

LEGISLATIVE BILL 49

Approved by the Governor June 4, 1997

Introduced by Schimek, 27

AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1402, 49-1403, 49-1416, 49-1478, and 49-14,124, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-1419, and 49-1446.01, Revised Statutes Supplement, 1996; to define and redefine terms; to restate intent; to provide filing requirements for major out-of-state contributors; to authorize expenditures from campaign funds for conference fees; to change expenditure requirements; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 49-1401, Revised Statutes Supplement, 1996, is amended to read:

49-1401. Sections 49-1401 to 49-14,140 and sections 6 and 7 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. Section 49-1402, Reissue Revised Statutes of Nebraska, is amended to read:

49-1402. The Legislature finds:

(1) That the public interest in the manner in which election campaigns are conducted has increased greatly in recent years, creating a need for additional disclosure and accountability;

(2) That some organizations and individuals employing lobbyists expend substantial sums to influence action in favor of such lobbyist's interests; and such expenditures must be accounted for and there is a compelling state interest in ensuring that the state and local elections are free of corruption and the appearance of corruption and that this can only be achieved if (a) the sources of funding of campaigns are fully disclosed and (b) the use of money in campaigns is fully disclosed;

(3) That it is essential to the proper operation of democratic government that public officials and employees be independent and impartial, that governmental decisions and policy be made in the proper channels of governmental structure, and that public office or employment not be used for private gain other than the compensation provided by law; and

(4) That the attainment of one or more of these ends is impaired when there exists, or appears to exist, a substantial conflict between the private interests of a public official and his or her duties as such official; and that although the vast majority of public officials and employees are dedicated and serve with high integrity, the public interest requires that the law provide greater accountability, disclosure, and guidance with respect to the conduct of public officials and employees.

Sec. 3. Section 49-1403, Reissue Revised Statutes of Nebraska, is amended to read:

49-1403. For purposes of the Nebraska Political Accountability and Disclosure Act, unless the context otherwise requires, the definitions found in sections 49-1404 to 49-1444 and section 6 of this act shall be used.

Sec. 4. Section 49-1416, Reissue Revised Statutes of Nebraska, is amended to read:

49-1416. Election shall mean a primary, general, special, or other election held in this state or a convention or caucus of a political party held in this state to nominate a candidate. Election includes a recall vote shall include a vote on a ballot question.

Sec. 5. Section 49-1419, Revised Statutes Supplement, 1996, is amended to read:

49-1419. (1) Expenditure shall mean a payment, donation, loan, pledge, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question. An offer or tender of an expenditure is not an expenditure if expressly and unconditionally rejected or returned.

(2) Expenditure shall include a contribution or a transfer of anything of ascertainable monetary value for purposes of influencing the

nomination or election of any candidate or the qualification, passage, or defeat of a ballot question.

(3) Expenditure shall not include:

(a) An amount paid pursuant to a pledge or promise to the extent the amount was previously reported as an expenditure;

(b) An expenditure for communication by a person strictly with the person's paid members or shareholders;

(c) An expenditure for communication on a subject or issue if the communication does not support or oppose a ballot ~~issue question~~ or candidate by name or clear inference;

(d) An expenditure by a broadcasting station, newspaper, magazine, or other periodical or publication for any news story, commentary, or editorial in support of or opposition to a candidate for elective office or a ballot question in the regular course of publication or broadcasting; or

(e) An expenditure for nonpartisan voter registration activities. This subdivision shall not apply if a candidate or a group of candidates sponsors, finances, or is identified by name with the activity. This subdivision shall apply to an activity performed pursuant to the Election Act by an election commissioner or other registration official who is identified by name with the activity.

(4) Expenditure for purposes of sections 49-1480 to 49-1492 shall mean an advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make an expenditure. Expenditure shall not include payments for transportation by lobbyists or the cost of communicating positions from a principal to a lobbyist or from a lobbyist to a principal.

Sec. 6. Major out-of-state contributor means a corporation, union, industry association, trade association, or professional association which is not organized under the laws of the State of Nebraska and which makes contributions or expenditures totaling more than ten thousand dollars in any calendar year in connection with one or more elections.

Sec. 7. (1) A major out-of-state contributor shall file with the commission an out-of-state contribution report. An out-of-state contribution report shall be filed on a form prescribed by the commission within ten days after the end of the calendar month in which a person becomes a major out-of-state contributor. For the remainder of the calendar year, a major out-of-state contributor shall file an out-of-state contribution report with the commission within ten days after the end of each calendar month in which the contributor makes a contribution or expenditure.

(2) An out-of-state contribution report shall disclose as to each contribution or expenditure not previously reported (a) the amount, nature, value, and date of the contribution or expenditure, (b) the name and address of the committee, candidate, or person who received the contribution or expenditure, (c) the name and address of the person filing the report, and (d) the name, address, occupation, and employer of each person making a contribution of more than two hundred dollars in the calendar year to the person filing the report.

(3) This section shall not apply to (a) a person who files a report of a contribution or an expenditure pursuant to subsection (1) of section 49-1469, (b) a person required to file a report or campaign statement pursuant to section 49-1469, (c) a committee having a statement of organization on file with the commission, or (d) a person or committee registered with the Federal Election Commission.

(4) Any person who fails to file an out-of-state contribution report with the commission as required by this section shall pay to the commission a late filing fee of fifty dollars for each day the report remains not filed in violation of this section, not to exceed one thousand five hundred dollars or ten percent of the amount of the contributions or expenditures which were required to be reported, whichever is greater.

Sec. 8. Section 49-1446.01, Revised Statutes Supplement, 1996, is amended to read:

49-1446.01. No committee, other than a political party committee, may expend or transfer funds except to make an expenditure, as defined in subsection (1), (2), or (3) of section 49-1419, or as provided in this section. Any committee, including a political party committee, may:

(1) Make expenditures or transfer funds after any election for: (a) The necessary continued operation of the campaign office or offices of the candidate or political committee; (b) social events primarily for the benefit of campaign workers and volunteers or constituents; (c) obtaining public input and opinion; (d) repayment of campaign loans incurred prior to election day; (e) newsletters and other communications of information, thanks,

acknowledgment, or greetings, or for the purpose of political organization and planning; (f) gifts of acknowledgment, including flowers and charitable contributions, except that gifts to any one natural person shall not exceed fifty dollars in any one calendar year; (g) meals, lodging, and travel by an officeholder related to his or her candidacy and for members of the immediate family of the officeholder when involved in activities related to his or her candidacy; and (h) conference fees, meals, lodging, and travel by an officeholder and his or her staff when involved in activities related to the duties of his or her public office;

(2) Make expenditures or transfer funds for the payment of installation and use of telephone and telefax machines located in an officeholder's public office and used by such officeholder; and

(3) Invest funds in investments authorized in the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act for the state investment officer.

Nothing in this section shall prohibit a separate segregated political fund from disbursing funds as provided in section 49-1469.

Sec. 9. Section 49-1478, Reissue Revised Statutes of Nebraska, is amended to read:

49-1478. (1) An expenditure shall not be made, other than for overhead or normal operating expenses, by an agent or an independent contractor, including an advertising agency, on behalf of or for the benefit of a person unless the expenditure is reported by the committee as if the expenditure were made directly by the committee, or unless the agent or independent contractor files an agent's expenditure report of an independent expenditure as provided in subsection (3) of this section, 49-1467. The agent or independent contractor shall make known to the committee all information required to be reported by the committee. Any person violating this subsection the provisions of this section shall be guilty of a Class III misdemeanor.

(2) An expenditure shall not be made, other than for overhead or normal operating expenses, by an individual or entity gathering petition signatures on behalf of or for the benefit of a person, including a ballot question committee, unless the expenditure is reported by the ballot question committee as if the expenditure were made directly by the committee, or unless the person or entity gathering petition signatures files an agent's expenditure report as provided in subsection (3) of this section. The individual or entity gathering petition signatures shall make known to the committee all information required to be reported by the committee. For purposes of this section, petition signature means a signature affixed to a petition for the purpose of qualifying a ballot question to appear on a ballot. Any person violating this subsection shall be guilty of a Class III misdemeanor.

(3) An individual or entity gathering petition signatures, an agent, or an independent contractor who is required to file an agent's report shall file a separate agent's report for each person on whose behalf an expenditure is made. An agent's report shall be filed with the commission within ten days after the end of the calendar month in which the expenditure is made. An agent's report shall include:

(a) The name, permanent address, temporary address, permanent telephone number, and temporary telephone number of the individual or entity gathering signatures, the agent, or the independent contractor;

(b) The name, address, and telephone number of the person on whose behalf the expenditure is made;

(c) The name, permanent address, and temporary address of the person to whom the expenditure is made;

(d) The date and amount of each expenditure; and

(e) A description of the goods or services purchased and the purpose of the goods or services.

Sec. 10. Section 49-14,124, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,124. Upon a complaint signed under oath by any person, upon the recommendation of the executive director, or upon its own motion, the commission shall, by way of preliminary investigation, investigate any alleged violation of ~~sections 49-1401 to 49-14,138~~ the Nebraska Political Accountability and Disclosure Act or any rule or regulation adopted and promulgated thereunder. Each governmental body shall cooperate with the commission in the conduct of its investigations. All commission proceedings and records relating to preliminary investigations shall be confidential until a final determination is made by the commission unless the person alleged to be in violation of ~~sections 49-1401 to 49-14,138~~ the act requests that the proceedings be public. The executive director shall notify any person under

investigation by the commission of the investigation and of the nature of the alleged violation within five days of the commencement of the investigation. Within fifteen days ~~of~~ after the filing of a sworn complaint by a person alleging a violation, and every thirty days thereafter until the matter is terminated, the executive director shall notify the complainant and the alleged violator of the action taken to date by the commission together with the reasons for such action or for nonaction.

Sec. 11. Original sections 49-1402, 49-1403, 49-1416, 49-1478, and 49-14,124, Reissue Revised Statutes of Nebraska, and sections 49-1401, 49-1419, and 49-1446.01, Revised Statutes Supplement, 1996, are repealed.

Sec. 12. Since an emergency exists, this act takes effect when passed and approved according to law.