

LEGISLATIVE BILL 1243

Approved by the Governor April 19, 1994

Introduced by Hall, 7

AN ACT relating to state government; to amend sections 49-1482, 49-1484, 49-1486, and 49-14,101, Reissue Revised Statutes of Nebraska, 1943, sections 49-1401, 49-1483, 49-1483.02, 49-1485, 49-1488, 49-1488.01, 49-14,123, and 49-14,140, Revised Statutes Supplement, 1992, and section 50-401.01, Revised Statutes Supplement, 1993; to authorize the Executive Board of the Legislative Council to allow members of the Legislature to privately install and use certain communication equipment as prescribed; to provide and change fees for registration of lobbyists; to provide and change reporting requirements for lobbyists and principals under the Nebraska Political Accountability and Disclosure Act; to change the registration period; to change duties of the Clerk of the Legislature; to provide for and change the distribution of certain funds; to create a fund; to provide additional powers for the Executive Board with respect to actuarial services; to provide for distribution of legislative information by way of electronic communication; to provide for a committee related to such distribution of information; to require a plan; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. 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.

Sec. 2. That section 49-1401, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1401. Sections 49-1401 to 49-14,140 and sections 3, 6, and 17 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. 3. (1) The Clerk of the Legislature shall collect a fee of one hundred dollars for an application for registration by a lobbyist for each principal if the lobbyist receives or will receive compensation for such lobbying. Except as provided by section 49-1434, a lobbyist who receives compensation shall include an individual who is an employee or member of a principal whose duties of employment, office, or membership include engaging in lobbying activities. A fee of fifteen dollars shall be collected for an application by a lobbyist for each principal if the lobbyist is not receiving and will not be receiving compensation for such lobbying. Any lobbyist who receives compensation who did not anticipate receiving such compensation at the time of application for registration shall, within five days of the receipt of any compensation, file an amended registration form which shall be accompanied by an additional fee of eighty-five dollars for such year.

(2) The registration of a lobbyist for each of his or her principals may be renewed by the payment of a fee as provided by subsection (1) of this section. Such fee shall be paid to the Clerk of the Legislature on or before December 31 of each calendar year. The registration of a lobbyist for each of his or her principals shall terminate as of the end of the calendar year for which the lobbyist registered unless the registration is renewed as provided in this section.

Sec. 4. That section 49-1482, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1482. The Clerk of the Legislature shall charge a fee of thirty-five dollars pursuant to section 3 of this act for each application for registration by a lobbyist for each a different principal, and shall issue a certificate of identification to each registered lobbyist. Such fees when collected shall be deposited in the state treasury and by the State Treasurer placed in the state General Fund remitted to the State Treasurer to be credited equally to the Nebraska Accountability and Disclosure Commission Cash Fund and to the Clerk of the Legislature Cash Fund.

Sec. 5. That section 49-1483, Revised Statutes Supplement, 1992, be amended to read as follows:

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 month the legislature is in session on one or more days and shall file a separate statement once during each interim period between regular sessions of the legislature. If neither a principal or lobbyist makes any expenditures in connection with a special session of the legislature, a monthly report for such special session shall not be required. All such statements shall be filed calendar quarter with the Clerk of the Legislature within fifteen days after the end of the month or interim period for which the statement is required each calendar quarter.

Each statement shall show the following:

(1) (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: (a) (i) Miscellaneous expenses; (b) (ii) entertainment, including expenses for food and drink; (c) (iii) lodging expenses; (d) (iv) travel expenses; and (e) (v) lobbyist fees for lobbyist services, 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; and

(2) (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.

(2) 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 the month or other period 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 this section, 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. 6. Any lobbyist or principal who receives or expends more than five thousand dollars for lobbying purposes during any calendar month in which the Legislature is in session shall, within fifteen days after the end of such calendar month, file a special report disclosing for that calendar month all information required by section 49-1483. All information disclosed in a special report shall also be disclosed in the next quarterly report required to be filed. The requirement to file a special report shall not apply to a receipt or expenditure for lobbyist fees for lobbying services which have otherwise been disclosed in the lobbyist's application for registration.

Sec. 7. That section 49-1483.02, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1483.02. By rule and regulation, the commission may provide for other criteria for an exemption from the filing of the monthly quarterly statement and the statement required for each interim period by lobbyists and principals, pursuant to section 49-1483, if the commission finds all of the following: (1) That strict adherence to the Nebraska Political Accountability and Disclosure Act would result in duplicative reporting; (2) that the exemption would not result in information on lobbyists' or principals' receipts or expenditures being withheld from the public; and (3) that the

exemption will not frustrate the purposes of the act.

Sec. 8. That section 49-1484, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1484. The Clerk of the Legislature shall promptly monthly while the Legislature is in session, and at least once while the Legislature is not in session, refer all such statements to the commission which may require the lobbyist or the principal to furnish additional details with respect to the matters which are or should be included in such statements. The Legislature itself may at any time require the furnishing of such additional details.

Sec. 9. That section 49-1485, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1485. The clerk Clerk of the Legislature shall, monthly while the Legislature is in session and at least once while the Legislature is not in session, prepare a summary of the statements filed pursuant to section 49-1483 and, upon request, furnish any member of the Legislature and any member of the press registered with the Legislature a copy of any summary. Each statement shall be public information. The clerk shall furnish a copy of any statement, upon request, to any member of the Legislature and to any member of the press registered with the Legislature.

Sec. 10. That section 49-1486, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1486. The registration of all lobbyists a lobbyist shall be valid for a period commencing with the filing of any registration as required by section 49-1480 each regular session of the Legislature held in an odd-numbered year and shall terminate at the convening of the regular session in the next odd-numbered year end of the calendar year for which the lobbyist registered unless the registration is renewed as provided by section 3 of this act or terminated.

Sec. 11. That section 49-1488, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1488. Within forty-five days of the completion of every regular or special session of the Legislature, each registered lobbyist shall submit to the Clerk of the Legislature a statement listing the legislation upon which the lobbyist acted, including identification by number of any bill or resolution and the position taken by the lobbyist.

If a lobbyist does not expect to receive lobbying receipts from or does not expect to make lobbying expenditures for a principal, the monthly statement and a statement for each interim period required pursuant to section 49-1483 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 a monthly statement and a statement for each interim period, pursuant to this section, shall (1) file a statement of activity pursuant to this section and (2) resume or commence filing a monthly and an interim statement with regard to such principal starting with the month or period the lobbyist receives lobbying receipts or makes lobbying expenditures for such principal.

If a principal does not expect to receive lobbying receipts or does not expect to make lobbying expenditures, the monthly statement and a statement for each interim period required pursuant to section 49-1483 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 a monthly statement and a statement for each interim period, pursuant to this section, shall commence or resume filing a monthly and an interim statement starting with the month or period the principal receives lobbying receipts or makes lobbying expenditures.

Sec. 12. That section 49-1488.01, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1488.01. (1) Every lobbyist who fails to file a monthly quarterly statement, a statement for each interim period, or a statement of activity with the Clerk of the Legislature, pursuant to sections 49-1483 and 49-1488, shall pay to the commission a late filing fee of ten dollars for each day any of such statements are not filed in violation of such sections but not to exceed three hundred dollars per statement.

(2) A lobbyist required to pay a late filing fee pursuant to subsection (1) of this section may apply to the commission for relief. The commission by order may reduce the amount of the late filing fee imposed upon such lobbyist if he or she shows the commission that (a) the circumstances indicate no intent to file late, (b) the lobbyist has not been required to pay a late filing fee for two years prior to the time the filing of the statement was due, (c) the late filing of the statement shows that less than five thousand dollars was raised, received, or expended during the reporting period, and (d) a reduction of the late fee would not frustrate the purposes

of the Nebraska Political Accountability and Disclosure Act.

Sec. 13. That section 49-14,101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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. 14. That section 49-14,123, Revised Statutes Supplement, 1992, be amended to read as follows:

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

(1) Prescribe and publish, after notice and opportunity for public comment, rules and regulations to carry out the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure Act pursuant to the Administrative Procedure Act;

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

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

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

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

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

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

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

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

(10) Issue and publish advisory opinions on the requirements of the acts upon the request of a person or governmental body directly covered or affected by the acts. Any such opinion rendered by the commission, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person or public body who requested the opinion and who

acted in reliance on it in good faith unless material facts were omitted or misstated by the person in the request for the opinion;

(11) Act as the primary civil and criminal enforcement agency for violations of the Nebraska Political Accountability and Disclosure Act and the rules or regulations promulgated thereunder and act concurrently with the county attorney in prosecuting criminal violations of the Campaign Finance Limitation Act;

(12) Receive all late filing fees and submit them to those authorities designated by law to effectuate the provisions of Article VII, section 5, of the Constitution of Nebraska civil penalties imposed pursuant to the Nebraska Political Accountability and Disclosure Act, seek the return of any amount as provided in section 32-1606, and seek the repayment of any amount as provided in section 32-1607 and remit all such funds to the State Treasurer for credit to the Campaign Finance Limitation Cash Fund; and

(13) Prepare and distribute to the appropriate local officials statements of financial interest, campaign committee organization forms, filing instructions and forms, and such other forms as the commission may deem appropriate.

Sec. 15. That section 49-14,140, Revised Statutes Supplement, 1992, be amended to read as follows:

49-14,140. The Nebraska Accountability and Disclosure Commission Cash Fund is hereby created. The fund shall consist of funds received by the commission pursuant to sections 49-1470, 49-1482, 49-1495, 49-14,123, and 49-14,123.01 and section 3 of this act. The fund shall not include late filing fees or civil penalties assessed and collected by the commission. The fund shall be used by the commission in administering the Nebraska Political Accountability and Disclosure Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 16. The Clerk of the Legislature Cash Fund is hereby created. The fund shall consist of funds received by the Clerk of the Legislature pursuant to section 49-1482 and section 3 of this act. The fund shall be used by the Clerk of the Legislature to perform the duties required by sections 49-1480 to 49-1488.01 and section 3 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 17. Every lobbyist and principal shall file a statement which shall include the information required by section 49-1483 for the period of May 1, 1994, through December 31, 1994. Any registration in effect for the Ninety-third Legislature, Second Session, 1994, shall terminate on the operative date of this section.

Sec. 18. That section 50-401.01, Revised Statutes Supplement, 1993, be amended to read as follows:

50-401.01. (1) The Legislative Council shall have an executive board, to be known as the Executive Board of the Legislative Council, which shall consist of a chairperson, a vice-chairperson, and six members of the Legislature, to be chosen by the Legislature at the commencement of each regular session of the Legislature when the speaker is chosen, and the Speaker of the Legislature. The Legislature at large shall elect two of its members from legislative districts Nos. 1, 2, 15, 16, 21, 23 to 30, 32, 34, 35, and 46, two from legislative districts Nos. 3 to 14, 20, 31, 39, and 45, and two from legislative districts Nos. 17 to 19, 22, 33, 36 to 38, 40 to 44, and 47 to 49. The Chairperson of the Committee on Appropriations shall serve as a nonvoting ex officio member of the executive board whenever the board is considering fiscal administration.

(2) The executive board shall:

(a) Supervise all services and service personnel of the Legislature and may employ and fix salaries for such personnel as may be needed to carry out the intent and activities of the Legislature or of the board, unless otherwise directed by the Legislature; and

(b) Appoint persons to fill the positions of Legislative Fiscal Analyst, Director of Research, and Revisor of Statutes. The persons appointed to these positions shall have training and experience as determined by the executive board and shall serve at the pleasure of the executive board. Their respective salaries shall be set by the executive board.

(3) Notwithstanding any other provision of law, the executive board may contract to obtain legal, auditing, accounting, actuarial, or other professional services or advice for or on behalf of the executive board, the Legislative Council, the Legislature, or any member of the Legislature. The providers of such services or advice shall meet or exceed the minimum professional standards or requirements established or specified by their respective professional organizations or licensing entities or by federal law.

Such contracts, the deliberations of the executive board with respect to such contracts, and the work product resulting from such contracts shall not be subject to review or approval by any other entity of state government.

Sec. 19. The Legislature finds and declares that it is now possible and feasible in the electronic age to more widely distribute legislative information by way of electronic communication in order to better inform the public of the matters pending before the Legislature and its proceedings. The Legislature further finds that it is desirable to make information regarding these matters and proceedings available in a timely manner to the people of this state, without a user fee if economically feasible.

Sec. 20. The chairperson of the Executive Board of the Legislative Council shall appoint a committee to make recommendations regarding the implementation of sections 19 and 21 of this act.

Sec. 21. The committee appointed pursuant to section 20 of this act shall establish a process for implementation of the following information to be made available to the public in electronic form, without a user fee if economically feasible:

(1) The Nebraska state statutes, the Constitution of Nebraska, and the general index to the statutes;

(2) The text of each introduced bill, printed amendment, final reading bill, passed bill, and slip law and the bill index for the regular and special sessions of the current Legislature;

(3) The schedule of legislative committee hearings and a list of all committees of the Legislature and their members;

(4) The speaker's agenda;

(5) The bill status, committee statement, and fiscal note of each bill introduced in the regular and special sessions of the current Legislature;

(6) The daily journal of all legislative proceedings, the summary sheets, and the current worksheet for regular and special sessions of the current Legislature;

(7) When approved for publication by the appropriate committee, the committee testimony of each bill introduced in the regular and special sessions of the current Legislature; and

(8) When approved for publication by the Clerk of the Legislature, the floor debate of each bill introduced in the regular and special sessions of the current Legislature.

Sec. 22. The committee appointed pursuant to section 20 of this act shall issue an implementation plan, with recommendations, to the Executive Board of the Legislative Council by March 1, 1995.

Sec. 23. Sections 2 to 12, 14 to 17, and 25 of this act shall become operative on January 1, 1995. The other sections of this act shall become operative on their effective date.

Sec. 24. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 25. That original sections 49-1482, 49-1484, and 49-1486, Reissue Revised Statutes of Nebraska, 1943, and sections 49-1401, 49-1483, 49-1483.02, 49-1485, 49-1488, 49-1488.01, 49-14,123, and 49-14,140, Revised Statutes Supplement, 1992, are repealed.

Sec. 26. That original section 49-14,101, Reissue Revised Statutes of Nebraska, 1943, and section 50-401.01, Revised Statutes Supplement, 1993, are repealed.

Sec. 27. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.