

## LEGISLATIVE BILL 134

Approved by the Governor May 27, 1981

Introduced by Landis, 46; Wesely, 26; Beutler, 28;  
Hoagland, 6; DeCamp, 40

AN ACT relating to political accountability and disclosure; to amend sections 49-1401, 49-1403, 49-1456, 49-1499, 49-14,123, 49-14,125, 49-14,126, 49-14,132, and 49-14,133, Reissue Revised Statutes of Nebraska, 1943, and section 49-1490, Revised Statutes Supplement, 1980; to redefine terms; to change provisions relating to the filing of campaign statements; to restrict the use of campaign funds; to provide for reporting of conflicts of interest as prescribed; to harmonize provisions; to change restrictions on the sale or use of certain filings; to change provisions relating to contributions and gifts; and to repeal the original sections, and also section 49-1476, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 49-1401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1401. Sections 49-1401 to 49-14,138 and sections 5 to 7 of this act shall be known and may be cited as the Nebraska Political Accountability and Disclosure Act.

Sec. 2. That section 49-1403, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1403. For purposes of sections 49-1401 to 49-14,138 and sections 5 to 7 of this act, unless the context otherwise requires, the definitions found in sections 49-1404 to 49-1444 shall be used.

Sec. 3. That section 49-1456, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1456. (1) Any interest income received by a committee on an account consisting of funds or property belonging to the committee shall not be considered a contribution to the committee but shall be reported as

interest income. Any interest paid by a committee shall be reported as an expenditure.

(2) A loan made or received shall be set forth in a separate schedule providing the date and amount of the loan and, if the loan is repaid, the date and manner of repayment. The committee shall provide the name and address of the lender and any person who is liable directly, indirectly, or contingently on each loan of more than one hundred dollars.

~~(3) Any campaign statement reporting the receipt of a contribution of more than one hundred dollars from a committee or person whose treasurer does not reside in, whose principal office is not located in, or whose funds are not kept in this state, shall be accompanied by a statement certified as true and correct by an officer of the contributing committee or person setting forth the full name and address, along with the amount contributed, of each person who contributed more than one hundred dollars of the contribution.~~

Sec. 4. That section 49-1490, Revised Statutes Supplement, 1980, be amended to read as follows:

49-1490. (1) A principal, lobbyist, or anyone acting on behalf of either shall not give a gift to any official or member of any official's staff in the executive or legislative branch of state government, or member of an official's immediate family. Any person who knowingly gives a gift in violation of this subsection shall be guilty of a Class III misdemeanor.

(2) An official or any other person on his or her behalf in the legislative or executive branch of state government or a member of such official's staff or immediate family shall not solicit or accept a gift in violation of subsection (1) of this section. Any person who knowingly solicits or accepts a gift in violation of this subsection shall be guilty of a Class III misdemeanor.

(3) As used in sections 49-1480 to 49-1492, gift shall mean a payment, subscription, advance, forbearance, honorarium, campaign contribution from a lobbyist, or the rendering or deposit of money, services, or anything of value, the value of which exceeds twenty-five dollars in any one-month period, unless consideration of equal or greater value is received therefor. Gift shall not include:

(a) A campaign contribution otherwise reported as required by law, except as otherwise provided in this



subsection;

(b) A commercially reasonable loan made in the ordinary course of business;

(c) A gift received from a member of the person's immediate family, a relative, or from the spouse of any such relative;

(d) A breakfast, luncheon, dinner, or other refreshments consisting of food and beverage provided for immediate consumption; or

(e) Admissions to state regulated industries, facilities, or events; or

(f) The occasional provision of transportation within the State of Nebraska to an officeholder.

Sec. 5. 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; (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; and (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

(2) Invest funds in investments authorized in sections 72-1237 to 72-1269 for the state investment officer.

Sec. 6. Notwithstanding any other provision of the Nebraska Political Accountability and Disclosure Act, no committee shall expend or transfer funds for the purchase or payment of:

(1) Clothes or medical or dental expenses of a candidate or the members or his or her immediate family;

(2) Installment payments for an automobile owned by a candidate;

(3) Mortgage or rental payments for a permanent residence of a candidate;

(4) The satisfaction of personal debts, including installment payments on personal loans, except campaign loans subject to reporting required by subsection (2) of section 49-1456;

(5) Personal services, including the services of a lawyer or accountant, except campaign services subject to reporting pursuant to the provisions of section 49-1455; or

(6) Office supplies, staff, or furnishings for the public office for which an individual is a candidate for nomination or election.

Sec. 7. Sections 5 and 6 of this act shall be enforced in the same manner as the provisions of sections 49-1401 to 49-14,138 and, unless otherwise specified, if the commission finds that a violation of the provisions of sections 5 and 6 of this act has occurred, the commission may issue any order that may be issued pursuant to section 49-14,126, as it may from time to time be amended by the Legislature.

Sec. 8. That section 49-1499, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1499. An individual designated in section 49-1493, or an official or employee of the executive branch of state government, who, in the discharge of his or her official duties, would be required to take an any action that would provide that individual or make any decision that may cause financial benefit or detriment to him or her, a member of the individual's his or her immediate family, or a business with which the individual he or she is associated, financial benefits of more than a de-minimis nature which are is distinguishable from the benefits to effects of such action on the public generally, or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict, or should reasonably be aware, of the such potential conflict, whichever is sooner:



(1) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict, and if he or she is a member of the Legislature and will not abstain from voting, deliberating, or taking other action on the matter, the statement shall state why, despite the potential conflict, he or she intends to vote or otherwise participate; and

(2) Deliver a copy of the statement to the commission and:

(a) If he or she is a member of the Legislature, he or she shall deliver a copy of the statement to the Speaker of the Legislature, who shall cause the statement to be filed with the Clerk of the Legislature to be held as a matter of public record. He or she may abstain from voting, deliberating, or taking other action on the matter on which the potential conflict exists, in which case he or she may have the reasons for the abstention recorded in the journal or minutes of the Legislature. Nothing in this section shall be construed to prohibit any member of the Legislature from voting, deliberating, or taking other action on any matter that comes before the body; or

(b) If he or she is not a member of the Legislature, he or she shall deliver a copy of the statement to his or her immediate superior, if any, who shall assign the matter to another employee or, if he or she has no immediate superior, he or she shall take such steps as the commission shall prescribe or advise to remove himself or herself from influence over actions and decisions on the matter. This restriction shall not prevent such a person from making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made, but in such event the person shall report the occurrence to the commission.

Sec. 9. That section 49-14,123, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) Prescribe and publish, after notice and opportunity for public comment, rules and regulations to carry out the provisions of sections 49-1401 to 49-14,138 and sections 5 to 7 of this act, pursuant to the provisions of Chapter 84, article 5;

(2) Prescribe forms for statements and reports required to be filed pursuant to sections 49-1401 to 49-14,138 and sections 5 to 7 of this act, and furnish such forms to persons required to file such statements and reports;

(3) Prepare and publish one or more manuals explaining the duties of all persons and other entities required to file statements and reports by sections 49-1401 to 49-14,138 and sections 5 to 7 of this act and setting forth recommended uniform methods of accounting and reporting for such filings;

(4) Accept and file any reasonable amount of information voluntarily supplied that exceeds the requirements of sections 49-1401 to 49-14,138 and sections 5 to 7 of this act;

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

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

(7) Prepare and publish, prior to June 1 of each year, an annual report summarizing the activities of the commission, summaries of statements and reports filed with the commission, and special reports and technical studies to further the purposes of sections 49-1401 to 49-14,138 and sections 5 to 7 of this act;

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

(9) Preserve statements and reports filed with the commission for a period of five years from the date of receipt;

(10) Issue and publish advisory opinions on the requirements of sections 49-1401 to 49-14,138 and sections 5 to 7 of this act upon the request of a person or governmental body directly covered or affected by sections 49-1401 to 49-14,138 and sections 5 to 7 of this act. Any such opinion rendered by the commission, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person or public body who requested the opinion and who acted in reliance



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

(11) Act as the primary civil and criminal enforcement agency for violations of the provisions of sections 49-1401 to 49-14,138 and sections 5 to 7 of this act and the rules or regulations promulgated thereunder; and

(12) Receive all late filing fees and submit them to those authorities designated by law to effectuate the provisions of Article VII, section 5, of the Constitution of Nebraska.

Sec. 10. That section 49-14,125, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-14,125. (1) If a preliminary investigation fails to indicate probable cause for belief that sections 49-1401 to 49-14,138 or sections 5 to 7 of this act have been violated, 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 sections 49-1401 to 49-14,138 or sections 5 to 7 of this act, or a rule or regulation adopted or and promulgated thereunder, has been violated, the commission shall initiate appropriate proceedings to determine whether there has in fact been a violation. All proceedings of the commission pursuant to this subsection 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 sections 49-1401 to 49-14,138 or sections 5 to 7 of this act, or any rule or regulation adopted and promulgated thereunder requests an open session. The commission shall have the powers possessed by the courts of this state to issue subpoenas and cause them to be served and enforced. All testimony shall be under oath which shall be administered by a member of the commission. 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. All witnesses summoned before the commission shall receive reimbursement as paid in like circumstances in the district court. 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. The commission shall cause a record to be made of all proceedings pursuant to this subsection. At the conclusion of proceedings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence and then proceed to determine by majority vote of the members present whether there has been a violation of sections 49-1401 to 49-14,138 or sections 5 to 7 of this act. If the commission determines that sections 49-1401 to 49-14,138 or sections 5 to 7 of this act, or any rule or regulation was not violated, the records and actions relative to the investigation and determination shall remain confidential unless the alleged violator requests that the records and actions be made public. If the commission determines that sections 49-1401 to 49-14,138 or sections 5 to 7 of this act or any rule or regulation thereof was violated, the records and actions shall be made public as soon as practicable after the determination is made.

Sec. 11. That section 49-14,126, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-14,126. The commission, upon finding that there has been a violation of sections 49-1401 to 49-14,138 or sections 5 to 7 of this act or any rule or regulation promulgated thereunder, may begin civil or criminal prosecution for the imposition of civil or criminal penalties provided by sections 49-1401 to 49-14,138 or sections 5 to 7 of this act. If the commission finds a violation of sections 49-1401 to 49-14,138 or sections 5 to 7 of this act, or any rule or regulation thereunder, it may issue an order requiring the violator to:

(1) Cease and desist violation;

(2) File any report, statement, or other information as required; or

(3) Pay a civil penalty of not more than one thousand dollars for each violation of sections 49-1401 to 49-14,138 or sections 5 to 7 of this act, rule, or regulation.

Sec. 12. That section 49-14,132, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-14,132. Campaign Information copied from campaign statements, registration forms, activity



reports, statements of financial interests interest, and other filings required by sections 49-1401 to 49-14,138 and sections 5 to 7 of this act shall not be copied sold or used by any person for any the purpose of soliciting contributions or for commercial purposes, except that (1) the name and address of any political committee, corporation, labor organization, or industry, trade, or professional association may be used for soliciting contributions from such committee, corporation, organization, or association and (2) the use of information copied or otherwise obtained from statements, forms, reports, and other filings required by sections 49-1401 to 49-14,138 and sections 5 to 7 of this act in newspapers, magazines, books, or other similar communications is permissible as long as the principal purpose of using such information is not to communicate any contributor information listed thereon for the purpose of soliciting contributions or for other commercial purposes. purpose;---for---soliciting contributions;---ticket-sales-or-other---political---campaign purposes;---or-for-harassment-by-a-governmental-body-or-any other-person:

Sec. 13. That section 49-14,133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-14,133. The Attorney General and the county attorney of the county in which a violation allegedly occurs shall have concurrent jurisdiction with the commission to enforce the criminal provisions of sections 49-1401 to 49-14,138 and sections 5 to 7 of this act.

Sec. 14. That original sections 49-1401, 49-1403, 49-1456, 49-1499, 49-14,123, 49-14,125, 49-14,126, 49-14,132, and 49-14,133, Reissue Revised Statutes of Nebraska, 1943, and section 49-1490, Revised Statutes Supplement, 1980, and also section 49-1476, Reissue Revised Statutes of Nebraska, 1943, are repealed.