

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 166

Introduced by Crawford, 45; Chambers, 11.

Read first time January 12, 2015

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Nebraska Political Accountability and
2 Disclosure Act; to amend sections 49-1446.01 and 49-1462, Reissue
3 Revised Statutes of Nebraska, and sections 49-1446, 49-1459,
4 49-14,123, and 49-14,126, Revised Statutes Cumulative Supplement,
5 2014; to require certain committees to file statements from
6 financial institutions as prescribed; to prohibit candidate
7 committees from making loans of money; to change provisions relating
8 to campaign statements; to change the amount authorized for civil
9 penalties; to authorize an order of restitution; to harmonize
10 provisions; and to repeal the original sections.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 49-1446, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 49-1446 (1) Each committee shall have a treasurer who is a qualified
4 elector of this state. A candidate may appoint himself or herself as the
5 candidate committee treasurer.

6 (2) Each committee shall designate one account in a financial
7 institution in this state as an official depository for the purpose of
8 depositing all contributions which it receives in the form of or which
9 are converted to money, checks, or other negotiable instruments and for
10 the purpose of making all expenditures. Secondary depositories shall be
11 used for the sole purpose of depositing contributions and promptly
12 transferring the deposits to the committee's official depository.

13 (3) Each committee, other than a political party committee, shall
14 submit an end-of-the-year balance statement of the official depository
15 from the financial institution as of the end of the calendar year with
16 the postelection campaign statement under subsection (1) of section
17 49-1459, with the statement of exemption due after the general election
18 under subsection (2) of section 49-1459, or with the campaign statement
19 filed under section 49-1462. The end-of-the-year balance statement shall
20 consist of either (a) a copy of a monthly statement showing the account
21 balance as of December 31, whether on paper or in electronic format,
22 provided by the financial institution to the account holder or (b) a
23 report from the financial institution of the account balance as of
24 December 31 on a form provided by the commission. The end-of-the-year
25 balance statement does not need to include the account number and shall
26 not be considered a public record for purposes of sections 84-712 to
27 84-712.09. The commission may record the amount of the account balance
28 but shall destroy the end-of-the-year balance statement within ten
29 business days after it receives the balance statement.

30 (4 ~~3~~) No contribution shall be accepted and no expenditure shall be
31 made by a committee which has not filed a statement of organization and

1 which does not have a treasurer. When the office of treasurer in a
2 candidate committee is vacant, the candidate shall be the treasurer until
3 the candidate appoints a new treasurer.

4 (5 4) No expenditure shall be made by a committee without the
5 authorization of the treasurer or the assistant treasurer. The
6 contributions received or expenditures made by a candidate or an agent of
7 a candidate shall be considered received or made by the candidate
8 committee.

9 (6 5) Contributions received by an individual acting in behalf of a
10 committee shall be reported promptly to the committee's treasurer not
11 later than five days before the closing date of any campaign statement
12 required to be filed by the committee and shall be reported to the
13 committee treasurer immediately if the contribution is received less than
14 five days before the closing date.

15 (7 6) A contribution shall be considered received by a committee
16 when it is received by the committee treasurer or a designated agent of
17 the committee treasurer notwithstanding the fact that the contribution is
18 not deposited in the official depository by the reporting deadline.

19 (8 7) Contributions received by a committee shall not be commingled
20 with any funds of an agent of the committee or of any other person except
21 for funds received or disbursed by a separate segregated political fund
22 for the purpose of supporting or opposing candidates and committees in
23 elections in states other than Nebraska and candidates for federal
24 office, as provided in section 49-1469.06, including independent
25 expenditures made in such elections.

26 (9 8) Any person who violates this section shall be guilty of a
27 Class IV misdemeanor.

28 Sec. 2. Section 49-1446.01, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 49-1446.01 (1) No committee, other than a political party committee,
31 may expend funds except (a) to make an expenditure, as defined in

1 subsection (1), (2), or (3) of section 49-1419, except that a candidate
2 committee shall not loan money, or (b) or as provided in section
3 49-1446.03 or 49-1469.06, except that a candidate committee shall not
4 loan money.

5 (2) A candidate committee of an officeholder may make expenditures
6 for the payment of installation and use of telephone and telefax machines
7 located in an officeholder's public office and used by such officeholder.

8 (3) Any committee, including a political party committee, may invest
9 funds in investments authorized for the state investment officer in the
10 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
11 Act. Nothing in this section shall prohibit a separate segregated
12 political fund from disbursing funds as provided in section 49-1469.06.

13 Sec. 3. Section 49-1459, Revised Statutes Cumulative Supplement,
14 2014, is amended to read:

15 49-1459 (1) Except as provided in subsection (2) of this section,
16 campaign statements as required by the Nebraska Political Accountability
17 and Disclosure Act shall be filed according to the following schedule:

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

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

26 (c) A postelection campaign statement shall be filed not later than
27 the fortieth day following the primary election and the seventieth day
28 following the general election. The closing date for a postelection
29 campaign statement to be filed under this subdivision after the primary
30 election shall be the thirty-fifth day following the election. The
31 closing date for a postelection campaign statement to be filed under this

1 subdivision after the general election shall be December 31 of the year
2 in which the election is held. If all liabilities of a candidate and
3 committee are paid before the closing date and additional contributions
4 are not expected, the campaign statement may be filed at any time after
5 the election, but not later than the dates provided under this
6 subdivision. Each committee, other than a political party committee,
7 shall submit an end-of-the-year balance statement from the financial
8 institution as of the end of the calendar year as described in subsection
9 (3) of section 49-1446 with the postelection campaign statement after the
10 general election under this subsection.

11 (2) Any committee may file a statement with the commission
12 indicating that the committee does not expect to receive contributions or
13 make expenditures of more than one thousand dollars in the calendar year
14 of an election. Such statement shall be signed by the committee treasurer
15 or the assistant treasurer, and in the case of a candidate committee, it
16 shall also be signed by the candidate. Such statement shall be filed on
17 or before the thirtieth day before the election. A committee which files
18 a statement pursuant to this subsection is not required to file campaign
19 statements according to the schedule prescribed in subsection (1) of this
20 section but shall file a ~~sworn~~ statement of exemption not later than the
21 fortieth day following the primary election and the seventieth day
22 following the general election stating only that the committee did not,
23 in fact, receive or expend an amount in excess of one thousand dollars.
24 Each committee, other than a political party committee, shall submit an
25 end-of-the-year balance statement from the financial institution as of
26 the end of the calendar year as described in subsection (3) of section
27 49-1446 with the statement of exemption due after the general election
28 under this subsection. If the committee receives contributions or makes
29 expenditures of more than one thousand dollars during the election year,
30 the committee is then subject to all campaign filing requirements under
31 subsection (1) of this section.

1 Sec. 4. Section 49-1462, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 49-1462 Unless otherwise required to file an election campaign
4 statement as required by section 49-1459, a committee shall file a
5 campaign statement with a closing date of December 31 of such year not
6 later than January 31 of the following year. The period covered by the
7 campaign statement filed pursuant to this section shall begin from the
8 day after the closing date of the previous campaign statement filed. Each
9 committee, other than a political party committee, shall submit an end-
10 of-the-year balance statement from the financial institution as of the
11 end of the calendar year as described in subsection (3) of section
12 49-1446 with the campaign statement under this section.

13 Sec. 5. Section 49-14,123, Revised Statutes Cumulative Supplement,
14 2014, is amended to read:

15 49-14,123 In addition to any other duties prescribed by law, the
16 commission shall:

17 (1) Adopt and promulgate rules and regulations to carry out the
18 Nebraska Political Accountability and Disclosure Act pursuant to the
19 Administrative Procedure Act;

20 (2) Prescribe forms for statements and reports required to be filed
21 pursuant to the Nebraska Political Accountability and Disclosure Act and
22 furnish such forms to persons required to file such statements and
23 reports;

24 (3) Prepare and publish one or more manuals explaining the duties of
25 all persons and other entities required to file statements and reports by
26 the act and setting forth recommended uniform methods of accounting and
27 reporting for such filings;

28 (4) Accept and file any reasonable amount of information voluntarily
29 supplied that exceeds the requirements of the act;

30 (5) Make statements and reports filed with the commission available
31 for public inspection and copying during regular office hours and make

1 copying facilities available at a cost of not more than fifty cents per
2 page;

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

6 (7) Prepare and publish summaries of statements and reports filed
7 with the commission and special reports and technical studies to further
8 the purposes of the act;

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

12 (9) Preserve statements and reports filed with the commission for a
13 period of not less than five years from the date of receipt except as
14 otherwise provided for end-of-the-year balance statements under
15 subsection (3) of section 49-1446;

16 (10) Issue and publish advisory opinions on the requirements of the
17 act upon the request of a person or government body directly covered or
18 affected by the act. Any such opinion rendered by the commission, until
19 amended or revoked, shall be binding on the commission in any subsequent
20 charges concerning the person or government body who requested the
21 opinion and who acted in reliance on it in good faith unless material
22 facts were omitted or misstated by the person or government body in the
23 request for the opinion;

24 (11) Act as the primary civil enforcement agency for violations of
25 the Nebraska Political Accountability and Disclosure Act and the rules or
26 regulations adopted and promulgated thereunder;

27 (12) Receive all late filing fees, civil penalties, and interest
28 imposed pursuant to the Nebraska Political Accountability and Disclosure
29 Act and remit all such funds to the State Treasurer for credit to the
30 Nebraska Accountability and Disclosure Commission Cash Fund; and

31 (13) Prepare and distribute to the appropriate local officials

1 statements of financial interest, campaign committee organization forms,
2 filing instructions and forms, and such other forms as the commission may
3 deem appropriate.

4 Sec. 6. Section 49-14,126, Revised Statutes Cumulative Supplement,
5 2014, is amended to read:

6 49-14,126 The commission, upon finding that there has been a
7 violation of the Nebraska Political Accountability and Disclosure Act or
8 any rule or regulation promulgated thereunder, may issue an order
9 requiring the violator to do one or more of the following:

- 10 (1) Cease and desist from the violation;
- 11 (2) File any report, statement, or other information as required;
- 12 (3) Pay a civil penalty of not more than five ~~two~~ thousand dollars
13 for each violation of the act, rule, or regulation; ~~or~~
- 14 (4) Pay the costs of the hearing in a contested case if the violator
15 did not appear at the hearing personally or by counsel; or ~~-~~
- 16 (5) Make restitution to any committee, government body, or person.

17 Sec. 7. Original sections 49-1446.01 and 49-1462, Reissue Revised
18 Statutes of Nebraska, and sections 49-1446, 49-1459, 49-14,123, and
19 49-14,126, Revised Statutes Cumulative Supplement, 2014, are repealed.