

Campaign Finance Limitation Act
{Includes 2005 Amendments}

32-1601	Act, how cited
32-1602	Legislative findings
32-1603	Terms, defined
32-1604	Candidates for covered elective office; qualification of public funds; filings required; prohibited acts, penalty
32-1604.01	Candidates for covered elective office; affidavit; late fee; violation of act; when.
32-1605	Covered elective office; affidavit; additional filings required.
32-1606	Covered elective office; request for public funds; disbursement; limitations on use; report.
32-1607	Prohibited acts; violations; penalties.
32-1608	Covered elective office; contributions; limitations.
32-1608.01	Rules and regulations
32-1608.02	Candidate; record-keeping requirements
32-1608.03	Candidate; limit receipt of public funds;
32-1609	Commission; audit
32-1610	Campaign Finance Limitation Cash Fund; created; use; investment
32-1611	NE Accountability and Disclosure Commission, allocation of funds
32-1612	Civil penalty
32-1613	Statute of limitations
32-1614	Statement of intent to expend; contents; effect; commission; duties; withdrawal

Campaign Finance Limitation Act

32-1601. Act, how cited. Sections 32-1601 to 32-1614 shall be known and may be cited as the Campaign Finance Limitation Act.

32-1602. Legislative findings. (1) The Legislature finds that the cost of running for statewide offices and legislative seats has risen greatly and that many qualified candidates are excluded from the democratic system as a result of such rising cost. The Legislature further finds that the United States Supreme Court has indicated that any limitation on campaign expenditures must be entered into voluntarily and that the utilization of public financing of campaigns is a constitutionally permissible way in which to encourage candidates to adopt voluntary campaign spending limitations. The Legislature further finds that using public funds to assist in the financing of campaigns for certain statewide offices and legislative seats, in conjunction with voluntary campaign spending limitations, will increase the number of qualified candidates able to run for office.

(2) The Legislature finds that there is a compelling state interest in preserving the integrity of the electoral process in state elections by ensuring that these elections are free from corruption and the appearance of corruption and that this end can only be achieved if (a) reasonable limits are placed on the amount of campaign contributions from certain sources and (b) the sources of funding and the use of that funding in campaigns are fully disclosed.

32-1603. Terms, defined. For purposes of the Campaign Finance Limitation Act, the definitions found in sections 49-1404 to 49-1444 shall be used, except that: (1) Covered elective office means (a) the Legislature in any election period and (b) the Governor, State Treasurer, Secretary of State, Attorney General, Auditor of Public Accounts, the Public Service Commission, the Board of Regents of the University of Nebraska, and the State Board of Education if designated as covered for a given election period pursuant to section 32-1611;

(2) Election period means (a) the period beginning January 1 of the calendar year prior to the year of the election in which the candidate is seeking office through the end of the calendar year of such election for covered elective offices listed in subdivision (1)(a) of this section and (b) the period beginning July 1 of the calendar year prior to the year of the election in which the candidate is seeking office through the end of the calendar year of such election for covered elective offices listed in subdivision (1)(b) of this section;

(3) Expenditure means the purchase for campaign activities of (a) services from a communications medium, including production costs, (b) printing,

photography, graphic arts, or advertising services, (c) office supplies, (d) postage and other commercial delivery services, (e) meals, lodging, and travel expenses, and (f) staff salaries;

(4) General election period means the period beginning with the day following the end of the primary election period through the end of the election period;

(5) Primary election period means the period beginning with the first day of the election period through the thirty-fifth day following the primary election; and

(6) Unrestricted spending means expenditures or transfers of funds authorized under subdivision (6), (8), or (9) of section 49-1446.03.

32-1604. Candidates for covered elective office; qualification for public funds; filings required; prohibited acts; penalty. (1) If the office is designated as covered for a given election period pursuant to section 32-1611, any candidate for Governor, State Treasurer, Secretary of State, Attorney General, Auditor of Public Accounts, the Public Service Commission, the Board of Regents of the University of Nebraska, or the State Board of Education may qualify for public funds to be used for the election period if he or she limits his or her campaign spending for the election period and meets the other requirements prescribed in this section.

(2) In any election period, any candidate for the Legislature may qualify for public funds to be used for the election period if he or she limits his or her campaign spending for the election period and meets the other requirements prescribed in this section.

(3) To qualify for public funds for the election period, a candidate for Governor shall limit his or her spending, other than unrestricted spending, for the election period to one million six hundred fifty thousand dollars, a candidate for State Treasurer, Secretary of State, Attorney General, or Auditor of Public Accounts shall limit his or her spending, other than unrestricted spending, for the election period to one hundred fifty thousand dollars, a candidate for the Legislature shall limit his or her spending, other than unrestricted spending, for the election period to seventy-three thousand dollars, and a candidate for the Public Service Commission, the Board of Regents of the University of Nebraska, or the State Board of Education shall limit his or her spending, other than unrestricted spending, for the election period to fifty thousand dollars, and such candidates shall limit their spending, other than unrestricted spending, for the primary election period to not exceed fifty percent of the limits provided in this subsection for the election period.

(4) Each candidate for a covered elective office desiring to receive public funds pursuant to this section shall (a) beginning the first day of the election period, raise an amount equal to at least twenty-five percent of the spending limitation for the office from persons who are residents of Nebraska and (b) file with the Nebraska Accountability and Disclosure Commission an affidavit pursuant to section 32-1604.01 indicating his or her intent to abide by the spending limitations and his or her agreement to personally act as a guarantor for the lawful use of such funds and to be held personally liable to the State of Nebraska for any such funds not repaid to the state as required by law. Money raised prior to filing the affidavit shall not count toward the qualifying amount established in this subsection. Money raised prior to the first day of the election period shall not count toward the qualifying amount established in this subsection. At least sixty-five percent of the qualifying amount established in this subsection shall be received from individuals. For purposes of this section, a business, corporation, partnership, limited liability company, or association shall be deemed a resident if it has an office in this state and transacts business in this state.

(5)(a) Except as otherwise provided in section 32-1604.01, any candidate for a covered elective office who does not file an affidavit pursuant to subsection (4) of this section shall file with the commission an affidavit indicating his or her intent not to abide by the spending limitations of this section and shall include a reasonable estimate of his or her maximum expenditures as defined in sections 32-1603 and 49-1419 for the primary election period. The estimate of expenditures for the primary election period may be amended up to thirty days prior to the primary election by filing a subsequent affidavit. A candidate nominated for a covered elective office in the primary election shall file an estimate of expenditures for the general election period on or before the fortieth day following the primary election. The estimate of expenditures for the general election period may be amended up to sixty days prior to the general election by filing a subsequent affidavit.

(b) A candidate for a covered elective office whose estimated maximum expenditures exceed the spending limitations of this section as set forth in the affidavit filed under subdivision (5)(a) of this section shall file an affidavit with the commission when forty percent of his or her estimated maximum expenditures has been spent for the primary election period. The candidate shall file a second affidavit with the commission when forty percent of his or her estimated maximum expenditures has been spent for the general election period. Each affidavit shall be filed no later than five days after the forty percent has been

expended. A candidate who intentionally fails to file the required affidavit within either five-day period shall be guilty of a Class II misdemeanor.

(6) If an affidavit required under subdivision (5)(b) of this section is not filed, no public funds shall be distributed to the candidates for such office who have qualified for public funds for the election period unless preelection campaign statements filed pursuant to subdivisions (1)(a) and (b) of section 49-1459 or audits by the commission conducted pursuant to section 49-14,122 reveal that a candidate has made expenditures requiring the filing of an affidavit under subdivision (5)(b) of this section.

32-1604.01. Candidates for covered elective office; affidavit; late fee; violation of act; when. (1) Except as otherwise provided in this section, each candidate for a covered elective office listed in subdivision (1)(a) of section 32-1603 shall file either an affidavit to abide under subsection (4) of section 32-1604 or an affidavit not to abide under subdivision (5)(a) of section 32-1604 with the Nebraska Accountability and Disclosure Commission within ten days after a candidate committee is required to be formed pursuant to sections 49-1413, 49-1445, and 49-1449 and on or before the first day of each election period thereafter unless the candidate has not filed and will not file to seek election or reelection or has withdrawn his or her filing to seek election or reelection. Except as otherwise provided in this section, each candidate for a covered elective office listed in subdivision (1)(b) of section 32-1603 shall file either an affidavit to abide under subsection (4) of section 32-1604 or an affidavit not to abide under subdivision (5)(a) of section 32-1604 with the Nebraska Accountability and Disclosure Commission within ten days after a candidate committee is required to be formed pursuant to sections 49-1413, 49-1445, and 49-1449 or within ten days after the office is designated as a covered elective office under section 32-1611, whichever is later, unless the candidate has not filed and will not file to seek election or reelection or has withdrawn his or her filing to seek election or reelection. If a candidate is not required to form a candidate committee, the candidate is not required to file an affidavit under section 32-1604.

(2) Any candidate for a legislative district which is subject to election in 1998 for whom a candidate committee is in existence on September 13, 1997, shall file an affidavit to abide under subsection (4) of section 32-1604 or an affidavit not to abide under subdivision (5)(a) of section 32-1604 within thirty days after September 13, 1997.

(3) An affidavit to abide under subsection (4) of section 32-1604 and an affidavit not to abide under subdivision (5)(a) of section 32-1604 shall be filed on forms prescribed by the commission.

(4) A candidate who fails to file an affidavit as required by this section shall pay to the commission a late filing fee of twenty-five dollars for each day the statement remains not filed in violation of this section not to exceed seven hundred fifty dollars.

(5) It shall be a violation of the Campaign Finance Limitation Act for a candidate for a covered elective office who has filed an affidavit to abide under subsection (4) of section 32-1604 to exceed the spending limitations prescribed in section 32-1604.

32-1605. Covered elective office; affidavit; additional filing required.

Any individual who files to appear on the ballot for a covered elective office shall file a copy of the affidavit that was required to be filed with the Nebraska Accountability and Disclosure Commission as provided in section 32-1604.01 at the same time and with the same official with whom the individual files for office. A candidate for a covered elective office who qualifies other than by filing shall file a copy of an affidavit under section 32-1604.01, if required under section 32-1604.01, with the commission within five days after qualifying for the ballot. A filing to appear on the ballot for a covered elective office shall not be accepted by a filing official unless a copy of the candidate's affidavit as filed with the commission, if required, is properly filed with the filing official.

32-1606. Covered elective office; request for public funds; disbursement; limitations on use; report. (1) Any candidate for a covered elective office who has satisfied the requirements of subsection (4) of section 32-1604 may, upon spending twenty-five percent of the spending limitation for the election period prescribed in such section, file an affidavit with the commission setting forth these facts and requesting public funds. If the highest estimated maximum expenditure filed by any of the candidate's opponents for that same office in effect as of the last date to amend an affidavit pursuant to subsection (5) of section 32-1604 is greater than the spending limitations as provided in subsection (3) of section 32-1604 for the office, the candidate shall be entitled to receive the difference between the spending limitation and the highest estimated maximum expenditure filed by any of the candidate's opponents. The commission shall compute the amount of the payment to be made to a candidate. For purposes of this section, a candidate's opponent in a partisan primary election shall include only those other candidates of the same political party running for the same office and a candidate's opponent in a nonpartisan primary election shall include all candidates running for the same office.

(2) Except as otherwise provided by subsection (6) of section 32-1604, public funds to which a candidate is entitled under this section shall be disbursed to that candidate not later than two weeks after the last date to amend an affidavit pursuant to subdivision (5)(a) of section 32-1604.

(3) Public funds received pursuant to this section shall be kept in a separate account in a financial institution in this state, shall be used only to make expenditures, and shall not be counted against the spending limitations prescribed in section 32-1604. Any unexpended public funds shall be repaid to the state on or before December 31 of the final year of the election period.

(4) Expenditures from public funds received pursuant to this section shall be reported to the commission on forms prescribed by the commission and in accordance with rules and regulations adopted and promulgated by the commission.

32-1607. Prohibited acts; violations; penalties. (1) Any candidate who receives public funds pursuant to section 32-1606 and fails to comply with the spending limitations prescribed in section 32-1604 shall repay the amount expended in excess of the spending limitations to the state within six months after the receipt of the public funds by the candidate.

(2) Any candidate who receives public funds pursuant to section 32-1606 and exceeds the spending limitations prescribed in section 32-1604 by five percent or more shall, within six months, repay the entire amount of public funds received with interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date the limitation was exceeded by five percent or more.

(3) Any candidate described in subsection (1) of this section or the treasurer of any such candidate committee who exceeds the spending limitation by five percent or more shall be deemed to be in willful and knowing violation of section 32-1604. Any person willfully and knowingly violating such section shall be guilty of a Class II misdemeanor.

(4) Any candidate who files, or causes to be filed, pursuant to subdivision (5)(a) of section 32-1604, an affidavit executed by him or her that he or she knows contains any material element which is false shall be guilty of a Class IV felony.

(5) Any candidate who willfully, knowingly, or intentionally underestimates his or her maximum expenditures by five percent or more in an affidavit filed pursuant to subdivision (5)(a) of section 32-1604 shall be guilty of a Class II misdemeanor.

(6) The expenditure of public funds received pursuant to section 32-1606 shall not be a violation of the spending limitation.

32-1608. Covered elective office; contributions; limitations. During the election period, no candidate for a covered elective office shall accept contributions from independent committees, businesses, including corporations, unions, industry, trade, or professional associations, and political parties which, when aggregated, are in excess of eight hundred twenty-five thousand five hundred dollars for a candidate for Governor, seventy-five thousand dollars for a candidate for State Treasurer, Secretary of State, Attorney General, or Auditor of Public Accounts, thirty-six thousand five hundred dollars for a candidate for the Legislature, and twenty-five thousand dollars for a candidate for the Public Service Commission, the Board of Regents of the University of Nebraska, or the State Board of Education.

32-1608.01. Rules and regulations. The commission shall adopt and promulgate rules and regulations to provide for the reporting of expenditures by candidates of any public funds received pursuant to the Campaign Finance Limitation Act and for the keeping of records with respect to the expenditure of such funds.

32-1608.02. Candidate; record-keeping requirements. Any candidate desiring to receive public funds shall keep detailed accounts, records, bills, and receipts necessary to substantiate the information contained in any affidavit or statement requesting public funds and all expenditures of public funds distributed pursuant to the Campaign Finance Limitation Act.

32-1608.03. Candidate; limit receipt of public funds. Any candidate who has qualified to receive public funds pursuant to the Campaign Finance Limitation Act may, by written request, limit his or her receipt of public funds to an amount which is less than the total amount he or she is entitled to receive.

32-1609. Commission; audit. The commission shall conduct an audit of the accounts and records of any candidate filing an affidavit under subsection (4) of section 32-1604.

32-1610. Campaign Finance Limitation Cash Fund; created; use; investment. The Campaign Finance Limitation Cash Fund is hereby created. The fund shall be used by the commission to provide public financing of

campaigns pursuant to the Campaign Finance Limitation Act, except that transfers may be made to the General Fund at the direction of the Legislature. The fund shall consist of money appropriated to it by the Legislature, amounts repaid by candidates pursuant to sections 32-1606 and 32-1607, and taxpayer contributions to the fund pursuant to section 77-27,119.04. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

32-1611. Nebraska Accountability and Disclosure Commission; allocation of funds. (1) Prior to June 30 of each odd-numbered year, the Nebraska Accountability and Disclosure Commission shall (a) allocate available funds of one hundred fifty thousand dollars to fund requests for public funds for covered elective offices listed in subdivision (1)(a) of section 32-1603, (b) calculate its best estimate of the amount of funds available to fund requests for public funds during the ensuing election year in the Campaign Finance Limitation Cash Fund based upon the appropriations, if any, made to the fund by the Legislature in such year, and (c) if the estimated amount of available funds exceeds one hundred fifty thousand dollars, designate additional covered elective offices in the following order if the following amounts of additional funds are available:

- (a) The Public Service Commission, one thousand dollars;
 - (b) The Board of Regents of the University of Nebraska, twenty-five thousand dollars;
 - (c) The State Board of Education, one thousand dollars;
 - (d) The Auditor of Public Accounts, fifty thousand dollars;
 - (e) The Attorney General, fifty thousand dollars;
 - (f) The Secretary of State, fifty thousand dollars;
 - (g) The State Treasurer, fifty thousand dollars; and
 - (h) The Governor, five hundred fifty thousand dollars.
- (2) All elective offices not within the class of offices designated under subsection (1) of this section to be covered elective offices for the election period ending on December 31 of the following year shall be designated not to be covered elective offices for such election period.

32-1612. Civil penalty. (1) The Nebraska Accountability and Disclosure Commission shall assess any person that the commission finds to have violated subsection (3) or (5) of section 32-1607 a civil penalty of one thousand dollars or

an amount equal to ten percent of the amount by which the limitation was exceeded, whichever is greater, for each violation.

(2) Unless a specific penalty is otherwise provided, the commission shall assess any person that it finds to have violated any other provision of the Campaign Finance Limitation Act a civil penalty of not more than one thousand dollars for each violation.

32-1613. Statute of limitations. The Nebraska Accountability and Disclosure Commission shall commence civil proceedings for a violation of the Campaign Finance Limitation Act within three years after the date on which the violation occurred.

32-1614. Statement of intent to expend; contents; effect; commission; duties; withdrawal. (1) If a person as defined in section 49-1438, including an independent committee or a political party committee, determines more than forty-five days prior to a primary election or general election that it intends to make independent expenditures of two thousand dollars or more during the primary election period or the general election period for or against a candidate seeking nomination or election to a covered elective office, the person shall file a statement of intent to expend with the Nebraska Accountability and Disclosure Commission. The statement of intent to expend shall be filed no later than forty-five days prior to the date of the election at which the candidate is seeking nomination or election. The statement of intent to expend shall include:

(a) The name, address, and telephone number of the person or committee filing the statement;

(b) The name, address, and telephone number of the treasurer if the person filing the statement is an independent committee or a political party committee;

(c) The name of the candidate for which the independent expenditure is intended to be made, the date of the election for which the independent expenditure is intended to be made, and whether the independent expenditure will be made in support of or in opposition to such candidate;

(d) The office sought by the candidate for which the independent expenditure is intended to be made; and

(e) The maximum amount of independent expenditures the person intends to spend in support of or in opposition to the candidate for the primary election period and the general election period.

(2) No person who has filed a statement of intent to expend shall make independent expenditures exceeding twenty percent more than the amount

stated in subdivision (1)(e) of this section or less than twenty percent less than such amount. No person shall make independent expenditures for a covered elective office without filing a statement of intent to expend under this section.

(3) The commission shall give notice of the filing of a statement of intent to expend to all candidates seeking the same office as a candidate named in a statement of intent to expend. The notice shall be given by mail within ten days after the receipt of the filing.

(4) If a statement of intent to expend is filed pursuant to this section, (a) the candidate named in the statement if the expenditures are to be made in opposition to such candidate or (b) a candidate for the same office as the candidate named in the statement and on whose behalf the expenditures are to be made shall be allowed to withdraw an affidavit of intent to abide by the spending limitations of section 32-1604 if the candidate has not received public funds under the Campaign Finance Limitation Act. The withdrawal shall be accomplished by filing a written statement withdrawing his or her affidavit to abide and simultaneously filing an affidavit not to abide under subdivision (5)(a) of section 32-1604 at least thirty days prior to the election.

(5) Notwithstanding the provisions of this section, if independent expenditures of two thousand dollars or more are made (a) in opposition to a candidate seeking nomination or election to a covered elective office or (b) in support of another candidate seeking nomination or election to the same covered elective office during a primary election period or a general election period, a candidate against whom independent expenditures are made or a candidate for the same office as a candidate in support of whom independent expenditures are made shall be allowed to withdraw an affidavit of intent to abide by the spending limitations of section 32-1604 if the candidate has not received public funds under the act. Such withdrawal shall be made by filing a written statement withdrawing his or her affidavit to abide and simultaneously filing an affidavit not to abide as provided in subdivision (5)(a) of section 32-1604. Such withdrawal shall be made at least thirty days prior to the election.

(6) This section shall not apply to an individual making independent expenditures with his or her own funds. An individual making independent expenditures shall be required to file an independent expenditure report as required by section 49-1467.

Annotations: Section 32-1614 is unconstitutional and invalid. State ex rel. Stenberg v. Moore, 258 Neb. 738m 605 N.W.2d 440 (2000)