

## LEGISLATIVE BILL 232

Approved by the Governor April 5, 1991

Introduced by Withem, 14; Kristensen, 37; Warner, 25

AN ACT relating to the Nebraska Political Accountability and Disclosure Act; to amend sections 49-1403, 49-1434, 49-1483, 49-1488, 49-1490, 49-14,113, and 49-14,131, Reissue Revised Statutes of Nebraska, 1943, and section 49-1401, Revised Statutes Supplement, 1990; to change provisions relating to certain statements filed by lobbyists and principals as prescribed; to redefine terms; to provide a fee for late filing of statements as prescribed; to authorize fee reductions and filing exemptions; to change restrictions on eligibility for reappointment to the Nebraska Accountability and Disclosure Commission; to change provisions relating to appeal procedure; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 49-1401, Revised Statutes Supplement, 1990, be amended to read as follows:

49-1401. Sections 49-1401 to 49-14,140 and sections 7 and 8 of this act shall be known and may be cited as the Nebraska Political Accountability and Disclosure Act. Any reference to sections 49-1401 to 49-14,138 shall be construed to include sections 49-1499.01 and 49-14,103.01 to 49-14,103.07. After August 25, 1989, any reference to sections 49-1401 to 49-14,138 shall be construed to include sections 49-14,123.01 and 49-14,140.

Sec. 2. 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 the Nebraska Political Accountability and Disclosure Act, unless the context otherwise requires, the definitions found in sections 49-1404 to 49-1444 shall be used.

Sec. 3. That section 49-1434, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

49-1434. (1) Principal shall mean a person who authorizes a lobbyist to lobby in behalf of that principal.

(2) Lobbyist shall mean a person who is authorized to lobby on behalf of a principal, and shall include an officer, agent, attorney, or employee of the principal whose regular duties include lobbying.

(3) Principal or lobbyist shall not include:

(a) A public official or employee of a branch of state government, except the University of Nebraska, or an elected official of a political subdivision who is acting in the course or scope of his or her office or employment;

(b) Any publisher, owner, or working member of the press, radio, or television while disseminating news or editorial comment to the general public in the ordinary course of business;

(c) An employee of a principal or lobbyist whose duties are confined to typing, filing, and other types of clerical office work;

(d) Any person who limits his or her activities (i) to appearances before legislative committees and who so advises the committee at the time of his or her appearance whom he or she represents or that he or she appears at the invitation of a named member of the Legislature or at the direction of the Governor, or (ii) to writing letters or furnishing written material to individual members of the Legislature or to the committees thereof who furnishes to the Clerk of the Legislature a copy of such letter or written material for public inspection; or

(e) Any individual who does not engage in lobbying for another person, as defined in section 49-1438; or

(f) An employee of a political subdivision whose regular employment duties do not ordinarily include lobbying activities as long as such employee is not additionally compensated for such lobbying activities, other than his or her regular salary, and is not reimbursed for any lobbying expenditures except his or her travel, lodging, and meal expenses and the meal expenses for members of the Legislature.

Sec. 4. That section 49-1483, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1483. Every registered lobbyist for each of his or her principals, and every principal employing a registered lobbyist, shall file a separate statement

for each month the Legislature is in session on one or more days, and shall file a separate statement once during each interim period between regular sessions of the Legislature. If neither a principal or lobbyist makes any expenditures in connection with a special session of the Legislature, a monthly report for such special session shall not be required. All such statements shall be filed with the Clerk of the Legislature within fifteen days after the end of the month or interim period for which the statement is required. Each statement shall show the following:

(1) The total amount received or expended directly or indirectly for the purpose of carrying on lobbying activities, with the following categories of expenses each being separately itemized: (a) Miscellaneous expenses; 7 (b) entertainment, including expenses for food and drink; 7 (c) lodging expenses; 7 (d) travel expenses; 7 and (e) lobbyist fees for lobbyist services, except that when a principal retains the services of a person who has only part-time lobbying duties, only the compensation paid which is reasonably attributable to influencing legislative action need be reported; and

(2) A detailed statement of any money which is loaned, promised, or paid by a lobbyist, principal, or anyone acting on behalf of either to an official in the executive or legislative branch or member of such official's staff. The detailed statement shall identify the recipient and the amount and the terms of the loan, promise, or payment. to any legislator or to anyone on his or her behalf.

The lobbyist shall also file any changes or corrections to the information set forth in the registration required pursuant to section 49-1480 so as to reflect the correctness of such information as of the end of the month or other period for which such statement is required by this section.

Sec. 5. That section 49-1488, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1488. Within thirty forty-five days of the completion of each every regular session of the Legislature, each registered lobbyist shall submit to the Clerk of the Legislature a statement listing the legislation upon which the such lobbyist acted, including identification by number of any bill or resolution and the position taken by such the lobbyist.

If a lobbyist does not expect to receive lobbying receipts from or does not expect to make

lobbying expenditures for a principal, the monthly statement and a statement for each interim period required pursuant to section 49-1483 as to such principal need not be filed by the lobbyist if the principal and lobbyist both certify such facts in writing to the Clerk of the Legislature. A lobbyist exempt from filing a monthly statement and a statement for each interim period, pursuant to this section, shall (1) file a statement of activity pursuant to this section and (2) resume or commence filing a monthly and an interim statement with regard to such principal starting with the month or period the lobbyist receives lobbying receipts or makes lobbying expenditures for such principal.

If a principal does not expect to receive lobbying receipts or does not expect to make lobbying expenditures, the monthly statement and a statement for each interim period required pursuant to section 49-1483 need not be filed by the principal if the principal and lobbyist both certify such facts in writing to the Clerk of the Legislature. A principal exempt from filing a monthly statement and a statement for each interim period, pursuant to this section, shall commence or resume filing a monthly and an interim statement starting with the month or period the principal receives lobbying receipts or makes lobbying expenditures.

Sec. 6. That section 49-1490, Reissue Revised Statutes of Nebraska, 1943, 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 any 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, or honorarium or the rendering or deposit of money, services, or anything of value, the value of which exceeds ~~twenty-five~~ fifty 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;

(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 the spouse of any such relative;

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

(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. 7. (1) Every lobbyist who fails to file a monthly statement, a statement for each interim period, 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.

Sec. 8. By rule and regulation, the commission may provide for other criteria for an exemption from the filing of the monthly statement and the statement required for each interim period by lobbyists and principals, pursuant to section 49-1483, if the commission finds all of the following: (1) That strict adherence to the Nebraska Political Accountability and Disclosure Act would result in duplicative reporting; (2) that the exemption would not result in information on lobbyists' or principals' receipts or expenditures being withheld from the public;

and (3) that the exemption will not frustrate the purposes of the act.

Sec. 9. That section 49-14,113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-14,113. An individual appointed to fill a vacancy, occurring other than by the expiration of a term of office, shall be appointed for the unexpired term of the member such individual succeeds and shall be eligible for appointment to one full six-year term thereafter. ~~7 PROVIDED, that not more than three years remain in the unexpired term. The individuals initially appointed may be reappointed if they were initially appointed to serve not more than three years.~~

Sec. 10. That section 49-14,131, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-14,131. Any ~~action~~ final decision by the commission in a contested case or a declaratory ruling made pursuant to the Nebraska Political Accountability and Disclosure Act may be appealed. ~~The 7 and the~~ appeal shall be in accordance with the Administrative Procedure Act.

Sec. 11. That original sections 49-1403, 49-1434, 49-1483, 49-1488, 49-1490, 49-14,113, and 49-14,131, Reissue Revised Statutes of Nebraska, 1943, and section 49-1401, Revised Statutes Supplement, 1990, are repealed.

Sec. 12. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.