amended to read:

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

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

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

1 public as soon as practicable after the determination is made.

2 Sec. 9. Original sections 32-1601, 32-1603, 32-1604, and
3 32-1606, Reissue Revised Statutes of Nebraska, and sections
4 32-1604.01, 49-1463.01, 49-14,124, and 49-14,125, Revised Statutes
5 Supplement, 2000, are repealed.

6 Sec. 10. The following section is outright repealed:
7 Section 32-1614, Reissue Revised Statutes of Nebraska.