

LEGISLATIVE BILL 872

Approved by the Governor April 19, 1994

Introduced by Moore, 24

AN ACT relating to government; to amend sections 49-1482, 49-1484, 49-1486, and 75-104, Reissue Revised Statutes of Nebraska, 1943, sections 49-1401, 49-1483, 49-1483.02, 49-1485, 49-1488, 49-1488.01, 49-14,123, and 49-14,140, Revised Statutes Supplement, 1992, section 75-128, Revised Statutes Supplement, 1993, and Laws 1993, LB 541, sections 8 and 229; to provide and change fees for registration of lobbyists; to provide and change reporting requirements for lobbyists and principals under the Nebraska Political Accountability and Disclosure Act; to change the registration period; to change duties of the Clerk of the Legislature; to provide for and change the distribution of certain funds; to create a fund; to change provisions relating to certain expenses and hearings of the Public Service Commission as prescribed; to harmonize provisions; to appropriate funds to aid in carrying out the provisions of Legislative Bill 872, Ninety-third Legislature, Second Session, 1994; to reduce appropriations; to state intent; to provide operative dates; 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, 1992, be amended to read as follows:

49-1401. Sections 49-1401 to 49-14,140 and sections 2, 5, and 15 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. (1) The Clerk of the Legislature shall collect a fee of one hundred dollars for an application for registration by a lobbyist for each principal if the lobbyist receives or will receive compensation for such lobbying. Except as provided by section 49-1434, a lobbyist who receives compensation shall include an individual who is an employee or member of a principal whose duties of employment, office, or membership include engaging in lobbying activities. A fee of fifteen dollars shall be collected for an application by a lobbyist for each principal if the lobbyist is not receiving and will not be receiving compensation for such lobbying. Any lobbyist who receives compensation who did not anticipate receiving such compensation at the time of application for registration shall, within five days of the receipt of any compensation, file an amended registration form which shall be accompanied by an additional fee of eighty-five dollars for such year.

(2) The registration of a lobbyist for each of his or her principals may be renewed by the payment of a fee as provided by subsection (1) of this section. Such fee shall be paid to the Clerk of the Legislature on or before December 31 of each calendar year. The registration of a lobbyist for each of his or her principals shall terminate as of the end of the calendar year for which the lobbyist registered unless the registration is renewed as provided in this section.

Sec. 3. That section 49-1482, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1482. The Clerk of the Legislature shall charge a fee of thirty-five dollars pursuant to section 2 of this act for each application for registration by a lobbyist for each a different principal, and shall issue a certificate of identification to each registered lobbyist. Such fees when collected shall be deposited in the state treasury and by the State Treasurer placed in the state General Fund remitted to the State Treasurer to be credited equally to the Nebraska Accountability and Disclosure Commission Cash Fund and to the Clerk of the Legislature Cash Fund.

Sec. 4. That section 49-1483, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1483. (1) 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 calendar quarter 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 calendar quarter.

Each statement shall show the following:

(1) (a) 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)~~ (i) Miscellaneous expenses; ~~(b)~~ (ii) entertainment, including expenses for food and drink; ~~(c)~~ (iii) lodging expenses; ~~(d)~~ (iv) travel expenses; and ~~(e)~~ (v) 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) (b) A detailed statement of any money which is loaned, promised, or paid by a lobbyist, a 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.

(2) 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 each calendar quarter for which such statement is required by this section.

(3) If a lobbyist does not expect to receive lobbying receipts from or does not expect to make lobbying expenditures for a principal, the quarterly statements required by this section 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 quarterly statements pursuant to this section shall (a) file a statement of activity pursuant to section 49-1488 and (b) resume or commence filing quarterly statements with regard to such principal starting with the quarterly period the lobbyist receives lobbying receipts or makes lobbying expenditures for such principal.

(4) If a principal does not expect to receive lobbying receipts or does not expect to make lobbying expenditures, the quarterly statements required pursuant to this section 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 quarterly statements pursuant to this section shall commence or resume filing quarterly statements starting with the quarterly period the principal receives lobbying receipts or makes lobbying expenditures.

(5) For purposes of this section, calendar quarter shall mean the first day of January through the thirty-first day of March, the first day of April through the thirtieth day of June, the first day of July through the thirtieth day of September, and the first day of October through the thirty-first day of December.

Sec. 5. Any lobbyist or principal who receives or expends more than five thousand dollars for lobbying purposes during any calendar month in which the Legislature is in session shall, within fifteen days after the end of such calendar month, file a special report disclosing for that calendar month all information required by section 49-1483. All information disclosed in a special report shall also be disclosed in the next quarterly report required to be filed. The requirement to file a special report shall not apply to a receipt or expenditure for lobbyist fees for lobbying services which have otherwise been disclosed in the lobbyist's application for registration.

Sec. 6. That section 49-1483.02, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1483.02. By rule and regulation, the commission may provide for other criteria for an exemption from the filing of the monthly quarterly 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. 7. That section 49-1484, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1484. The Clerk of the Legislature shall promptly monthly while the Legislature is in session; and at least once while the legislature is not

in session, refer all such statements to the commission which may require the lobbyist or the principal to furnish additional details with respect to the matters which are or should be included in such statements. The Legislature itself may at any time require the furnishing of such additional details.

Sec. 8. That section 49-1485, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1485. The clerk Clerk of the Legislature shall, monthly while the Legislature is in session and at least once while the Legislature is not in session, prepare a summary of the statements filed pursuant to section 49-1483 and, upon request, furnish any member of the Legislature and any member of the press registered with the Legislature a copy of any summary. Each statement shall be public information. The clerk shall furnish a copy of any statement, upon request, to any member of the Legislature and to any member of the press registered with the Legislature.

Sec. 9. That section 49-1486, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1486. The registration of all lobbyists a lobbyist shall be valid for a period commencing with the filing of any registration as required by section 49-1480 each regular session of the Legislature held in an odd-numbered year and shall terminate at the convening of the regular session in the next odd-numbered year end of the calendar year for which the lobbyist registered unless the registration is renewed as provided by section 2 of this act or terminated.

Sec. 10. That section 49-1488, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1488. Within forty-five days of the completion of every regular or special session of the Legislature, each registered lobbyist shall submit to the Clerk of the Legislature a statement listing the legislation upon which the lobbyist acted, including identification by number of any bill or resolution and the position taken by 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. 11. That section 49-1488.01, Revised Statutes Supplement, 1992, be amended to read as follows:

49-1488.01. (1) Every lobbyist who fails to file a monthly quarterly 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. 12. That section 49-14,123, Revised Statutes Supplement, 1992, 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 Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure Act pursuant to the Administrative Procedure Act;

(2) Prescribe forms for statements and reports required to be filed pursuant to the Campaign Finance Limitation Act and the Nebraska Political Accountability and Disclosure 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 the acts 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 the acts;

(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 fifty 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 summaries of statements and reports filed with the commission and special reports and technical studies to further the purposes of the acts;

(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 not less than five years from the date of receipt;

(10) Issue and publish advisory opinions on the requirements of the acts upon the request of a person or governmental body directly covered or affected by the acts. 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 Nebraska Political Accountability and Disclosure Act and the rules or regulations promulgated thereunder and act concurrently with the county attorney in prosecuting criminal violations of the Campaign Finance Limitation Act;

(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 civil penalties imposed pursuant to the Nebraska Political Accountability and Disclosure Act, seek the return of any amount as provided in section 32-1606, and seek the repayment of any amount as provided in section 32-1607 and remit all such funds to the State Treasurer for credit to the Campaign Finance Limitation Cash Fund; and

(13) Prepare and distribute to the appropriate local officials statements of financial interest, campaign committee organization forms, filing instructions and forms, and such other forms as the commission may deem appropriate.

Sec. 13. That section 49-14,140, Revised Statutes Supplement, 1992, be amended to read as follows:

49-14,140. The Nebraska Accountability and Disclosure Commission Cash Fund is hereby created. The fund shall consist of funds received by the commission pursuant to sections 49-1470, 49-1482, 49-1495, 49-14,123, and 49-14,123.01 and section 2 of this act. The fund shall not include late filing fees or civil penalties assessed and collected by the commission. The fund shall be used by the commission in administering the Nebraska Political Accountability and Disclosure Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 14. The Clerk of the Legislature Cash Fund is hereby created. The fund shall consist of funds received by the Clerk of the Legislature pursuant to section 49-1482 and section 2 of this act. The fund shall be used by the Clerk of the Legislature to perform the duties required by sections 49-1480 to 49-1488.01 and section 2 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 15. Every lobbyist and principal shall file a statement which shall include the information required by section 49-1483 for the period of May 1, 1994, through December 31, 1994. Any registration in effect for the

Ninety-third Legislature, Second Session, 1994, shall terminate on the operative date of this section.

Sec. 16. That section 75-104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-104. The salary of each commissioner shall be thirty-five thousand dollars. Commencing January 3, 1991, the annual salary of each commissioner shall be forty-two thousand dollars. Each commissioner shall be entitled to receive from the state his or her mileage expenses incurred while traveling in the line of duty to and from his or her residence to the office of the Public Service Commission in Lincoln pursuant to the following conditions:

(1) The Public Service Commission has adopted and promulgated rules and regulations establishing guidelines for allowable reimbursement of such mileage expenses, except that such mileage rate shall not exceed the mileage rate established by the Department of Administrative Services pursuant to section 81-1176;

(2) The request for such reimbursement falls within such guidelines;
and

(3) The total amounts authorized for such reimbursement of mileage expenses in any fiscal year does not cause the total expenses to exceed the total funds appropriated to the program established for commissioners' expenses. In addition thereto, the commissioners, secretary, clerks, and other employees of the commission shall be entitled to receive from the state their actual necessary traveling expenses, which shall include including the cost of transportation while traveling on the business of the commission, to be paid in the same manner as other requests for payment or reimbursement from the state. In computing the cost of transportation for the commissioners, secretary, clerks, and other employees, no mileage or other traveling expense shall be requested or allowed unless sections 81-1174 to 81-1177 are strictly complied with.

Sec. 17. That section 75-128, Revised Statutes Supplement, 1993, be amended to read as follows:

75-128. It is hereby declared to be the policy of the Legislature that all matters presented to the commission be heard and determined without delay. All matters requiring a hearing shall be set for hearing at the earliest practicable date and in no event, except for good cause shown, which showing shall be recited in the order, shall the time fixed for hearing be more than six months after the date of filing of the application, complaint, or petition on which such hearing is to be had. Except in case of an emergency and upon a motion to proceed with less than a quorum made by all parties and supported by a showing of clear and convincing evidence of such emergency and benefit to all parties, a quorum of the commission shall hear all matters set for hearing. Except as otherwise provided in section 75-121 and except for good cause shown, a decision of the commission shall be made and filed within thirty days after completion of the hearing or after submission of affidavits in nonhearing proceedings. Applications for commission approval of specific new rates or charges or changes in existing rates or charges for telephone service which have not been heard and determined within six months and thirty days from the date the application was filed may be put into effect by the common carrier, in an amount not to exceed seventy-five percent of the total amount of the application, subject to refund of any amount collected in excess of the amount which would have been collected under the new or changed rates or charges as finally approved by the commission. The refund shall include an interest payment at a rate of interest determined by the commission, except that the rate of interest shall not exceed the overall rate of return which the common carrier is authorized to earn. When making its final determination on the application, the commission shall not consider the rates and charges of the company put into effect pending such final determination. This section shall not apply to rates or charges placed into effect under section 75-616. In the case of any proceeding upon which a hearing is held, the transcript of testimony shall be prepared and submitted to the commission prior to entry of an order, except that it shall not be necessary to have prepared prior to commission decision the transcripts of testimony on hearings involving noncontested proceedings and hearings involving emergency rate applications under section 75-121. For each application, complaint, or petition filed with the Public Service Commission, except those filed under sections 75-301 to 75-335, there shall be charged a filing fee to be determined by the commission, but in an amount not to exceed the sum of fifty dollars payable at the time of such filing. There shall also be charged to persons regulated by the commission a hearing fee of fifty dollars for each half day of hearings if the person regulated by the commission files an application, complaint, or petition which necessitates a

hearing.

Sec. 18. There is hereby appropriated (1) \$24,960 from the Clerk of the Legislature Cash Fund for FY1994-95 and (2) \$24,960 from the Clerk of the Legislature Cash Fund for FY1995-96 to the Legislative Council, for Program 123, to aid in carrying out the provisions of this legislative bill.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 19. There is hereby appropriated (1) \$24,960 from the Nebraska Accountability and Disclosure Commission Cash Fund for FY1994-95 and (2) \$24,960 from the Nebraska Accountability and Disclosure Commission Cash Fund for FY1995-96 to the Nebraska Accountability and Disclosure Commission, for Program 94, to aid in carrying out the provisions of this legislative bill.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 20. There is hereby appropriated (1) \$15,000 from the Campaign Finance Limitation Cash Fund for FY1994-95 and (2) \$15,000 from the Campaign Finance Limitation Cash Fund for FY1995-96 to the Nebraska Accountability and Disclosure Commission, for Program 95, to aid in carrying out the provisions of this legislative bill.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 21. That Laws 1993, LB 541, section 8, be amended to read as follows:

Sec. 8. AGENCY NO. 3 -- LEGISLATIVE COUNCIL
 Program No. 123 - Clerk of the Legislature

	FY1993-94	FY1994-95
GENERAL FUND	2,039,538	2,212,578
GENERAL FUND	2,039,538	2,187,578
PROGRAM TOTAL	2,039,538	2,212,578
PROGRAM TOTAL	2,039,538	2,187,578
SALARY LIMIT	1,014,796	1,091,173

Sec. 22. That Laws 1993, LB 541, section 229, be amended to read as follows:

Sec. 229. AGENCY NO. 87 -- NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION
 Program No. 94 - Administration

	FY1993-94	FY1994-95
GENERAL FUND	323,372	321,206
GENERAL FUND	323,372	298,446
CASH FUND	5,000	5,000
PROGRAM TOTAL	328,372	326,206
PROGRAM TOTAL	328,372	303,446
SALARY LIMIT	233,265	233,265

Sec. 23. It is the intent of the Legislature that the General Fund appropriation to the Clerk of the Legislature, for Program 123, be reduced by \$24,960 for FY1995-96.

Sec. 24. It is the intent of the Legislature that the General Fund appropriation to the Nebraska Accountability and Disclosure Commission, for Program 94, be reduced by \$24,960 for FY1995-96.

Sec. 25. Sections 1 to 15 and 27 of this act shall become operative on January 1, 1995. The other sections of this act shall become operative on their effective date.

Sec. 26. That original section 75-104, Reissue Revised Statutes of Nebraska, 1943, section 75-128, Revised Statutes Supplement, 1993, and Laws 1993, LB 541, sections 8 and 229, are repealed.

Sec. 27. That original sections 49-1482, 49-1484, and 49-1486, Reissue Revised Statutes of Nebraska, 1943, and sections 49-1401, 49-1483, 49-1483.02, 49-1485, 49-1488, 49-1488.01, 49-14,123, and 49-14,140, Revised Statutes Supplement, 1992, are repealed.

Sec. 28. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.