

LEGISLATIVE BILL 632

Approved by the Governor April 9, 1998 .

Introduced by Chambers, 11

AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1405, 49-1459, and 49-1463, Reissue Revised Statutes of Nebraska, section 49-1488.01, Revised Statutes Supplement, 1996, and sections 32-1604 and 49-1463.01, Revised Statutes Supplement, 1997; to redefine ballot question; to change provisions relating to campaign statements, lobbyist statements of activity, and late filing fees; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 32-1604, Revised Statutes Supplement, 1997, is amended to read:

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

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

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

(4) Each candidate for a covered elective office desiring to receive public funds pursuant to this section shall (a) beginning the first day of the election period, raise an amount equal to at least twenty-five percent of the spending limitation for the office from persons who are residents of Nebraska and (b) file with the Nebraska Accountability and Disclosure Commission an affidavit pursuant to section 32-1604.01 indicating his or her intent to abide by the spending limitations and his or her agreement to personally act as a guarantor for the lawful use of such funds and to be held personally liable to the State of Nebraska for any such funds not repaid to the state as required by law. Money raised prior to filing the affidavit shall not count toward the qualifying amount established in this subsection. Money raised prior to the first day of the election period shall not count toward the qualifying amount established in this subsection. At least sixty-five percent of the qualifying amount established in this subsection shall be received from individuals. For purposes of this section, a business, corporation, partnership, limited liability company, or association shall be deemed a resident if it has an office in this state and transacts business in this state.

(5)(a) Except as otherwise provided in section 32-1604.01, any candidate for a covered elective office who does not file an affidavit pursuant to subsection (4) of this section shall file with the commission an affidavit indicating his or her intent not to abide by the spending limitations of this section and shall include a reasonable estimate of his or her maximum expenditures as defined in sections 32-1603 and 49-1419 for the primary election period. The estimate of expenditures for the primary election period may be amended up to thirty days prior to the primary election by filing a subsequent affidavit. A candidate nominated for a covered

elective office in the primary election shall file an estimate of expenditures for the general election period on or before the fortieth day following the primary election. The estimate of expenditures for the general election period may be amended up to sixty days prior to the general election by filing a subsequent affidavit.

(b) A candidate for a covered elective office whose estimated maximum expenditures exceed the spending limitations of this section as set forth in the affidavit filed under subdivision (5) (a) of this section shall file an affidavit with the commission when forty percent of his or her estimated maximum expenditures has been spent for the primary election period. The candidate shall file a second affidavit with the commission when forty percent of his or her estimated maximum expenditures has been spent for the general election period. Each affidavit shall be filed no later than five days after the forty percent has been expended. A candidate who intentionally fails to file the required affidavit within either five-day period shall be guilty of a Class II misdemeanor.

(6) If an affidavit required under subdivision (5) (b) of this section is not filed, no public funds shall be distributed to the candidates for such office who have qualified for public funds for the election period unless preelection campaign statements filed pursuant to subdivisions ~~(1) and (2)~~ (1)(a) and (b) of section 49-1459 or audits by the commission conducted pursuant to section 49-14,122 reveal that a candidate has made expenditures requiring the filing of an affidavit under subdivision (5) (b) of this section.

Sec. 2. Section 49-1405, Reissue Revised Statutes of Nebraska, is amended to read:

49-1405. Ballot question shall mean any question which is submitted or which is intended to be submitted to a popular vote at an election, including, but not limited to, a question submitted or intended to be submitted by way of initiative, referendum, recall, judicial retention, or bond issue or as a result of legislative action or action of a government body, whether or not it qualifies for the ballot.

Sec. 3. Section 49-1459, Reissue Revised Statutes of Nebraska, is amended to read:

49-1459. (1) Except as provided in subsection (2) of this section, campaign Campaign statements as required by the Nebraska Political Accountability and Disclosure Act shall be filed according to the following schedule:

(a) (1) A first preelection campaign statement shall be filed not later than the thirtieth day before the election. The closing date for a campaign statement filed under this subdivision shall be the thirty-fifth day before the election;

(b) (2) A second preelection campaign statement shall be filed not later than the tenth day before the election. The closing date for a campaign statement filed under this subdivision shall be the fifteenth day before the election; and

(c) (3) A postelection campaign statement shall be filed not later than the fortieth day following the primary election and the sixtieth day following the general election. The closing date for a postprimary election campaign statement filed under this subdivision shall be the thirty-fifth day following the election. The closing date for a postgeneral election campaign statement filed under this subdivision shall be December 31 of the year in which the election is held. If all liabilities of a candidate and committee are paid before the closing date and additional contributions are not expected, the campaign statement may be filed at any time after the election, but not later than the dates provided under this subdivision.

(2) Any committee may file a statement in writing with the commission indicating that the committee does not expect to receive contributions or make expenditures of more than one thousand dollars in the calendar year of an election. Such written statement shall be signed by the committee treasurer or the assistant treasurer, and in the case of a candidate committee, it shall also be signed by the candidate. Such written statement shall be filed on or before the thirtieth day before the election. A committee which files a written statement pursuant to this subsection is not required to file campaign statements according to the schedule prescribed in subsection (1) of this section but shall file a sworn statement of exemption not later than the fortieth day following the primary election and the sixtieth day following the general election stating only that the committee did not, in fact, receive or expend an amount in excess of one thousand dollars. If the committee receives contributions or makes expenditures of more than one thousand dollars during the election year, the committee is then subject to all campaign filing requirements under subsection (1) of this section.

Sec. 4. Section 49-1463, Reissue Revised Statutes of Nebraska, is amended to read:

49-1463. Any person who fails to file a campaign statement with the commission under sections 49-1459 to 49-1463 shall pay to the commission a late filing fee of ten dollars for each day the campaign statement remains not filed in violation of this section, not to exceed three hundred dollars. Any committee which fails to file a statement of exemption with the commission under subsection (2) of section 49-1459 shall pay to the commission a late filing fee of ten dollars for each day the statement of exemption remains not filed in violation of this section, not to exceed one hundred dollars.

Sec. 5. Section 49-1463.01, Revised Statutes Supplement, 1997, is amended to read:

49-1463.01. A person required to pay a late filing fee imposed under section 32-1604.01, 49-1446.05, 49-1449, 49-1458, 49-1463, 49-1467, 49-1469, or 49-1479.01 may apply to the commission for relief. The commission by order may reduce the amount of a late filing fee imposed upon a showing by such person that (1) the circumstances indicate no intent to file late, (2) the person has not been required to pay late filing fees for two years prior to the time the filing was due, (3) the late filing shows that less than five thousand dollars was raised, received, or expended during the reporting period, and (4) a reduction of the late fees would not frustrate the purposes of the Nebraska Political Accountability and Disclosure Act. A person required to pay a late filing fee imposed for failure to file a statement of exemption under subsection (2) of section 49-1459 may apply to the commission for relief. The commission by order may reduce or waive the late filing fee and the person shall not be required to make a showing as provided by this section.

Sec. 6. Section 49-1488.01, Revised Statutes Supplement, 1996, is amended to read:

49-1488.01. (1) Every lobbyist who fails to file a quarterly statement 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.

(3) A lobbyist required to pay a late filing fee pursuant to subsection (1) of this section who qualifies for an exemption to the filing of quarterly statements pursuant to subsection (3) of section 49-1483 may apply to the commission for relief. The commission by order may reduce or waive the late filing fee and the person shall not be required to make a showing as provided by subsection (2) of this section.

Sec. 7. Original sections 49-1405, 49-1459, and 49-1463, Reissue Revised Statutes of Nebraska, section 49-1488.01, Revised Statutes Supplement, 1996, and sections 32-1604 and 49-1463.01, Revised Statutes Supplement, 1997, are repealed.