

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 626

Introduced by Karpisek, 32.

Read first time January 21, 2009

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Political Accountability and
2 Disclosure Act; to amend sections 49-1401, 49-14,101.01,
3 and 49-14,101.02, Revised Statutes Cumulative Supplement,
4 2008; to provide exemptions; to change prohibited
5 activities for public officials and public employees;
6 to harmonize provisions; and to repeal the original
7 sections.

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

1 Section 1. Section 49-1401, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 49-1401 Sections 49-1401 to 49-14,141 and section 2 of
4 this act shall be known and may be cited as the Nebraska Political
5 Accountability and Disclosure Act.

6 Sec. 2. (1) Any use of public resources by a public
7 official or public employee which is incidental, de minimis,
8 or unintentional shall not constitute a violation of section
9 49-14,101.01 or 49-14,101.02.

10 (2) An employment contract, a collective-bargaining
11 agreement, or a written agreement or policy with a provision
12 regarding the use of personnel, resources, or property which is
13 approved by a government body shall be exempt from the Nebraska
14 Political Accountability and Disclosure Act.

15 Sec. 3. Section 49-14,101.01, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 49-14,101.01 (1) A public official or public employee
18 shall not use or authorize the use of his or her public office
19 or any confidential information received through the holding of
20 a public office to obtain financial gain, other than compensation
21 provided by law, for himself or herself, a member of his or
22 her immediate family, or a business with which the individual is
23 associated.

24 (2) A public official or public employee shall not use or
25 authorize the use of personnel, resources, property, or funds under

1 his or her official care and control other than in accordance with
2 prescribed constitutional, statutory, and regulatory procedures or
3 use such items, other than compensation provided by law, for
4 personal financial gain.

5 (3) Unless otherwise provided by an employment contract,
6 a collective-bargaining agreement, or a written agreement or policy
7 approved by a government body, a public official or public employee
8 may use a telecommunication system or computer under the control
9 of a government body for email, a text message, a local call,
10 or a long-distance call to a child at home, a teacher, a doctor,
11 a day care center, a baby-sitter, or a family member to inform
12 any such person of an unexpected schedule change or for other
13 essential personal business. Any such communication shall be kept
14 to a minimum and shall not interfere with the conduct of public
15 business. Any such communication made by way of a long-distance
16 call shall be made by collect call, charged to a personal credit
17 card, or charged to a third-party number which does not belong to a
18 government body.

19 ~~(3)~~ (4) A public official shall not accept a gift
20 of travel or lodging or a gift of reimbursement for travel or
21 lodging if the gift is made so that a member of the public
22 official's immediate family can accompany the public official in
23 the performance of his or her official duties.

24 ~~(4)~~ (5) A member of the immediate family of a public
25 official shall not accept a gift of travel or lodging or a gift of

1 reimbursement for travel or lodging if the gift is made so that a
2 member of the public official's immediate family can accompany the
3 public official in the performance of his or her official duties.

4 ~~(5)~~ (6) This section does not prohibit the Executive
5 Board of the Legislative Council from adopting policies that allow
6 a member of the Legislature to install and use with private funds a
7 telephone line, telephone, and telefax machine in his or her public
8 office for private purposes.

9 ~~(6)~~ (7) Except as provided in section 23-3113, any person
10 violating this section shall be guilty of a Class III misdemeanor,
11 except that no vote by any member of the Legislature shall subject
12 such member to any criminal sanction under this section.

13 Sec. 4. Section 49-14,101.02, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 49-14,101.02 (1) For purposes of this section, public
16 resources means personnel, property, resources, or funds under the
17 official care and control of a public official or public employee.

18 (2) Except as otherwise provided in this section, a
19 public official or public employee shall not intentionally use
20 or authorize the use of public resources for the purpose of
21 campaigning for or against the nomination or election of a
22 candidate or the qualification, passage, or defeat of a ballot
23 question.

24 (3) This section does not prohibit a public official or
25 public employee from making government facilities available to a

1 person for campaign purposes if the identity of the candidate or
2 the support for or opposition to the ballot question is not a
3 factor in making the government facility available or a factor in
4 determining the cost or conditions of use.

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

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

15 (6) This section does not prohibit a ~~member~~ of the
16 Legislature public official or public employee under the direct
17 supervision of a public official from making use of public
18 resources in expressing his or her opinion regarding a candidate
19 or a ballot question or from communicating that opinion. A ~~member~~
20 public official or public employee under the direct supervision of
21 a public official is not authorized by this section to utilize mass
22 mailings or other mass communications at public expense for the
23 purpose of campaigning for or against the nomination or election of
24 a candidate. A ~~member~~ public official or public employee under the
25 direct supervision of a public official is not authorized by this

1 section to utilize mass mailings at public expense for the purpose
2 of qualifying, supporting, or opposing a ballot question.

3 (7) Nothing in this section prohibits a public official
4 from campaigning for or against the qualification, passage, or
5 defeat of a ballot question or the nomination or election of a
6 candidate when no public resources are used.

7 (8) Nothing in this section prohibits a public employee
8 from campaigning for or against the qualification, passage, or
9 defeat of a ballot question or the nomination or election of a
10 candidate when no public resources are used. Except as otherwise
11 provided in this section, a public employee shall not engage in
12 campaign activity for or against the qualification, passage, or
13 defeat of a ballot question or the nomination or election of a
14 candidate while on government work time or when otherwise engaged
15 in his or her official duties.

16 (9) This section does not prohibit ~~an employee of~~
17 ~~the Legislature~~ a public employee from using public resources
18 consistent with this section for the purpose of researching or
19 campaigning for or against the qualification, passage, or defeat
20 of a ballot question if the employee is under the direction and
21 supervision of a ~~member of the Legislature.~~ public official.

22 (10) This section does not prohibit a public official,
23 public employee, or government body from preparing and presenting
24 information demonstrating the consequences of the passage or defeat
25 of a ballot question, resolution, or ordinance.

1 (11) Nothing in this section prohibits a public official
2 or public employee from identifying himself or herself by his or
3 her official title.

4 Sec. 5. Original sections 49-1401, 49-14,101.01, and
5 49-14,101.02, Revised Statutes Cumulative Supplement, 2008, are
6 repealed.