

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 758

Introduced by Avery, 28.

Read first time January 04, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to political accountability and disclosure; to
2 amend sections 9-816, 49-1419, 49-1483, 49-1490,
3 49-14,139, and 50-114.05, Reissue Revised Statutes of
4 Nebraska; to redefine a term relating to gifts to Lottery
5 Division officials, employees, and their family members;
6 to change provisions relating to gifts given and
7 statements filed by a lobbyist or principal as
8 prescribed; to eliminate provisions relating to gifts of
9 admissions to state facilities or events; to harmonize
10 provisions; to repeal the original sections; and to
11 outright repeal section 49-1492.01, Reissue Revised
12 Statutes of Nebraska.

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

1 Section 1. Section 9-816, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 9-816 (1) The Tax Commissioner, the director, and other
4 employees of the division or their immediate families shall not,
5 while employed with the division, directly or indirectly (a)
6 knowingly hold a financial interest or acquire stocks, bonds, or any
7 other interest in any entity which is a party or subcontracts with a
8 party to a major procurement with the division or (b) have a
9 financial interest in the ownership or leasing of property used by or
10 for the division.

11 (2) Neither the director, any employee of the division,
12 nor any member of their immediate families shall ask for, offer to
13 accept, or receive any gift, gratuity, or other thing of value which
14 would inure to that person's benefit from (a) any entity contracting
15 or seeking to contract with the state to supply equipment or
16 materials for use by the division, (b) any applicant for a contract
17 to act as a lottery game retailer to be awarded by the division, or
18 (c) any lottery game retailer.

19 (3) No (a) person, corporation, association, or
20 organization contracting or seeking to contract to supply equipment
21 or materials for use by the division, (b) applicant for a contract to
22 act as a lottery game retailer to be awarded by the division, or (c)
23 lottery game retailer shall offer or give the Tax Commissioner, the
24 director, or any employee of the division or a member of his or her
25 immediate family any gift, gratuity, or other thing of value which

1 would inure to the recipient's personal benefit.

2 (4) For purposes of this section:

3 (a) Gift, gratuity, or other thing of value ~~shall mean~~
4 means a payment, subscription, advance, forbearance, honorarium,
5 campaign contribution, or rendering of deposit of money, services, or
6 anything of value, the value of which exceeds twenty-five dollars in
7 any one-month period, unless consideration of equal or greater value
8 is received in return. Gift, gratuity, or other thing of value ~~shall~~
9 does not include:

10 (i) A campaign contribution otherwise reported as
11 required by the Nebraska Political Accountability and Disclosure Act;

12 (ii) A commercially reasonable loan made in the ordinary
13 course of business;

14 (iii) A gift received from a member of the recipient's
15 immediate family or the spouse of any such family member;

16 ~~(iv) A breakfast, luncheon, dinner, or other refreshment~~
17 ~~consisting of food and beverage provided for immediate consumption;~~

18 ~~(v) Any admission to a facility or event;~~

19 ~~(vi) (iv)~~ Any occasional provision of transportation
20 within the State of Nebraska; or

21 ~~(vii) (v)~~ Anything of value received in legitimate
22 furtherance of the objectives of the State Lottery Act; and

23 (b) Member of his or her immediate family ~~shall mean~~
24 means such person's parent, child, brother, sister, or spouse.

25 (5) The director and other employees of the division

1 shall comply with all state laws applicable to ethics in government,
2 conflict of interest, and financial disclosure.

3 (6) Any employee of the division other than the director
4 who violates this section may be removed from his or her position
5 after notice and a hearing before the Tax Commissioner or his or her
6 representative.

7 Sec. 2. Section 49-1419, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 49-1419 (1) Expenditure ~~shall mean~~ means a payment,
10 donation, loan, pledge, or promise of payment of money or anything of
11 ascertainable monetary value for goods, materials, services, or
12 facilities in assistance of, or in opposition to, the nomination or
13 election of a candidate or the qualification, passage, or defeat of a
14 ballot question. An offer or tender of an expenditure is not an
15 expenditure if expressly and unconditionally rejected or returned.

16 (2) Expenditure ~~shall include~~ includes a contribution or
17 a transfer of anything of ascertainable monetary value for purposes
18 of influencing the nomination or election of any candidate or the
19 qualification, passage, or defeat of a ballot question.

20 (3) Expenditure ~~shall~~ does not include:

21 (a) An amount paid pursuant to a pledge or promise to the
22 extent the amount was previously reported as an expenditure;

23 (b) An expenditure for communication by a person strictly
24 with the person's paid members or shareholders;

25 (c) An expenditure for communication on a subject or

1 issue if the communication does not support or oppose a ballot
2 question or candidate by name or clear inference;

3 (d) An expenditure by a broadcasting station, newspaper,
4 magazine, or other periodical or publication for any news story,
5 commentary, or editorial in support of or opposition to a candidate
6 for elective office or a ballot question in the regular course of
7 publication or broadcasting; or

8 (e) An expenditure for nonpartisan voter registration
9 activities. This subdivision ~~shall~~does not apply if a candidate or a
10 group of candidates sponsors, finances, or is identified by name with
11 the activity. This subdivision ~~shall apply~~applies to an activity
12 performed pursuant to the Election Act by an election commissioner or
13 other registration official who is identified by name with the
14 activity.

15 (4) Expenditure for purposes of sections 49-1480 to
16 ~~49-1492.01 shall mean~~49-1492 means an advance, conveyance, deposit,
17 distribution, transfer of funds, loan, payment, pledge, or
18 subscription of money or anything of value and any contract,
19 agreement, promise, or other obligation, whether or not legally
20 enforceable, to make an expenditure. Expenditure ~~shall~~does not
21 include payments for transportation by lobbyists or the cost of
22 communicating positions from a principal to a lobbyist or from a
23 lobbyist to a principal.

24 Sec. 3. Section 49-1483, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 49-1483 (1) Every lobbyist who is registered or required
2 to be registered shall, for each of his or her principals, file a
3 separate statement for each calendar quarter with the Clerk of the
4 Legislature within thirty days after the end of each calendar
5 quarter. Every principal employing a lobbyist who is registered or
6 required to be registered shall file a separate statement for each
7 calendar quarter with the Clerk of the Legislature within thirty days
8 after the end of each calendar quarter.

9 (2) Each statement shall show the following:

10 (a) The total amount received or expended directly or
11 indirectly for the purpose of carrying on lobbying activities, with
12 the following categories of expenses each being separately itemized:

13 (i) Miscellaneous expenses; (ii) entertainment, including expenses
14 for food and drink as provided in subdivision (3)(a) of this section;
15 (iii) lodging expenses; (iv) travel expenses; (v) lobbyist
16 compensation, except that when a principal retains the services of a
17 person who has only part-time lobbying duties, only the compensation
18 paid which is reasonably attributable to influencing legislative
19 action need be reported; (vi) lobbyist expense reimbursement; ~~(vii)~~
20 ~~admissions to a state owned facility or a state sponsored industry or~~
21 ~~event as provided in subdivision (3)(a) of this section; and (viii)~~
22 (vii) extraordinary office expenses directly related to the practice
23 of lobbying;

24 (b) A detailed statement of any money which is loaned,
25 promised, or paid by a lobbyist, a principal, or anyone acting on

1 behalf of either to an official in the executive or legislative
2 branch or member of such official's staff. The detailed statement
3 shall identify the recipient and the amount and the terms of the
4 loan, promise, or payment; and

5 (c) The total amount expended for gifts, ~~other than~~
6 ~~admissions to a state owned facility or a state sponsored industry or~~
7 ~~event, as provided in subdivision (3)(a) of this section.~~

8 (3)(a) Each statement shall disclose the aggregate
9 expenses for entertainment, ~~admissions,~~ and gifts for each of the
10 following categories of elected officials: Members of the
11 Legislature; and officials in the executive branch of the state. Such
12 disclosures shall be in addition to the entertainment expenses
13 reported under subdivision (2)(a)(ii) of this section, ~~admissions~~
14 ~~reported under subdivision (2)(a)(vii) of this section,~~ and gifts
15 reported under subdivision (2)(c) of this section.

16 (b) For purposes of reporting aggregate expenses for
17 entertainment for members of the Legislature and officials in the
18 executive branch of the state as required by subdivision (3)(a) of
19 this section, the reported amount shall include the actual amounts
20 attributable to entertaining members of the Legislature and officials
21 in the executive branch of the state. When the nature of an event at
22 which members of the Legislature are entertained makes it impractical
23 to determine the actual cost, the cost of entertainment shall be the
24 average cost per person multiplied by the number of members of the
25 Legislature in attendance. When the nature of an event at which

1 officials in the executive branch of the state are entertained makes
2 it impractical to determine the actual cost, the cost of
3 entertainment shall be the average cost per person multiplied by the
4 number of officials in the executive branch of the state in
5 attendance. For purposes of this subdivision, the average cost per
6 person means the cost of the event divided by the number of persons
7 expected to attend the event.

8 (4) The lobbyist shall also file any changes or
9 corrections to the information set forth in the registration required
10 pursuant to section 49-1480 so as to reflect the correctness of such
11 information as of the end of each calendar quarter for which such
12 statement is required by this section.

13 (5) If a lobbyist does not expect to receive lobbying
14 receipts from or does not expect to make lobbying expenditures for a
15 principal, the quarterly statements required by this section as to
16 such principal need not be filed by the lobbyist if the principal and
17 lobbyist both certify such facts in writing to the Clerk of the
18 Legislature. A lobbyist exempt from filing quarterly statements
19 pursuant to this section shall (a) file a statement of activity
20 pursuant to section 49-1488 and (b) resume or commence filing
21 quarterly statements with regard to such principal starting with the
22 quarterly period the lobbyist receives lobbying receipts or makes
23 lobbying expenditures for such principal.

24 (6) If a principal does not expect to receive lobbying
25 receipts or does not expect to make lobbying expenditures, the

1 quarterly statements required pursuant to this section need not be
2 filed by the principal if the principal and lobbyist both certify
3 such facts in writing to the Clerk of the Legislature. A principal
4 exempt from filing quarterly statements pursuant to this section
5 shall commence or resume filing quarterly statements starting with
6 the quarterly period the principal receives lobbying receipts or
7 makes lobbying expenditures.

8 (7) A principal shall report the name and address of
9 every person from whom it has received more than one hundred dollars
10 in any one month for lobbying purposes.

11 (8) For purposes of sections 49-1480 to ~~49-1492.01,~~
12 49-1492, calendar quarter ~~shall mean means~~ the first day of January
13 through the thirty-first day of March, the first day of April through
14 the thirtieth day of June, the first day of July through the
15 thirtieth day of September, and the first day of October through the
16 thirty-first day of December.

17 Sec. 4. Section 49-1490, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 49-1490 (1) No principal, lobbyist, or person acting on
20 behalf of either shall within one calendar month give any gifts with
21 an aggregate value of more than fifty dollars to the following:

22 (a) An official or a member of the official's staff in
23 the executive branch of state government;

24 (b) An official or a member of the official's staff in
25 the legislative branch of state government; or

1 (c) A member of the immediate family of an official in
2 the executive or legislative branch of state government.

3 (2) No official or member of the official's staff in the
4 executive or legislative branch of state government or member of the
5 official's immediate family shall within one calendar month accept
6 from a principal, lobbyist, or person acting on behalf of either any
7 gifts with an aggregate value of more than fifty dollars.

8 ~~(3) An admission to a state owned facility or a state-~~
9 ~~sponsored industry or event may be given by any sponsoring agency,~~
10 ~~political subdivision, or publicly funded postsecondary educational~~
11 ~~institution and accepted regardless of value.~~

12 ~~(4)~~ (3) Any person who knowingly and intentionally
13 violates this section shall be guilty of a Class III misdemeanor.

14 Sec. 5. Section 49-14,139, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 49-14,139 The county clerk or election commissioner in
17 each county shall distribute forms prepared by the commission to any
18 person required to file any statement or report pursuant to the
19 Nebraska Political Accountability and Disclosure Act other than forms
20 or statements under sections 49-1480 to ~~49-1492.01.~~ 49-1492. Such
21 forms ~~shall include,~~ include, but are not ~~be~~ limited to, filing forms
22 and instructions, statements of financial interest, and campaign
23 committee organization forms.

24 Sec. 6. Section 50-114.05, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 50-114.05 The Clerk of the Legislature Cash Fund is
2 hereby created. The fund shall consist of funds received by the Clerk
3 of the Legislature pursuant to sections 49-1480.01 and 49-1482. The
4 fund shall be used by the Clerk of the Legislature to perform the
5 duties required by sections 49-1480 to ~~49-1492.01, 49-1492,~~ except
6 that transfers may be made from the fund to the General Fund at the
7 direction of the Legislature. Any money in the Clerk of the
8 Legislature Cash Fund available for investment shall be invested by
9 the state investment officer pursuant to the Nebraska Capital
10 Expansion Act and the Nebraska State Funds Investment Act.

11 Sec. 7. Original sections 9-816, 49-1419, 49-1483,
12 49-1490, 49-14,139, and 50-114.05, Reissue Revised Statutes of
13 Nebraska, are repealed.

14 Sec. 8. The following section is outright repealed:
15 Section 49-1492.01, Reissue Revised Statutes of Nebraska.