

LEGISLATIVE BILL 768

Approved by the Governor April 17, 2001

Introduced by Schrock, 38; Kristensen, 37; Schimek, 27

AN ACT relating to the Lieutenant Governor; to amend sections 32-101, 32-619, 32-627, 32-1122, 32-1603, 32-1604, 32-1608, 32-1611, and 49-1410, Reissue Revised Statutes of Nebraska, and section 32-813, Revised Statutes Supplement, 2000; to provide for the selection of the candidate for Lieutenant Governor by the candidate for Governor; to change provisions relating to campaign finance limitations and candidate committees; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 32-101, Reissue Revised Statutes of Nebraska, is amended to read:

32-101. Sections 32-101 to 32-1551 and section 2 of this act shall be known and may be cited as the Election Act.

Sec. 2. The candidate for Governor of each political party receiving the highest number of votes in the primary election shall select a candidate for Lieutenant Governor of the same political party by filing an affidavit indicating his or her choice with the Secretary State. The candidate for Lieutenant Governor shall file a written consent with the Secretary of State. Both the affidavit and the written consent shall be filed on or before September 1 for the names to be on the general election ballot. The written consent shall be in lieu of a candidate filing form, and no filing fees shall be required for the candidate for Lieutenant Governor.

Sec. 3. Section 32-619, Reissue Revised Statutes of Nebraska, is amended to read:

32-619. Any candidate for the office of Governor ~~or Lieutenant Governor~~ circulating petitions or having petitions circulated in his or her behalf after the primary election and prior to the general election shall, prior to the circulation of such petitions, select the person whom he or she wishes to be his or her ~~team member~~ Lieutenant Governor for ballot purposes and have such person's name placed on the petitions. The written consent required under section 2 of this act of the Lieutenant Governor candidate shall be submitted when the petitions are submitted for verification.

Sec. 4. Section 32-627, Reissue Revised Statutes of Nebraska, is amended to read:

32-627. (1) If a vacancy on the ballot arises for any partisan office except President and Vice President of the United States before a general election, the vacancy shall be filled by the majority vote of the proper committee of the same political party. If the vacancy exists for an office serving only a particular district of the state, only those members of the political party committee who reside within that district shall participate in selecting the candidate to fill the vacancy. No vacancy on the ballot shall be deemed to have occurred if a political party makes no nomination of a candidate at the primary election for the office. If a vacancy on the ballot arises for Governor, or Lieutenant Governor, the vacancy shall be filled by the majority vote of the proper committee of the same political party, and the candidate for Governor shall select a person of the same political party to be the candidate for Lieutenant Governor on the general election ballot. If a vacancy on the ballot arises for the Lieutenant Governor on or before September 1, the candidate for Governor shall select a new candidate for Lieutenant Governor in the same manner as required in section 2 of this act.

(2) The chairperson and secretary of the executive committee for the political party shall make and file with the filing officer a certificate setting forth the cause of the vacancy, the name of the person so nominated, the office for which he or she was nominated, the name of the person for which the new nominee is to be substituted, the place of residence of the person so nominated, the street and number of the residence or place of business of the person so nominated if such person resides in a city, and the name of the political party with which the person so nominated affiliates which such committee represents. The certificate shall be signed by the chairperson and secretary with the name and places of their residences and sworn to by them before some officer authorized to administer oaths. If there is no executive committee of the political party, then a mass convention of the political party shall fill the vacancy and the chairperson and secretary of such

convention shall make and file with the filing officer a certificate in form and manner substantially as is required to be filed by the chairperson and secretary of the executive committee under this subsection. The certificate shall be filed by September 1 for a general election and have the same force and effect as the candidate filing form provided for in section 32-607. The filing fee charged to candidates for such offices shall accompany the filing of the certificate.

Sec. 5. Section 32-813, Revised Statutes Supplement, 2000, is amended to read:

32-813. (1) The names of all candidates and all proposals to be voted upon at the general election shall be arranged upon the ballot in parts separated from each other by bold lines in the order the offices and proposals are set forth in this section. If any office is not subject to the upcoming election, the office shall be omitted from the ballot and the remaining offices shall move up so that the same relative order is preserved. The order of any offices may be altered to allow for the best utilization of ballot space in order to avoid printing a second ballot when one ballot would be sufficient if a punch card or optical-scan ballot is used. All proposals on the ballot shall remain separate from the offices, and the proposals shall follow all offices on the ballot.

(2) If the election is in a year in which a President of the United States is to be elected, the names and spaces for voting for candidates for President and Vice President shall be entitled Presidential Ticket in boldface type. The names of candidates for President and Vice President for each political party shall be grouped together, and each group shall be enclosed with brackets with the political party name to the right and one square or oval to the left in which the voter indicates his or her choice. The names of candidates for President and Vice President who have successfully petitioned on the ballot for the general election shall be grouped together with the candidates appearing on the same petition being grouped together, and each group shall be enclosed with brackets with the words "By Petition" to the right and one square or oval to the left in which the voter indicates his or her choice.

(3) The names and spaces for voting for candidates for United States Senator if any are to be elected shall be entitled United States Senatorial Ticket in boldface type.

(4) The names and spaces for voting for candidates for Representatives in Congress shall be entitled Congressional Ticket in boldface type. Above the candidates' names, the office shall be designated For Representative in Congress District.

(5) The names and spaces for voting for candidates for the various state officers shall be entitled State Ticket in boldface type. Each set of candidates shall be separated by lines across the column, and above each set of candidates shall be designated the office for which they are candidates, arranged in the order prescribed by the Secretary of State. The candidates for Governor ~~and Lieutenant Governor~~ of each political party receiving the highest number of votes in the primary election shall be grouped together with their respective candidates for Lieutenant Governor. Each group shall be enclosed with brackets with the political party name to the right and one square or oval to the left in which the voter indicates his or her choice for Governor and Lieutenant Governor jointly. The candidates for Governor and Lieutenant Governor who have successfully petitioned on the general election ballot shall be grouped together with the candidates appearing on the same petition being grouped together. Each group shall be enclosed with brackets with the words "By Petition" to the right and one square or oval to the left in which the voter indicates his or her choice for Governor and Lieutenant Governor jointly. Beneath the names of the candidates for Governor ~~and Lieutenant Governor~~ nominated at a primary election by political party and their respective candidates for Lieutenant Governor and beneath the names of all candidates for Governor and Lieutenant Governor placed on the general election ballot by petition, ~~two~~ one write-in lines line shall be provided in which the registered voter may write the names of the candidates name of the candidate for Governor of his or her choice. ~~The lines shall be enclosed with the brackets with one square or oval to the left in which the registered voter shall mark his or her choice. The name appearing on the top line shall be considered to be the candidate for Governor, and the name appearing on the second line shall be considered to be the candidate for Lieutenant Governor.~~

(6) The names and spaces for voting for nonpartisan candidates shall be entitled Nonpartisan Ticket in boldface type. The names of all nonpartisan candidates shall appear in the order listed in this subsection, except that when using a punch card or optical-scan ballot, the order of offices may be altered to allow for the best utilization of ballot space to avoid printing a

second ballot when one ballot would be sufficient:

- (a) Legislature;
- (b) State Board of Education;
- (c) Board of Regents of the University of Nebraska;
- (d) Chief Justice of the Supreme Court;
- (e) Judge of the Supreme Court;
- (f) Judge of the Court of Appeals;
- (g) Judge of the Nebraska Workers' Compensation Court;
- (h) Judge of the District Court;
- (i) Judge of the Separate Juvenile Court;
- (j) Judge of the County Court; and
- (k) County officers in the order prescribed by the election

commissioner or county clerk.

(7) The names and spaces for voting for the various county offices and for measures submitted to the county vote only or in only a part of the county shall be entitled County Ticket in boldface type. If the election commissioner or county clerk deems it advisable, the measures may be submitted on a separate ballot if using a paper ballot or on either side of a punch card or optical-scan ballot if the ballot is placed in a ballot envelope, jacket, or sleeve before being deposited in a ballot box.

(8) The candidates for office in the precinct only or in the city or village only shall be printed on the ballot, except that if the election commissioner or county clerk deems it advisable, candidates for these offices may be submitted on a separate ballot if using a paper ballot or on either side of a punch card or optical-scan ballot if the ballot is placed in a ballot envelope, jacket, or sleeve before being deposited in a ballot box.

(9) All proposals submitted by initiative or referendum and proposals for constitutional amendments shall be placed on a separate ballot when a paper ballot is used which requires that the ballot after being voted be folded before being deposited in a ballot box. When an optical-scan ballot is used which requires a ballot envelope, jacket, or sleeve in which the ballot after being voted is placed before being deposited in a ballot box, initiative or referendum proposals and proposals for constitutional amendments may be placed on either side of the ballot, shall be separated by a bold line, and shall follow all other offices placed on the same side of the ballot. Initiative or referendum proposals and constitutional amendments so arranged shall constitute a separate ballot. Proposals for constitutional amendments proposed by the Legislature shall be placed on the ballot as provided in sections 49-201 to 49-211.

Sec. 6. Section 32-1122, Reissue Revised Statutes of Nebraska, is amended to read:

32-1122. (1) If a recount after a primary election results in any two or more persons having an equal and the highest number of votes for the same nomination for the same county, city, village, or school district office, the county canvassing board shall, in the presence of the candidates or their representatives, determine by lot which of the candidates shall be nominated. The election commissioner or county clerk shall notify such candidates by certified mail to appear at his or her office on a given day and hour to determine the same before the county canvassing board. The election commissioner or county clerk shall make a certificate of nomination for the person so nominated and shall cause such certificate to be delivered to the person entitled thereto.

(2) If a recount after a general or special election results in any two or more persons having an equal and the highest number of votes for the same county, city, village, or school district office, the county canvassing board shall, in the presence of the candidates or their representatives, determine by lot which of the candidates shall be elected. The election commissioner or county clerk shall notify such candidates by certified mail to appear at his or her office on a given day and hour to determine the same before the county canvassing board. The election commissioner or county clerk shall make a certificate of election for the person so elected and shall cause such certificate to be delivered to the person entitled thereto.

(3) If a recount after a primary election results in any two or more persons having an equal and the highest number of votes for nomination for the office of the Governor, ~~Lieutenant Governor~~, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, or other officer elected to an executive department, the Legislature shall choose one of such persons for nomination to the office.

(4) If a recount after a general or special election results in any two or more persons having an equal and the highest number of votes for the office of the Governor, ~~Lieutenant Governor~~, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, or other officer elected

to an executive department, the Legislature shall choose one of such persons for the office. If the office involved in the recount is the office of the Governor, the Lieutenant Governor shall be the candidate for Lieutenant Governor chosen by the person selected by the Legislature as Governor.

(5) If a recount after a primary election results in any two or more persons having an equal and the highest number of votes for nomination to an office canvassed by the board of state canvassers, the board shall decide by lot which of such persons is nominated, except officers elected to the executive department.

(6) If a recount after a general or special election results in any two or more persons having an equal and the highest number of votes for an office canvassed by the board of state canvassers, the board shall decide by lot which of such persons is elected, except officers elected to the executive department.

Sec. 7. Section 32-1603, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Covered elective office means (a) the Legislature in any election period and (b) the 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, and the State Board of Education if designated as covered for a given election period pursuant to section 32-1611;

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

(3) Expenditure means the purchase for campaign activities of (a) services from a communications medium, including production costs, (b) printing, photography, graphic arts, or advertising services, (c) office supplies, (d) postage and other commercial delivery services, (e) meals, lodging, and travel expenses, and (f) staff salaries;

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

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

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

Sec. 8. Section 32-1604, Reissue Revised Statutes of Nebraska, 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~~ six hundred ~~fifty~~ 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)(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. 9. Section 32-1608, Reissue Revised Statutes of Nebraska, is amended to read:

32-1608. During the election period, no candidate for a covered elective office shall accept contributions from independent committees, businesses, including corporations, unions, industry, trade, or professional associations, and political parties which, when aggregated, are in excess of ~~seven~~ ~~eight~~ hundred ~~fifty~~ ~~twenty-five~~ thousand ~~five~~ hundred dollars for a candidate for Governor, ~~seventy-five~~ thousand dollars for a candidate for ~~Lieutenant Governor~~, State Treasurer, Secretary of State, Attorney General, or Auditor of Public Accounts, thirty-six thousand five hundred dollars for a candidate for the Legislature, and twenty-five thousand dollars for a candidate for the Public Service Commission, the Board of Regents of the University of Nebraska, or the State Board of Education.

Sec. 10. Section 32-1611, Reissue Revised Statutes of Nebraska, is amended to read:

32-1611. (1) Prior to June 30 of each odd-numbered year, the Nebraska Accountability and Disclosure Commission shall (a) allocate available funds of one hundred fifty thousand dollars to fund requests for public funds for covered elective offices listed in subdivision (1)(a) of section 32-1603, (b) calculate its best estimate of the amount of funds available to fund requests for public funds during the ensuing election year in the Campaign

Finance Limitation Cash Fund based upon the appropriations, if any, made to the fund by the Legislature in such year, and (c) if the estimated amount of available funds exceeds one hundred fifty thousand dollars, designate additional covered elective offices in the following order if the following amounts of additional funds are available:

- (a) The Public Service Commission, one thousand dollars;
 - (b) The Board of Regents of the University of Nebraska, twenty-five thousand dollars;
 - (c) The State Board of Education, one thousand dollars;
 - (d) The Auditor of Public Accounts, fifty thousand dollars;
 - (e) The Attorney General, fifty thousand dollars;
 - (f) The Secretary of State, fifty thousand dollars;
 - (g) The State Treasurer, fifty thousand dollars; and
 - (h) ~~The Lieutenant Governor, fifty thousand dollars; and~~
 - ~~(i) The Governor, five hundred fifty thousand dollars.~~
- (2) All elective offices not within the class of offices designated under subsection (1) of this section to be covered elective offices for the election period ending on December 31 of the following year shall be designated not to be covered elective offices for such election period.

~~(3) For purposes of the election period ending December 31, 1998, (a) the legislature shall be the only covered elective office, (b) the election period shall begin on September 13, 1997, and (c) the Campaign Finance Limitation Act shall not apply to any other office.~~

Sec. 11. Section 49-1410, Reissue Revised Statutes of Nebraska, is amended to read:

49-1410. Candidate committee shall mean the committee designated in a candidate's filed statement of organization as that individual's candidate committee. A candidate committee shall be presumed to be under the control and direction of the candidate named in the same statement of organization, except that the candidate for Lieutenant Governor shall not have a separate candidate committee but shall be included in the candidate committee with the candidate for Governor of the same political party.

Sec. 12. Original sections 32-101, 32-619, 32-627, 32-1122, 32-1603, 32-1604, 32-1608, 32-1611, and 49-1410, Reissue Revised Statutes of Nebraska, and section 32-813, Revised Statutes Supplement, 2000, are repealed.