

LEGISLATIVE BILL 188

Approved by the Governor April 6, 2006

Introduced by Beutler, 28

AN ACT relating to political accountability and disclosure; to amend sections 32-1601, 32-1602, 32-1604, 32-1604.01, 32-1606, 32-1607, 32-1608, 32-1608.01, 32-1608.03, 32-1612, 49-1463, and 49-14,126, Reissue Revised Statutes of Nebraska, and sections 32-1603, 49-1446.04, 49-1463.01, 49-14,124, and 49-14,125, Revised Statutes Supplement, 2005; to redefine a term; to change provisions regarding campaign expenditures and public funds; to provide for loans and late fees; to change penalty provisions; to change powers and duties of the Nebraska Accountability and Disclosure Commission; to eliminate unconstitutional provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 32-1614, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 32-1601, Reissue Revised Statutes of Nebraska, is amended to read:

32-1601 Sections 32-1601 to ~~32-1614~~ 32-1613 and section 7 of this act shall be known and may be cited as the Campaign Finance Limitation Act.

Sec. 2. Section 32-1602, Reissue Revised Statutes of Nebraska, is amended to read:

32-1602 (1) The Legislature finds that the cost of running for statewide offices and legislative seats has risen greatly and that many qualified candidates are excluded from the democratic system as a result of such rising cost. The Legislature further finds that the United States Supreme Court has indicated that any limitation on campaign expenditures must be entered into voluntarily and that the utilization of public financing of campaigns is a constitutionally permissible way in which to encourage candidates to adopt voluntary campaign spending limitations. The Legislature further finds that using public funds to assist in the financing of campaigns for certain statewide offices and legislative seats, in conjunction with voluntary campaign spending limitations, will increase the number of qualified candidates able to run for office. The Legislature further finds that in order for the public financing system to function properly in service of the state's interests, every candidate, regardless of whether or not that candidate seeks or is entitled to public funds, must make timely filings as required by the Campaign Finance Limitation Act.

(2) The Legislature finds that there ~~is a~~ are compelling state ~~interest~~ interests in preserving the integrity of the electoral process in state elections by ensuring that these elections are free from corruption and the appearance of corruption; in providing the electorate with information that will assist them with electoral decisions; and in gathering the data necessary to permit administration and to detect violations of the act. The Legislature further finds that these ends and that this end can only be achieved only if (a) reasonable limits are placed on the amount of campaign contributions from certain sources, ~~and~~ (b) the sources of funding and the use of that funding in campaigns are fully disclosed within the time periods prescribed by the act, and (c) public funds are provided to candidates who voluntarily accept spending limitations and otherwise comply with conditions for such funding under the act.

Sec. 3. Section 32-1603, Revised Statutes Supplement, 2005, 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, 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, as it relates to the expenditure of public funds, means (a) the purchase for campaign activities of ~~(a)~~ (i) services from a communications medium, including production costs, ~~(b)~~ (ii) printing, photography, graphic arts, or advertising services, ~~(c)~~ (iii) office supplies, ~~(d)~~ (iv) postage and other commercial delivery services, ~~(e)~~ (v) meals, lodging, and travel expenses, and ~~(f)~~ (vi) staff salaries and (b) repayment of loans to the candidate committee made in accordance with subsection (2) of section 32-1608.03 for any of the purposes listed in subdivision (a) of this subdivision;

(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 (6), (8), or (9) of section 49-1446.03.

Sec. 4. 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, 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~~ (3)(a) Except as otherwise provided in subdivision (b) of this subsection, 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 six hundred fifty two million two hundred ninety-seven thousand dollars, a candidate for 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 two hundred nine thousand dollars, a candidate for the Board of Regents of the University of Nebraska shall limit his or her spending, other than unrestricted spending, for the election period to one hundred thousand dollars, a candidate for the Legislature shall limit his or her spending, other than unrestricted spending, for the election period to seventy-three eighty-nine 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 seventy 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.

(b) Beginning in 2008 and every four years thereafter, the campaign spending limits in this subsection shall be adjusted for inflation based upon the Consumer Price Index for the calendar year prior to the year in which the adjustment is made, and the adjusted spending limits shall be in effect for the elections in 2010 and subsequent election periods until further adjusted as provided in this subdivision. The Nebraska Accountability and Disclosure Commission shall use the Consumer Price Index, All Urban Consumers, All Items, United States City Average, to calculate the adjustments for the spending limits. The spending limits shall be rounded to the next highest one-thousand-dollar amount. If publication of the Consumer Price Index is discontinued, the most recent spending limit adjustments in effect prior to the discontinuance shall remain in effect for subsequent election periods.

(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~~ 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 an affidavit stating a~~ reasonable estimate of his or her maximum expenditures as defined in sections 32-1603 and section 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~~ who files an 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 equal or exceed forty percent of the spending limitation 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 equal or exceed forty percent of the spending limitation for the general election period. Each affidavit shall be filed no later than five two days after the forty percent has been expended. A candidate who intentionally fails to file the required affidavit within either five-day two-day period shall be guilty of a Class II misdemeanor. A candidate who fails to file an affidavit as required by this subdivision shall pay to the commission a late filing fee of twenty-five dollars for each day the affidavit remains not filed in violation of this section, not to exceed seven hundred fifty dollars. In addition, if a candidate fails to file an affidavit as required by this subdivision within the prescribed time resulting in any abiding candidate not receiving public funds as described in subsection (6) of this section or resulting in a delay in the receipt of such funds, the commission shall assess a civil penalty of not less than two thousand dollars and not more than three times (i) the amount of public funds the abiding candidate received after the delay or (ii) the amount of public funds the abiding candidate would have received if the affidavit had been filed within the prescribed time.

(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 subdivision~~ subdivision (1) (a) and or (b) of section 49-1459 or section 7 of this act 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. 5. Section 32-1604.01, Reissue Revised Statutes of Nebraska, is amended to read:

32-1604.01 (1) ~~Except as otherwise provided in this section, each~~ Each candidate for a covered elective office listed in subdivision (1) (a) of section 32-1603 shall file either an affidavit to abide under subsection (4) of section 32-1604 or an affidavit not to abide and an affidavit stating a reasonable estimate of his or her maximum expenditures under subdivision (5) (a) of section 32-1604 with the Nebraska Accountability and Disclosure Commission within ten days after a candidate committee is required to be formed pursuant to sections 49-1413, 49-1445, and 49-1449 and on or before the first day of each election period thereafter unless the candidate has not filed and will not file to seek election or reelection or has withdrawn his or her filing to seek election or reelection. Except as otherwise provided in this section, each Each candidate for a covered elective office listed in subdivision (1) (b) of section 32-1603 shall file either an affidavit to abide under subsection (4) of section 32-1604 or an affidavit not to abide and an affidavit stating a reasonable estimate of his or her maximum expenditures

under subdivision (5) (a) of section 32-1604 with the Nebraska Accountability and Disclosure Commission within ten days after a candidate committee is required to be formed pursuant to sections 49-1413, 49-1445, and 49-1449 or within ten days after the office is designated as a covered elective office under section 32-1611, whichever is later, unless the candidate has not filed and will not file to seek election or reelection or has withdrawn his or her filing to seek election or reelection. If a candidate is not required to form a candidate committee, the candidate is not required to file an affidavit under section 32-1604.

~~(2) Any candidate for a legislative district which is subject to election in 1998 for whom a candidate committee is in existence on September 13, 1997, shall file an affidavit to abide under subsection (4) of section 32-1604 or an affidavit not to abide under subdivision (5)(a) of section 32-1604 within thirty days after September 13, 1997.~~

~~(3) (2) An affidavit to abide under subsection (4) of section 32-1604 and an affidavit not to abide and an affidavit stating a reasonable estimate of his or her maximum expenditures under subdivision (5) (a) of section 32-1604 shall be filed on forms prescribed by the commission.~~

~~(4) (3) A candidate who fails to file an affidavit as required by this section shall pay to the commission a late filing fee of twenty-five dollars for each day the statement affidavit remains not filed in violation of this section, not to exceed seven hundred fifty dollars.~~

~~(5) (4) It shall be a violation of the Campaign Finance Limitation Act for a candidate for a covered elective office who has filed an affidavit to abide under subsection (4) of section 32-1604 to exceed the spending limitations prescribed in section 32-1604.~~

Sec. 6. Section 32-1606, Reissue Revised Statutes of Nebraska, is amended to read:

32-1606 (1) Any candidate for a covered elective office who has satisfied the requirements of subsection (4) of section 32-1604 may, upon spending making expenditures which equal or exceed twenty-five percent of the spending limitation for the election period prescribed in such section, file an affidavit with the commission setting forth these facts and requesting public funds. If the highest estimated maximum expenditure filed by any of the candidate's opponents for that same office in effect as of the last date to amend an affidavit pursuant to subsection (5) of section 32-1604 is greater than the spending limitations as provided in subsection (3) of section 32-1604 for the office, the The candidate shall be entitled to receive the greater of (a) the difference between the spending limitation and the highest estimated maximum expenditure expenditures filed by any of the candidate's opponents or (b) the difference between the spending limitation and the highest amount of expenditures reported in preelection campaign statements filed pursuant to subdivision (1)(a) or (b) of section 49-1459 or section 7 of this act by any of the candidate's opponents. For the election period, no candidate shall be entitled to receive more than three times the amount of the spending limitation for the election period. For the primary election period, no candidate shall be entitled to receive more than three times the amount of the spending limitation for the primary election period. The commission shall compute the amount of the payment to be made to a candidate. For purposes of this section, a candidate's opponent in a partisan primary election shall include only those other candidates of the same political party running for the same office and a candidate's opponent in a nonpartisan primary election shall include all candidates running for the same office.

~~(2) Except as otherwise provided by subsection (6) of section 32-1604, public Public funds to which a candidate is entitled under this section shall be disbursed to that candidate ~~not later than two weeks after no earlier than~~ the last date to amend an affidavit stating a reasonable estimate of expenditures pursuant to subdivision (5) (a) of section 32-1604 and no later than fourteen days after the election.~~

(3) Public funds received pursuant to this section shall be kept in a separate account in a financial institution in this state, shall be used only to make expenditures, and shall not be counted against the spending limitations prescribed in section 32-1604. Any unexpended public funds shall be repaid to the state on or before December 31 of the final year of the election period.

(4) Expenditures from public funds received pursuant to this section shall be reported to the commission on forms prescribed by the commission and in accordance with rules and regulations adopted and promulgated by the commission.

Sec. 7. (1) In addition to campaign statements required according to the schedule in section 49-1459, a candidate who files an affidavit under subdivision (5) (a) of section 32-1604 shall file a third preelection campaign

statement with the commission so that it is received by the commission not later than the sixth day before the election. The closing date for a campaign statement filed under this section shall be the eighth day before the election. Campaign statements filed under this section shall be subject to the Nebraska Political Accountability and Disclosure Act in all matters not in conflict with this section.

(2) The campaign statement shall contain the following information:

(a) The filing committee's name, address, and telephone number and the full name, residential and business addresses, and telephone numbers of its committee treasurer; and

(b) Under the heading RECEIPTS, the total amount of contributions received during the period covered by the campaign statement; under the heading EXPENDITURES, the total amount of expenditures made during the period covered by the campaign statement; and the cumulative amount of those totals for the election period. If a loan was repaid during the period covered by the campaign statement, the amount of the repayment shall be subtracted from the total amount of contributions received. Forgiveness of a loan shall not be included in the totals. Payment of a loan by a third party shall be recorded and reported as a contribution by the third party but shall not be included in the totals. In-kind contributions or expenditures shall be listed at fair market value and shall be reported as both contributions and expenditures.

(3) All information in the campaign statement filed under this section shall also be included in the postelection campaign statement filed under subdivision (1)(c) of section 49-1459.

(4) Any person who fails to file a campaign statement with the commission under this section shall pay to the commission a late filing fee of twenty-five dollars for each day the campaign statement remains not filed in violation of this section, not to exceed seven hundred fifty dollars. In addition, if a candidate fails to file the statement required by this section within the prescribed time resulting in any abiding candidate not receiving public funds as described in subsection (6) of section 32-1604 or resulting in a delay in the receipt of such funds, the commission shall assess a civil penalty of not less than two thousand dollars and not more than three times (a) the amount of public funds the abiding candidate received after the delay or (b) the amount of public funds the abiding candidate would have received if the campaign statement had been filed within the prescribed time.

Sec. 8. Section 32-1607, Reissue Revised Statutes of Nebraska, is amended to read:

32-1607 (1) Any candidate who receives public funds pursuant to section 32-1606 and fails to comply with the spending limitations prescribed in section 32-1604 shall repay the amount expended in excess of the spending limitations to the state within six months after the receipt of the public funds by the candidate.

(2) Any candidate who receives public funds pursuant to section 32-1606 and exceeds the spending limitations prescribed in section 32-1604 by five percent or more shall, within six months, repay the entire amount of public funds received with interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date the limitation was exceeded by five percent or more.

(3) Any candidate described in subsection (1) of this section or the treasurer of any such candidate committee who exceeds the spending limitation by five percent or more shall be deemed to be in willful and knowing violation of section 32-1604. Any person willfully and knowingly violating such section shall be guilty of a Class II misdemeanor.

~~(4) Any candidate who files, or causes to be filed, if a person makes a false statement in an affidavit filed pursuant to subdivision (5)(a) of section 32-1604, an affidavit executed by him or her that he or she knows contains any material element which is false and he or she does not believe the statement to be true, he or she shall be guilty of a Class IV felony.~~

~~(5) Any candidate who willfully, knowingly, or intentionally underestimates his or her maximum expenditures by five percent or more in an affidavit filed pursuant to subdivision (5)(a) of section 32-1604 shall be guilty of a Class II misdemeanor.~~

~~(6) (5) The expenditure of public funds received pursuant to section 32-1606 shall not be a violation of the spending limitation.~~

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 eight hundred twenty-five thousand five hundred dollars for a candidate

for Governor, seventy-five thousand dollars for a candidate for 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 fifty percent of the spending limitation for the office set pursuant to section 32-1604. The commission shall calculate the limitation on contributions under this section at the time it calculates the adjustments on the campaign spending limitations under section 32-1604. The commission shall publish the new contribution limits on its web site and shall notify any candidate who files for an office which is subject to the spending limitation of the contribution limits applicable at the time of filing.

Sec. 10. Section 32-1608.01, Reissue Revised Statutes of Nebraska, is amended to read:

32-1608.01 (1) The commission shall adopt and promulgate rules and regulations to provide for the reporting of expenditures by candidates of any public funds received pursuant to the Campaign Finance Limitation Act and for the keeping of records with respect to the expenditure of such funds.

(2) The commission shall accept any affidavit required to be filed under the act by hand delivery, facsimile transmission, express delivery service, or any other written means of communication. If the filing is made by a means which does not include the original signature of the affiant, an affidavit which includes the original signature shall be filed with the commission within fourteen days after the initial filing.

(3) The commission may adopt procedures for the digital and electronic filing of any document required to be submitted under the Campaign Finance Limitation Act other than documents required to be notarized. Any procedures for digital filing shall comply with the provisions of section 86-611. The commission may adopt authentication procedures to be used as a verification process for documents filed digitally or electronically. Compliance with authentication procedures adopted by the commission shall have the same validity as a signature on any document.

Sec. 11. Section 32-1608.03, Reissue Revised Statutes of Nebraska, is amended to read:

32-1608.03 (1) Any candidate who has qualified to receive public funds pursuant to the Campaign Finance Limitation Act may, by written request, limit his or her receipt of public funds to an amount which is less than the total amount he or she is entitled to receive.

(2) Any candidate who has satisfied the requirements of subsection (4) of section 32-1604 and has been advised by the commission that he or she will receive public funds by virtue of the expenditures of his or her opponent may finalize a loan for campaign purposes in an amount that does not exceed the amount of public funds for which the commission indicates he or she is qualified.

Sec. 12. Section 32-1612, Reissue Revised Statutes of Nebraska, is amended to read:

32-1612 (1) The Nebraska Accountability and Disclosure Commission shall assess any person that the commission finds to have violated subsection ~~(3)~~ or ~~(5)~~ (4) of section 32-1607 a civil penalty of ~~one~~ two thousand dollars or an amount equal to ten percent of the amount by which the ~~limitation estimate~~ was exceeded, whichever is greater, for each violation.

(2) If the commission finds that a person violated subsection (4) of section 32-1604.01 by making expenditures exceeding the spending limitations in an amount that does not exceed five percent of the spending limitations, the commission shall assess such person a civil penalty of not more than two thousand dollars. If the commission finds that a person violated subsection (4) of section 32-1604.01 by making expenditures exceeding the spending limitations in an amount that exceeds five percent of the spending limitations, the commission shall assess such person a civil penalty of twice the amount by which the expenditures exceeded the spending limitations or two thousand dollars, whichever is greater.

~~(2)~~ (3) Unless a specific penalty is otherwise provided, the commission shall assess any person that it finds to have violated any other provision of the Campaign Finance Limitation Act a civil penalty of not more than ~~one~~ two thousand dollars for each violation.

Sec. 13. Section 49-1446.04, Revised Statutes Supplement, 2005, is amended to read:

49-1446.04 (1) Beginning on June 2, 1995, a A candidate committee shall not accept more than fifteen thousand dollars in loans prior to or during the first thirty days after formation of the candidate committee.

(2) After the thirty-day period and until the end of the term of the office to which the candidate sought nomination or election, the candidate

committee shall not accept loans, other than loans allowed under subsection (2) of section 32-1608.03, in an aggregate amount of more than fifty percent of the contributions of money, other than the proceeds of loans, which the candidate committee has received during such period as of the date of the receipt of the proceeds of the loan. Any loans which have been repaid as of such date shall not be taken into account for purposes of the aggregate loan limit.

(3) A candidate committee shall not pay interest, fees, gratuities, or other sums in consideration of a loan, advance, or other extension of credit to the candidate committee by the candidate, a member of the candidate's immediate family, or any business with which the candidate is associated.

(4) The penalty for violation of this section shall be a civil penalty of not less than two hundred fifty dollars and not more than the amount of money received by a candidate committee in violation of this section if the candidate committee received more than two hundred fifty dollars. The commission shall assess and collect the civil penalty and shall remit the penalty to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 14. Section 49-1463, Reissue Revised Statutes of Nebraska, is amended to read:

49-1463 (1) 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 twenty-five dollars for each day the campaign statement remains not filed in violation of this section, not to exceed seven hundred fifty dollars. In addition, if a candidate who files an affidavit under subdivision (5)(a) of section 32-1604 fails to file a campaign statement as required by sections 49-1459 to 49-1463 within the prescribed time resulting in any abiding candidate not receiving public funds as described in subsection (6) of section 32-1604 or resulting in a delay in the receipt of such funds, the commission shall assess a civil penalty of not less than two thousand dollars and not more than three times (a) the amount of public funds the abiding candidate received after the delay or (b) the amount of public funds the abiding candidate would have received if the campaign statement had been filed within the prescribed time.

(2) 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 twenty-five dollars for each day the statement of exemption remains not filed in violation of this section, not to exceed two hundred twenty-five dollars.

Sec. 15. Section 49-1463.01, Revised Statutes Supplement, 2005, is amended to read:

49-1463.01 (1) A person required to pay a late filing fee imposed under section 32-1604, 32-1604.01, 49-1449, 49-1458, 49-1463, 49-1467, 49-1469.08, 49-1478.01, or 49-1479.01 or section 7 of this act may apply to the commission for relief. The commission by order may reduce the amount of a late filing fee imposed and waive any or all of the interest due on the fee upon a showing by such person that (a) the circumstances indicate no intent to file late, (b) the person has not been required to pay late filing fees for two years prior to the time the filing was due, (c) the late filing shows that less than five thousand dollars was raised, received, or expended during the reporting period, and (d) a reduction of the late fees and waiver of interest would not frustrate the purposes of the Nebraska Political Accountability and Disclosure Act.

(2) 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 waive any or all of the interest due on the fee, and the person shall not be required to make a showing as provided by subsection (1) of this section.

Sec. 16. Section 49-14,124, Revised Statutes Supplement, 2005, is amended to read:

49-14,124 (1) The commission shall, by way of preliminary investigation, investigate any alleged violation of the Nebraska Political Accountability and Disclosure Act, or any rule or regulation adopted and promulgated thereunder, upon:

(a) The receipt of a complaint signed under oath which contains at least a reasonable belief that a violation has occurred;

(b) The recommendation of the executive director; or

(c) The commission's own motion.

(2) The commission shall, by way of preliminary investigation, investigate any alleged violation of the Campaign Finance Limitation Act, or

any rule or regulation promulgated thereunder, upon:

- (a) The recommendation of the executive director; or
- (b) The commission's own motion.

(3) For purposes of conducting preliminary investigations under either the Campaign Finance Limitation Act or the Nebraska Political Accountability and Disclosure Act, the commission shall have the powers possessed by the courts of this state to issue subpoenas, and the district court shall have jurisdiction to enforce such subpoenas.

~~(3)~~ (4) 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 after the commencement of the investigation.

~~(4)~~ (5) Within fifteen days 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.

~~(5)~~ (6) Each governing body shall cooperate with the commission in the conduct of its investigations.

Sec. 17. Section 49-14,125, Revised Statutes Supplement, 2005, is amended to read:

49-14,125 (1) If, after a preliminary investigation, it is determined by a majority vote of the commission that there is no probable cause for belief that a person has violated the Nebraska Political Accountability and Disclosure Act or the Campaign Finance Limitation Act or any rule or regulation adopted and promulgated thereunder or if the commission determines that there is insufficient evidence to reasonably believe that the person could be found to have violated either act, the commission shall terminate the investigation and so notify the complainant and the person who had been under investigation.

(2) If, after a preliminary investigation, it is determined by a majority vote of the commission that there is probable cause for belief that the Nebraska Political Accountability and Disclosure Act or the Campaign Finance Limitation Act or a rule or regulation adopted and promulgated thereunder has been violated and if the commission determines that there is sufficient evidence to reasonably believe that the person could be found to have violated either act, the commission shall initiate appropriate proceedings to determine whether there has in fact been a violation. The commission may appoint a hearing officer to preside over the proceedings.

(3) All proceedings of the commission pursuant to this section shall be by closed session attended only by those persons necessary to the investigation of the alleged violation, unless the person alleged to be in violation of either act or any rule or regulation adopted and promulgated thereunder requests an open session.

(4) The commission shall have the powers possessed by the courts of this state to issue subpoenas and cause them to be served and enforced in connection with proceedings under this section, and the district court shall have jurisdiction to enforce such subpoenas.

(5) All testimony shall be under oath which shall be administered by a member of the commission, the hearing officer, or any other person authorized by law to administer oaths and affirmations.

(6) Any person who appears before the commission shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts of this state.

(7) All witnesses summoned before the commission shall receive reimbursement as paid in like circumstances in the district court.

(8) Any person whose name is mentioned during a proceeding of the commission and who may be adversely affected thereby shall be notified and may appear personally before the commission on that person's own behalf or file a written statement for incorporation into the record of the proceeding.

(9) The commission shall cause a record to be made of all proceedings pursuant to this section.

(10) At the conclusion of proceedings concerning an alleged violation, the commission shall deliberate on the evidence and determine whether there has been a violation of the Campaign Finance Limitation Act or the Nebraska Political Accountability and Disclosure Act.

Sec. 18. Section 49-14,126, Reissue Revised Statutes of Nebraska, is amended to read:

49-14,126 (1) The commission, upon finding that there has been a violation of the Nebraska Political Accountability and Disclosure Act or any rule or regulation promulgated thereunder, may begin civil or criminal prosecution for the imposition of civil or criminal penalties provided by the

act. If the commission finds a violation of the act or any rule or regulation thereunder, it may issue an order requiring the violator to:

- (a) Cease and desist violation;
- (b) File any report, statement, or other information as required; or
- (c) Pay a civil penalty of not more than two thousand dollars for each violation of the act, rule, or regulation.

(2) If the commission finds a violation of the Campaign Finance Limitation Act, the commission shall assess a civil penalty as required under section 32-1604 or 32-1612 or section 7 of this act.

Sec. 19. This act becomes operative on January 1, 2007.

Sec. 20. Original sections 32-1601, 32-1602, 32-1604, 32-1604.01, 32-1606, 32-1607, 32-1608, 32-1608.01, 32-1608.03, 32-1612, 49-1463, and 49-14,126, Reissue Revised Statutes of Nebraska, and sections 32-1603, 49-1446.04, 49-1463.01, 49-14,124, and 49-14,125, Revised Statutes Supplement, 2005, are repealed.

Sec. 21. The following section is outright repealed: Section 32-1614, Reissue Revised Statutes of Nebraska.