

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 747

Introduced by Avery, 28.

Read first time January 09, 2014

Committee:

A BILL

1 FOR AN ACT relating to the Nebraska Political Accountability and
2 Disclosure Act; to amend sections 49-1401, 49-1403, and
3 49-1476.01, Reissue Revised Statutes of Nebraska, and
4 sections 49-1413, 49-1467, 49-1469, and 49-1479.02,
5 Revised Statutes Supplement, 2013; to define and redefine
6 terms; to require reporting regarding electioneering
7 communication; to prohibit electioneering communications
8 by a lottery contractor; to harmonize provisions; to
9 provide an operative date; and to repeal the original
10 sections.

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

1 Section 1. Section 49-1401, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 49-1401 Sections 49-1401 to 49-14,141 and section 4 of
4 this act shall be known and may be cited as the Nebraska Political
5 Accountability and Disclosure Act.

6 Sec. 2. Section 49-1403, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 49-1403 For purposes of the Nebraska Political
9 Accountability and Disclosure Act, unless the context otherwise
10 requires, the definitions found in sections 49-1404 to 49-1444 and
11 section 4 of this act shall be used.

12 Sec. 3. Section 49-1413, Revised Statutes Supplement,
13 2013, is amended to read:

14 49-1413 (1) Committee shall mean (a) any combination of
15 two or more individuals which receives contributions or makes
16 expenditures of five thousand dollars or more in a calendar year for
17 the purpose of influencing or attempting to influence the action of
18 the voters for or against the nomination or election of one or more
19 candidates or the qualification, passage, or defeat of one or more
20 ballot questions or (b) a person whose primary purpose is to receive
21 contributions or make expenditures and who receives or makes
22 contributions or expenditures of five thousand dollars or more in a
23 calendar year for the purpose of influencing or attempting to
24 influence the action of the voters for or against the nomination or
25 election of one or more candidates or the qualification, passage, or

1 defeat of one or more ballot questions, except that an individual,
2 other than a candidate, shall not constitute a committee.

3 (2) Except as otherwise provided in section 49-1445, a
4 committee shall be considered formed and subject to the Nebraska
5 Political Accountability and Disclosure Act upon raising, receiving,
6 or spending five thousand dollars in a calendar year as prescribed in
7 this section.

8 (3) A corporation, labor organization, industry, trade,
9 or professional association, limited liability company, or limited
10 liability partnership is not a committee if it makes expenditures,
11 electioneering communications, or provides personal services pursuant
12 to sections 49-1469 to 49-1469.08.

13 Sec. 4. (1) Electioneering communication means any
14 communication which:

15 (a) Refers to a clearly identified candidate;

16 (b) Is publicly distributed in the thirty days
17 immediately preceding an election for the office sought by the
18 clearly identified candidate; and

19 (c) Is directed to the electorate of the office sought by
20 the clearly identified candidate.

21 (2) Electioneering communication does not include:

22 (a) A contribution or expenditure;

23 (b) A communication by a television station, radio
24 station, newspaper, magazine, or other periodical or publication for
25 any news story, commentary, or editorial in support of or opposition

1 to a candidate for elective office;

2 (c) A candidate debate or forum or a communication which
3 gives notice of a candidate debate or forum;

4 (d) A communication while the Legislature is in session
5 about specifically named pending legislation;

6 (e) The posting on the Internet or other publication or
7 distribution of a voter guide; or

8 (f) A communication by a membership organization to one
9 or more of the recognized members of the membership organization if
10 any one or more of the following applies:

11 (i) The member has submitted an email to the membership
12 organization indicating an intent to be a member;

13 (ii) The member has submitted a written letter or other
14 written statement to the membership organization indicating an intent
15 to be a member; or

16 (iii) The member has paid dues to the membership
17 organization.

18 (3) For purposes of this section:

19 (a) Clearly identified candidate means the candidate
20 whose name, nickname, photograph, or drawing appears in the
21 communication or whose identity is otherwise apparent in the
22 communication through an unambiguous reference or through an
23 unambiguous reference to the candidate's status as a candidate; and

24 (b) Voter guide means a document or other compilation of
25 the responses of candidates to a survey or questionnaire if all known

1 candidates seeking election to the same office are given the
 2 opportunity to respond to the survey or questionnaire, all responses
 3 received from candidates seeking election to the same office by the
 4 deadline designated in or with the survey or questionnaire are
 5 included in the document or compilation, and the document or other
 6 compilation does not express support for or opposition to the
 7 election of any candidate.

8 Sec. 5. Section 49-1467, Revised Statutes Supplement,
 9 2013, is amended to read:

10 49-1467 (1) Any person, other than a committee, who makes
 11 an independent expenditure advocating the election of a candidate or
 12 the defeat of a candidate's opponents or the qualification, passage,
 13 or defeat of a ballot question or who makes an electioneering
 14 communication, which is in an amount of two hundred fifty dollars or
 15 more, shall file a report of the independent expenditure or
 16 electioneering communication, within ten days, with the commission.

17 (2) The report shall be made on an independent
 18 expenditure or electioneering communication report form provided by
 19 the commission and shall include:

20 ~~the~~ (a) The date of the expenditure or electioneering
 21 communication; 7

22 ~~a~~ (b) A brief description of the nature of the
 23 expenditure or electioneering communication; 7

24 ~~the~~ (c) The amount of the expenditure electioneering
 25 communication; 7

1 ~~the~~ (d) The name and address of the person to whom it was
2 paid; -

3 ~~the~~ (e) The name and address of the person filing the
4 report; - ~~and~~

5 ~~the~~ (f) The name, address, occupation, employer, and
6 principal place of business of each person who contributed two
7 hundred fifty dollars or more to the expenditure or electioneering
8 communication; -

9 (g) The identity of the candidate or ballot question
10 supported or opposed by an independent expenditure; and

11 (h) The name of the candidate who is the subject of an
12 electioneering communication.

13 (3) Any person who fails to file a report of an
14 independent expenditure or electioneering communication with the
15 commission shall pay to the commission a late filing fee of twenty-
16 five dollars for each day the statement remains not filed in
17 violation of this section, not to exceed seven hundred fifty dollars.

18 (4) Any person who violates this section shall be guilty
19 of a Class IV misdemeanor.

20 Sec. 6. Section 49-1469, Revised Statutes Supplement,
21 2013, is amended to read:

22 49-1469 (1) A corporation, labor organization, industry,
23 trade, or professional association, limited liability company, or
24 limited liability partnership, which is organized under the laws of
25 the State of Nebraska or doing business in this state and which is

1 not a committee, may:

2 (a) Make an expenditure;

3 (b) Make a contribution; ~~and~~

4 (c) Provide personal services; and -

5 (d) Make an electioneering communication.

6 (2) Any such entity shall not be required to file reports
7 of independent expenditures or electioneering communications pursuant
8 to section 49-1467, but if it makes a contribution, an ~~or~~
9 expenditure, or an electioneering communication or provides personal
10 services, with a value of two hundred fifty dollars or more, it shall
11 file a report with the commission within ten days after the end of
12 the calendar month in which the contribution, ~~or~~ expenditure, or
13 electioneering communication is made or the personal services are
14 provided. The report shall include:

15 (a) The nature, date, and value of the contribution or
16 expenditure and the name of the candidate or committee or a
17 description of the ballot question to or for which the contribution
18 or expenditure was made; ~~and~~

19 (b) The nature, date, and value of the electioneering
20 communication and the name of the candidate identified in the
21 electioneering communication; and

22 ~~(b)~~ (c) A description of any personal services provided,
23 the date the services were provided, and the name of the candidate or
24 committee or a description of the ballot question to or for which the
25 personal services were provided.

1 (3) Any entity specified in subsection (1) of this
2 section may not receive contributions unless it establishes and
3 administers a separate segregated political fund which shall be
4 utilized only in the manner set forth in sections 49-1469.05 and
5 49-1469.06.

6 Sec. 7. Section 49-1476.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 49-1476.01 (1) A person who is awarded a contract by the
9 Director of the Lottery Division as a lottery contractor for a major
10 procurement as defined in section 9-803 may not make a contribution
11 to or an independent expenditure for or an electioneering
12 communication about a candidate for a state elective office during
13 the term of the contract or for three years following the most recent
14 award or renewal of the contract.

15 (2) A person shall be considered to have made a
16 contribution, an ~~or~~-independent expenditure, or an electioneering
17 communication if the contribution, ~~or~~-independent expenditure, or
18 electioneering communication is made by the person, by an officer of
19 the person, by a separate segregated political fund established and
20 administered by the person as provided in sections 49-1469 to
21 49-1469.08, or by anyone acting on behalf of the person, officer, or
22 fund.

23 (3) A person who knowingly or intentionally violates this
24 section shall be guilty of a Class IV felony.

25 Sec. 8. Section 49-1479.02, Revised Statutes Supplement,

1 2013, is amended to read:

2 49-1479.02 (1) A major out-of-state contributor shall
3 file with the commission an out-of-state contribution report. An out-
4 of-state contribution report shall be filed on a form prescribed by
5 the commission within ten days after the end of the calendar month in
6 which a person becomes a major out-of-state contributor. For the
7 remainder of the calendar year, a major out-of-state contributor
8 shall file an out-of-state contribution report with the commission
9 within ten days after the end of each calendar month in which the
10 contributor makes a contribution or expenditure.

11 (2) An out-of-state contribution report shall disclose as
12 to each contribution or expenditure not previously reported (a) the
13 amount, nature, value, and date of the contribution or expenditure,
14 (b) the name and address of the committee, candidate, or person who
15 received the contribution or expenditure, (c) the name and address of
16 the person filing the report, and (d) the name, address, occupation,
17 and employer of each person making a contribution of two hundred
18 dollars or more in the calendar year to the person filing the report.

19 (3) This section shall not apply to (a) a person who
20 files a report of a contribution, ~~or~~ an expenditure, or an
21 electioneering communication pursuant to subsection (2) of section
22 49-1469, (b) a person required to file a report or campaign statement
23 pursuant to section 49-1469.07, (c) a committee having a statement of
24 organization on file with the commission, or (d) a person or
25 committee registered with the Federal Election Commission.

1 (4) Any person who fails to file an out-of-state
2 contribution report with the commission as required by this section
3 shall pay to the commission a late filing fee of one hundred dollars
4 for each of the first ten days the report remains not filed in
5 violation of this section. After the tenth day, such person shall
6 pay, for each day the report remains not filed, an additional late
7 filing fee of one percent of the amount of the contributions or
8 expenditures which were required to be reported, not to exceed ten
9 percent of the amount of the contributions or expenditures which were
10 required to be reported.

11 Sec. 9. This act becomes operative on January 1, 2015.

12 Sec. 10. Original sections 49-1401, 49-1403, and
13 49-1476.01, Reissue Revised Statutes of Nebraska, and sections
14 49-1413, 49-1467, 49-1469, and 49-1479.02, Revised Statutes
15 Supplement, 2013, are repealed.