

PREFACE

The Nebraska Political Accountability and Disclosure Act (the NPADA) (§§49-1401 et seq., Nebraska Revised Statutes) regulates the financial activities of state political action committees (PACs) in Nebraska. This Treasurer's Guide is designed to assist treasurers of Nebraska PACs in complying with the provisions of the NPADA that pertain to campaign practices.

Under the NPADA, a Nebraska PAC is formed whenever a combination of two or more individuals or an organization (other than a candidate, ballot question committee, or political party) raises or spends more than \$5,000 during a calendar year to support or oppose Nebraska candidates or ballot questions. Every Nebraska PAC is required to file a *Statement of Organization of a Political Committee* in connection with its formation. Under the NPADA, a Nebraska PAC is also required to file periodic *Campaign Statements* in connection with elections in which the PAC participates.

Any person (a Nebraska PAC and/or the PAC's treasurer) who fails to file required statements in a timely manner is subject to statutory late filing fees.

Under the NPADA, the treasurer of a Nebraska PAC is responsible for filing complete and accurate disclosures of the PAC's financial activities. These filings are considered public record and are made available to the public for inspection. The treasurer of a Nebraska PAC is also responsible for maintaining detailed accounts, records, bills, and receipts necessary to substantiate the information in statements and reports filed with the Nebraska Accountability and Disclosure Commission.

All filings submitted by a Nebraska PAC are subject to review by the Commission's staff. In addition, all Nebraska PACs are subject to audit by the Commission's staff. **Any person who fails to comply with provisions of the NPADA is subject to civil and/or criminal penalties.**

Reporting forms are available from the Commission upon request (in person, by mail, or by telephone). In addition, reporting forms can be downloaded from the Commission's website:

www.nadc.nebraska.gov/cf/forms.html

This Treasurer's Guide is not intended to be a substitute either for the statutory reporting requirements of the NPADA or for the instructions provided with the reporting forms.

Our staff is dedicated to helping Nebraska PACs and their treasurers comply with the NPADA. Please do not hesitate to contact us for whatever assistance you may need at:

Nebraska Accountability and Disclosure Commission
11th Floor State Capitol, P.O. Box 95086
Lincoln, NE 68509
Tel. 402-471-2522
Fax: 402-471-6599

www.nadc.nebraska.gov/staff.html

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WHAT IS A PAC?

Under the Nebraska Political Accountability and Disclosure Act, a committee is an entity whose function is to receive contributions and/or make expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates or the qualification, passage, or defeat of one or more ballot questions.

Under the NPADA, there are four types of committees:

1. Candidate committees;
2. Ballot question committees;
3. Political party committees; and
4. Independent committees.

Under the NPADA, an independent committee is any committee other than a candidate, ballot question, or political party committee. Independent committees are commonly referred to as political action committees, or PACs.

The following references will be used throughout this Treasurer's Guide:

- "PAC" will refer to any political action committee.
- "Nebraska PAC" will refer to a political action committee required to register and file with the Nebraska Accountability and Disclosure Commission.
- "Independent PAC" will refer to a Nebraska PAC which is not a separate segregated political fund.
- "Separate segregated political fund" will refer to a Nebraska PAC established by a corporation, labor organization, limited liability company, limited liability partnership, industry association, trade association, or professional association.
- "Person" shall mean an individual, committee, business, proprietorship, firm, partnership, limited liability company, joint venture, syndicate, business trust, labor organization, company, corporation, association, or other organization or group of persons acting jointly.

GENERAL REQUIREMENTS OF A PAC

Under the NPADA, if a combination of two or more individuals or an organization (other than a candidate, ballot question committee, or political party) raises, receives, or spends more than \$5,000 during a calendar year to support or oppose Nebraska candidates or ballot questions, then a Nebraska PAC has been formed. OK

Upon its formation, a Nebraska PAC must:

1. Appoint a committee treasurer who is a qualified elector of the State of Nebraska.
2. Designate one account in a Nebraska financial institution as the PAC's official depository. All funds received by the PAC must be deposited into this account. All disbursements made by the PAC must be made from this account.
3. File a *Statement of Organization of a Political Committee* (NADC Form A-1) within ten (10) days after the committee's formation. This statement must list the PAC's name, street address, and treasurer. This statement must also list the location of the PAC's depository account. If the committee is formed in the **30 days** immediately preceding the election, the committee must file its Statement of Organization within **2 days** after the committee is formed.
4. **Pay a filing fee of \$100** payable to the State of Nebraska.

After its formation, a Nebraska PAC must file periodic *Campaign Statements* (NADC Form B-4), which disclose contributions received and disbursements made by the PAC.

A Nebraska PAC must maintain adequate records to document all contributions received and all disbursements made by the PAC, and to document contributions and disbursements reported on the PAC's *Campaign Statements*.

RESPONSIBILITIES OF THE PAC TREASURER

Under the NPADA, each Nebraska PAC must appoint a treasurer who is a qualified elector of the State of Nebraska. A Nebraska PAC may also designate an assistant treasurer to act in lieu of the treasurer.

The treasurer is the key member of a Nebraska PAC. The treasurer is responsible for maintaining the PAC's records and for preparing all reports required under the NPADA. Each expenditure made by a Nebraska PAC must be authorized by the PAC's treasurer or the treasurer's designee.

The PAC treasurer must keep a detailed record of the following:

- The name and address of each person from whom a contribution is received by the PAC, the date each contribution is received, and the amount of each contribution received. If the contribution is received through an intermediary (an "earmarked" contribution), the name and address of both the contributor and the intermediary must be recorded.
- The name and address of each person to whom a disbursement is made directly or indirectly by the PAC including an agent of the PAC and all of the agents payees, the purpose of each disbursement, and the date and amount of each disbursement. This information must also be recorded for disbursements from a petty cash fund, if the PAC has one.
- The name and address of each candidate or ballot question committee who is supported (or opposed) by a disbursement which is not made directly to the candidate or ballot question committee.
- The date and the amount of each loan received by the PAC, the name and address of each lender, and the date and amount of each loan repayment. The name and address of any person who is either directly, indirectly, or contingently liable on each loan must also be recorded.

Under the NPADA, the treasurer of a Nebraska PAC must maintain detailed accounts, records, bills, and receipts necessary to substantiate the information contained in statements and reports filed with the Commission. The treasurer must maintain this documentation for at least five (5) years after the PAC's dissolution, and must make these records available for inspection as requested by the Commission.

The committee treasurer is personally liable for any unpaid late filing fees, civil penalties and interest assessed against the committee.

THE PAC DEPOSITORY

Under the NPADA, a Nebraska PAC must designate one account in a financial institution in Nebraska as its official depository. All money received and all cash expenditures made by a Nebraska PAC must pass through and be recorded in this account.

A Nebraska PAC may establish secondary accounts for the sole purpose of depositing contributions received by the PAC. These deposits must be promptly transferred to the PAC's official depository. A Nebraska PAC may not make expenditures from a secondary account.

A Nebraska PAC should list the name of each contributor and the amount of each contribution on the PAC's deposit slips.

Contributions received by a Nebraska PAC shall not be commingled with the funds of any other person.

A Nebraska PAC must preserve its account statements, deposit slips, cancelled checks, and account memos from the PAC's depository account for a period of five (5) years after the PAC's dissolution.

INVESTMENT OF PAC FUNDS

A Nebraska PAC may invest its funds in interest-bearing accounts in Nebraska financial institutions. A Nebraska PAC may also invest its funds in investments authorized in the Nebraska Capital Expansion Act (§§72-1261 through 72-1269, Nebraska Revised Statutes) and in the Nebraska State Funds Investment Act (§§72-1237 through 72-1260, Nebraska Revised Statutes).

CONTRIBUTIONS TO THE PAC

Under the NPADA, a “contribution” is defined as a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, donation, pledge, or promise of money or anything of monetary value to a person, which is made for the purpose of influencing the nomination or election of one or more candidates or the qualification, passage, or defeat of one or more ballot questions.

All contributions received by a Nebraska PAC fall into one of four classes:

1. Cash contributions are money (currency, checks, money orders, credit card and electronic payments) received by the committee. A cash contribution is considered received on the date it comes under the control of the treasurer or an agent of the committee (not the date it is deposited). Contributions in a mail box or post office box are considered received and under the control of the committee when delivered to the box. All contributions received by any individual acting on behalf of the committee must be reported to the committee treasurer within five (5) days of their receipt, and not later than the closing date of the current *Campaign Statement due*.
2. In-kind contributions are anything of value other than money received by the PAC. Goods and services donated to a Nebraska PAC (such as donated materials for yard signs or donated office space) are considered in-kind contributions. Expenses incurred by a Nebraska PAC, but paid for by others

on the PAC’s behalf, are also considered in-kind contributions [unless those expenses are reimbursed by the PAC]. Advertising produced and paid for by someone else that is approved by or coordinated with the committee is considered an in-kind contribution to the committee. Expenses incurred by the committee, but paid for by others on the committee’s behalf, are also considered in-kind contributions. An in-kind contribution is considered received on the date: when a service is provided; when a product is supplied; or, when a contract for goods or services exists. Unknown amounts must be estimated.

NOTE: administrative expenses of a separate segregated political fund that are paid by the fund’s sponsoring organization are considered in-kind contributions.

3. Pledged contributions are promises (oral or written) of future payments (cash or in-kind) to the PAC. A pledged contribution is considered a contribution on the date the pledge is made or promised to the PAC, not when the payment or delivery is actually made. NOTE: payment of a previously reported pledge is not considered a contribution.
4. Loans are contributions of money deposited into the campaign bank account that will be repaid by the PAC.

Under the NPADA, there are certain restrictions on contributions that apply to all Nebraska PACs:

- A contribution of more than \$50 in the form of currency may not be accepted. All cash contributions of more than \$50 must be received via written instrument (i.e., check) containing the names of the payor and payee.
- An anonymous contribution may not be accepted. All anonymous contributions received by a Nebraska PAC must be donated to a tax-exempt charitable organization (a receipt from the charity is required as documentation).

EXCEPTION: Contributions of \$50 or less received either as the result of a fundraising event or from the sale of political merchandise are not considered anonymous contributions.

Under the NPADA, a “fundraising event” is described as an event such as a dinner, reception, testimonial, rally, auction or similar affair through which contributions are solicited or received by such means as the purchase of a ticket, the payment of an attendance fee, or the purchase of goods or services.

Under the NPADA, there are certain additional restrictions on contributions that apply only to separate segregated political funds:

- A separate segregated political fund may only receive **voluntary** contributions from the employees, officers, directors, stockholders, or members of the fund’s sponsoring organization.
- A separate segregated political fund may not receive contributions directly from the fund’s sponsoring organization. (A sponsoring organization may not contribute to its own separate segregated political fund).
EXCEPTION: A sponsoring organization is allowed to provide or pay for administrative expenses of its own separate segregated political fund.

A person may not make a contribution in a name other than the person’s legal name. It is unlawful to hide the actual source of a contribution by giving the contribution to a person who by arrangement will transfer the contribution to a Nebraska PAC. Such an “earmarked” contribution may be made only if the intermediary or agent who transfers the contribution files a *Report of Earmarked Contribution* (NADC Form B-3) with the Commission and with the end recipient.

All contributions and other money received by a Nebraska PAC should be recorded and deposited promptly. Contributions received by individuals acting on behalf of a Nebraska PAC must

be reported promptly to the PAC’s treasurer and in no event later than the closing date of any *Campaign Statement* required to be filed by the PAC.

NOTE: Any contribution of \$1,000 or more received during the 14 days immediately before an election is considered a “late contribution”, and must be reported as such. A loan of \$1,000 or more received during the 14 days immediately before the election is also considered a “late contribution”, and must be reported as such. Late contributions must be reported within 2 days of receipt. Use NADC Form B-5. (See *Report of Late Contribution* on p. 18.) “Late contributions” received must also be reported on the post-election *Campaign Statement*.

A Nebraska PAC must maintain detailed records of the contributions it receives. See section: **Record Keeping Requirements**.

DISBURSEMENTS OF THE PAC

Under the NPADA, an “expenditure” is defined as a payment, donation, loan, pledge, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities made for the purpose of supporting or opposing the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question. An offer or tender of an expenditure is not an expenditure if expressly and unconditionally rejected or returned.

NOTE: Prior to receiving an invoice or bill, a “promise of payment” exists when a service is provided; when a product is supplied; or when a contract or agreement for payment exists. Any in-kind contributions or independent expenditures supporting or opposing Candidates or Ballot Questions must be reported when the “promise to pay” exists (even if the vendor has not been paid). If the exact amount owed is unknown, an estimate must be made. **Expenditures relating to an election that appear with a date after the election will be scrutinized.**

There are certain restrictions on disbursements that apply to any Nebraska PAC:

- A disbursement may not be made without the express authorization of the PAC's treasurer or assistant treasurer.
- A cash disbursement of more than \$50.00 may not be made in the form of currency. All cash disbursements of more than \$50.00 must be made via written instrument drawn on the PAC's depository account.
- A check written by the PAC may not be made payable to "CASH", except to replenish the PAC's petty cash fund.
- A PAC may not make disbursements for lobbying expenses.

There are also certain additional restrictions on disbursements that apply to any separate segregated political fund. A separate segregated political fund may only make disbursements for the following items:

- Disbursements to or in support of Nebraska candidates, candidate committees, ballot question committees, or political party committees;
- Independent expenditures supporting or opposing Nebraska candidates or ballot questions;
- Disbursements to candidates in other states and candidates for federal office (subject to the campaign finance laws applicable to the candidate);
- Administrative expenses of the separate segregated political fund. NOTE: Administrative expenses relate to the continuing operation and management of the separate segregated political fund.

NOTE: The sponsoring organization of a separate segregated political fund is allowed to pay administrative expenses of its own

PAC. If it does so, then the sponsoring organization must report those expenses on its *Report of Political Contributions of a Corporation, Union, or Other Entity* (NADC Form B-7).

A Nebraska PAC must make all its cash disbursements from its depository account, except for disbursements made from a petty cash fund. Copies of the rules and regulations governing the use of petty cash funds by political committees are available from the Commission office.

A Nebraska PAC must maintain detailed information concerning its unpaid bills and other accrued expenses.

A Nebraska PAC must maintain detailed records of all its expenditures and disbursements (direct and indirect), please see section: **Record Keeping Requirements**.

Under the NPADA, there is no dollar limitation on the amount that a Nebraska PAC may disburse to any one candidate or committee.

CAMPAIGN ADVERTISING REQUIREMENTS

Printed materials that make reference to a campaign (candidate or ballot question) must contain the name and street address of the person or committee, (e.g. a PAC) paying for the matter. If the person paying for the matter acts at the direction of, or receives reimbursement from, a Nebraska PAC, then that PAC is considered to be the person paying for the matter. The following is an example of a disclaimer for printed materials that complies with the law:

Paid for by The Associated Gravel Road Builders PAC
1234 North 12th Street
Anywhere, NE 68000

Television and radio advertisements must also include the name of the person or committee, (e.g. a PAC) who paid for the ads. However, that person's or committee's street address need not be

included in the ad if the station(s) broadcasting the ad will agree to keep the person's or committee's name and street address on file and available to the public for six (6) months after the advertisement is broadcast.

A prerecorded message relating to a candidate or ballot question disseminated by any means of telecommunication shall include (at the beginning of the message) the name of the person or committee who paid for the message. A person or committee disseminating by any means of telecommunications a message not prerecorded relating to a candidate or ballot question shall disclose the name of the person or committee paying for the message upon the request of the recipient of the message. If the message is disseminated through an agent or employee of the person or committee making the expenditure for the message, the disclosure shall be of the identity of the person or committee making the expenditure. A message relating to a candidate or ballot question which is disseminated by any electronic means (including the internet and e-mail) shall include the name of the person or committee making the expenditure. Note: State Law requires the registration of automatic dialing devices and the text of automatically dialed messages. For more information contact the Public Service Commission at 1200 "N" Street, Suite 300, Lincoln, NE 68508. The telephone number is 402-471-3101 and the web address is www.psc.nebraska.gov.

Certain items that are printed or reproduced at the request of a Nebraska PAC are exempt from the identification requirements. Exempt items include yard signs, bumper stickers, campaign buttons, balloons, T-shirts, billboards, and other items specified in Title 4, Chapter 8 of the Nebraska Administrative Code – Designation of Printed or Reproduced Items Exempt from Disclaimer Requirements and Rules and Regulations on the Size and Placement of Disclaimers (see p. 54).

RECORD KEEPING REQUIREMENTS

The treasurer of each Nebraska PAC shall maintain detailed records for all **contributions** or other receipts of the PAC. These records shall include all bank statements, deposit slips, receipts, and other written records necessary to document the following:

- The name and address of each contributor.
- The amount of each contribution or other receipt.
- The date of receipt for each contribution or other receipt (NOTE: a contribution is considered received on the date it is received by or comes under the control of the treasurer or an agent of the treasurer).
- The cumulative amount contributed by a person for the calendar year.

The PAC's records of contributions received must also contain the following information:

- For in-kind contributions received, a description of the goods or services received and the value of those goods or services;
- For earmarked contributions received, the name and address of both the actual contributor of the funds and the intermediary or agent who delivered the funds;
- For pledges received, the name and address of the person making the pledge, the date the pledge was made, the amount of the pledge, and the date the pledge is expected to be paid;
- For loans received, the name and address of the person making the loan, the date and the amount of the loan, and the name and address of any guarantor of the loan;

- Also for loans received, the date and amount of each repayment on each loan, and a copy of the check or other written instrument by which any loan repayment is made.

The treasurer of each Nebraska PAC shall also maintain detailed records of all **expenditures and disbursements** made by the PAC. These records shall include all bank statements, cancelled checks, receipts, bills, invoices, contracts, and other written records necessary to document the following:

- The full name and street address of each payee (including candidates, ballot question committees, vendors, etc.). Also, the full name and street address of the actual provider of goods or services if different than the payee (see example in paragraph directly below last bullet point);
- A full description of goods or services for which each disbursement was made and any candidates or ballot questions supported or opposed by such disbursements;
- The name and address of each candidate or ballot question committee who is supported (or opposed) by an expenditure which is not made directly to the candidate or ballot question committee;
- The date each disbursement was made. Also, for in-kind or independent expenditures, the date a promise to pay exists (when a service is provided, when a product is supplied, or when a contract or agreement for payment exists), even if an invoice has not been received and the amount is unknown;
- The amount of each disbursement. Also, estimates of unknown amounts for unpaid bills and accrued expenses.

If a Nebraska PAC makes disbursements to an agent or independent contractor and the agent or contractor makes disbursements on behalf of the PAC, a detailed record of such disbursements shall be obtained and kept with other PAC records. For example, if the PAC directly pays Company A (an agent) who

had paid Company B to provide mailing services, the information for Company B must be provided as stated above including its name and address, descriptions, dates, and amounts.

A Nebraska PAC's records shall include all bank statements and all cancelled checks for the PAC's depository account. If the financial institution normally provides only photocopies of cancelled checks, the photocopies of the cancelled checks shall be kept. If the financial institution does not normally provide either original or photocopied cancelled checks except upon request and/or for a charge, the PAC need not keep photocopies of the cancelled checks in its records, but shall secure copies of those cancelled checks at its own expense if so requested by the Commission.

A check register, log or ledger of the checks issued on the official depository shall be maintained by the treasurer.

REMINDER: A Nebraska PAC's records must be maintained for at least five (5) years after the PAC's dissolution, and must be made available for inspection as requested by the Commission.

PAC REPORTING REQUIREMENTS

Where to File: All Nebraska PACs must file certain campaign statements and other reports with the Commission.

When to File: The NPADA establishes the due dates for the filing of required campaign statements and other reports. Further information on filing dates may be found below under the heading *Campaign Statement, All Elections and Campaign Statements, Annual*. If a statutory due date falls on a weekend or holiday, the actual due date for that filing is the next business day.

EXAMPLE: A required filing that is due on a Sunday becomes due on Monday, the next business day.

A required campaign statement or other report is filed on time if it is either received in the Commission's office or legibly postmarked by the U.S. Postal Service on or before its due date. The postmark provision does not apply to statements or reports sent by delivery services other than the U.S. Postal Service.

Statement of Organization of a Political Committee (NADC Form A-1): The Statement of Organization registers a Nebraska PAC with the Commission. A Nebraska PAC must file its Statement of Organization within ten (10) days after the PAC's formation (within ten days after exceeding \$5,000 in receipts or disbursements during any calendar year). If the PAC is formed in the 30 days immediately preceding the election, the Statement of Organization must be filed within 2 days.

A filing fee of \$100 must be paid at the time of filing the Statement of Organization. The check or money order should be made payable to the State of Nebraska.

A Nebraska PAC must report any changes of information included in its Statement of Organization. These changes may be reported either on an amended Statement of Organization or on a *Campaign Statement*. It is important to promptly report any changes of the PAC's address or treasurer. This helps ensure that the PAC receives notices and bulletins from the Commission. Note that a valid Street address of the committee must be on file. However, a P.O. Box may be used for correspondence purposes only.

A Nebraska PAC's failure to file a *Statement of Organization of a Political Committee* as required is subject to late filing fees of \$25 per day, not to exceed \$750, and may also result in civil penalties. Interest accrues on unpaid late filing fees and civil penalties. The treasurer is personally liable for any unpaid late filing fee, civil penalty and interest. If the committee was formed in the 30 days immediately preceding the election, late fees are \$100 per day, not to exceed \$1,000.

A Nebraska PAC's registration will continue in effect until a *Statement of Dissolution of a Political Committee* (NADC Form A-2) is filed by the PAC and accepted by the Commission.

Campaign Statement (NADC Form B-4), general information: All Nebraska PACs are required to file periodic *Campaign Statements*. For a PAC's initial *Campaign Statement*, the reporting period begins with the date the PAC first raised, received, or spent any funds, and ends on the closing date as specified in the NPADA. For the PAC's subsequent *Campaign Statements*, the reporting period begins with the day after the closing date of the PAC's previous *Campaign Statement*, and ends on the closing date as specified in the NPADA.

A Nebraska PAC's failure to file a *Campaign Statement* as required is subject to late filing fees of \$25 per day, not to exceed \$750 per statement, and may also result in civil penalties. Interest accrues on unpaid late filing fees and civil penalties. The treasurer is personally liable for any unpaid late filing fee, civil penalty and interest.

ELECTRONIC FILING IS AVAILABLE FOR FILING NADC FORM B-4. The electronic filing program is very intuitive, includes helpful tips and will help you file correctly. An application to e-file must be submitted prior to using the electronic filing program. The application may be downloaded from our website at www.nadc.nebraska.gov/docs/e-filing-all-purpose-application-form.doc.

Campaign Statement, All Elections: Any Nebraska PAC that makes disbursements to support or oppose one or more candidates or ballot questions in an election must file *Campaign Statements* as follows:

1. The first election *Campaign Statement* is due thirty (30) days before the election, with a closing date of thirty-five (35) days before the election.

2. The second election *Campaign Statement* is due ten (10) days before the election, with a closing date of fifteen (15) days before the election.
3. The post election *Campaign Statement* is due forty (40) days after the election, with a closing date of thirty-five (35) days after the election.

EXCEPTION: for Nebraska PACs making disbursements for the November general election, the post election *Campaign Statement* is due seventy (70) days after the general election, with a closing date of December 31.

Please check with the Commission or its website for the specific filing dates. www.nadc.nebraska.gov/important_dates.html

IMPORTANT NOTE: A Nebraska PAC's requirement to file election *Campaign Statements* is based upon when the PAC made its first disbursement to support or oppose candidates or ballot questions for an election (primary, general, or special). Once a Nebraska PAC makes such a disbursement for an election, then the PAC must file the *Campaign Statement* next due, plus all subsequent *Campaign Statements* for that election.

Campaign Statement, Annual: Any Nebraska PAC that did not file election *Campaign Statements* during a calendar year must file an Annual *Campaign Statement* on or before January 31 of the following year, with a closing date of December 31 of the year reported.

Report of Earmarked Contribution (NADC Form B-3): Under the NPADA, an "earmarked" contribution is a contribution which passes through an intermediary or agent prior to reaching the end recipient of that contribution.

If a Nebraska PAC acts as an intermediary or agent for any "earmarked" contributions, then the PAC must file a *Report of Earmarked Contribution* for each "earmarked" contribution that it

forwards. The due date for this report is the due date for the PAC's next *Campaign Statement*.

A Nebraska PAC's failure to file a required *Report of Earmarked Contribution* with the Commission is subject to late filing fees of \$25 per day, not to exceed \$750 per report. Interest accrues on unpaid late filing fees and civil penalties. The treasurer is personally liable for any unpaid late filing fee, civil penalty and interest.

NOTE: A completed *Report of Earmarked Contribution* must be filed in two places: One copy must be filed with the Commission. A second copy must be filed with the end recipient when the contribution is delivered (the recipient should receive the contribution and this report at the same time).

Report of Late Contribution (NADC Form B-5): Under the NPADA, a "late contribution" is defined as a contribution of \$1,000 or more received during the 14 days immediately preceding the day of the election. Note that a late contribution includes money, a loan, an in-kind contribution of goods or services or a pledge when the contribution has a value of \$1,000 or more. When the value of an in-kind contribution is unknown, a reasonable estimate of the value must be made to determine if it should be reported on NADC Form B-5.

A Nebraska PAC must file a *Report of Late Contribution* for each "late contribution" that it receives in connection with an election. The due date for this report is two (2) days after the "late contribution" is received.

NOTE: The Commission considers a *Report of Late Contribution* to be a timely filing if it is received in the Commission's office or legibly postmarked by the U.S. Postal Service on or before its due date. Any committee which does not file a *Report of Late Contribution* in a timely manner is subject to late filing fees of \$100 per day for each of the first 10 days the report remains not filed. Beginning on the 11th day an additional daily late fee of 1% of the amount to be disclosed by the report is assessed, not to exceed

10%. In addition, any committee's failure to file a required *Report of Late Contribution* may result in civil penalties. Interest accrues on unpaid late fees and civil penalties. State law makes the treasurer of the committee personally liable for unpaid late fees, civil penalties and interest. Reports of Late Contribution may be faxed to the Commission office at 402-471-6599 and may also be emailed. You may call the Commission to confirm that the fax or email has been received. **It is the responsibility of the filer to insure that fax and electronic transmissions are received by the Commission.**

Report of Late Independent Expenditure (NADC Form B-11): An "independent expenditure" is defined as an expenditure to support or oppose the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question which is not a contribution to a committee and which is not made at the direction of, under the control of, or with the cooperation of another person (e.g., the supported candidate).

Under the NPADA a late independent expenditure is an independent expenditure of \$1,000 or more made during the 14 days immediately preceding the day of the election.

A Nebraska PAC must file a *Report of Late Independent Expenditure* for each "late independent expenditure" that it makes in connection with an election. The due date for this report is two (2) days after the "late independent expenditure" is made.

NOTE: The Commission considers a *Report of Late Independent Expenditure* to be a timely filing if it is received in the Commission's office or legibly postmarked by the U.S. Postal Service on or before its due date. Any committee which does not file a *Report of Late Independent Expenditure* in a timely manner is subject to late filing fees of \$100 per day for each of the first 10 days the report remains not filed. Beginning on the 11th day an additional daily late fee of 1% of the amount to be disclosed by the report is assessed, not to exceed 10%. In addition, any committee's failure to file a required *Report of Late Independent Expenditure* may result in civil penalties. Interest accrues on

unpaid late fees and civil penalties. State law makes the treasurer of the committee personally liable for unpaid late fees, civil penalties and interest. Reports of Late Independent Expenditures may be faxed to the Commission office at 402-471-6599 and may also be emailed. You may call the Commission to confirm that the fax has been received. **It is the responsibility of the filer to insure that fax and electronic transmissions are received by the Commission.**

Statement of Dissolution of a Political Committee (NADC Form A-2): Once formed, a Nebraska PAC remains in existence, and subject to the reporting requirements of the NPADA, until it is formally dissolved. (See Dissolving a PAC on p. 23)

REPORTING REQUIREMENTS OF OTHERS

Report of Political Contributions of a Corporation, Union, or Other Entity (NADC Form B-7): Any corporation, labor organization, industry association, trade association, professional association, limited liability company (LLC), or limited liability partnership (LLP) which is either organized under Nebraska law or does business within the State of Nebraska is subject to reporting requirements for its political contributions and expenditures.

If such an organization makes a contribution (cash, in-kind, pledges, or loans) of more than \$250, it must report the contribution on NADC Form B-7 within 10 days after the end of the calendar month in which the contribution occurs. NOTE: NADC Form B-7 may be filed electronically.

If an organization provides or pays for administrative expenses of its own separate segregated political fund, then the sponsoring organization must report those expenses to the Commission on NADC Form B-7. The sponsoring organization is responsible for filing this B-7 report.

Failure to file NADC Form B-7 as required is subject to late filing fees, and may also result in civil and/or criminal penalties.

Report of Earmarked Contribution (NADC Form B-3): Any person who acts as an intermediary or agent for an “earmarked” contribution is required to report the actual source of the contribution to the Commission and to the end recipient of the contribution.

If a Nebraska PAC makes an “earmarked” contribution (a contribution from the PAC, through an intermediary or agent, to a candidate or ballot question committee), then the intermediary or agent is responsible for filing this B-3 report. Failure to file this report as required is subject to late filing fees, and may also result in civil and/or criminal penalties.

AUDITING OF PACs

The statements and reports filed by any Nebraska PAC are subject to review by Commission staff. Nebraska PACs are required to submit additional information if any statement or report filed with the Commission is incomplete or otherwise deficient.

The statements and reports filed by any Nebraska PAC are subject to random field audits by Commission staff. A Nebraska PAC’s records must be made available to the Commission for inspection and/or audit upon a request of the Commission after reasonable notice.

ENFORCEMENT OF THE NPADA

The Commission acts as the primary civil enforcement agency for violations of the NPADA and of the rules and regulations promulgated thereunder. The State Attorney General has concurrent jurisdiction with the county attorney to enforce the criminal provisions of the NPADA.

The Commission investigates alleged violations of the NPADA and of its rules and regulations upon any of the following:

- The receipt of a *Complaint* filed under oath;

- The recommendation of the Commission’s Executive Director; or
- A motion of the Commission.

All proceedings relating to investigations of alleged violations of the NPADA are kept confidential until the Commission determines, through its investigation and after a formal hearing, that a violation has in fact occurred. If no violation is found, the matter remains confidential. However, the alleged violator may request that the proceedings be public.

If the Commission determines that a violation of the NPADA has in fact occurred, the Commission may then issue an Order requiring the violator to:

- Cease and desist the violation;
- File any required report, statement, or other information as directed; and/or
- Pay a civil penalty of not more than \$2,000 for each violation of the NPADA.

The Commission may refer potential criminal violations of the NPADA to the Attorney General for prosecution.

ADVISORY OPINIONS

Any person or committee directly covered or affected by the provisions of the NPADA may apply to the Commission for an Advisory Opinion.

A request for an Advisory Opinion must be in writing, and must set forth a specific transaction or activity that the person or committee requesting the opinion either plans to undertake or is presently undertaking and intends to continue in the future. A request for an Advisory Opinion should include a complete description of all the relevant facts involved in the transaction or activity at issue. Requests regarding general questions about or interpretations of

the NPADA, hypothetical situations, or the activities of third parties will not be considered as requests for an Advisory Opinion.

Unless amended or revoked, an Advisory Opinion rendered by the Commission is binding upon the Commission in any subsequent charges before the Commission concerning the person or committee (or PAC) who requested the opinion and, in good faith, acted on reliance of that opinion (unless material facts were misstated in the request).

DISSOLVING A PAC

A Nebraska PAC that wishes to cease its operations is encouraged to dissolve. A Nebraska PAC may dissolve if it:

1. Does not expect to receive additional contributions;
2. Has paid all of its outstanding debts; and
3. Has disposed of all of its unexpended funds and any other committee assets.

A Nebraska PAC that wishes to dissolve must file a *Statement of Dissolution of a Political Committee* with the Commission. This Statement of Dissolution, along with the PAC's final *Campaign Statement*, must show that the PAC has met all of the requirements to dissolve.

As part of a Nebraska PAC's final distribution of assets, the PAC's unexpended funds may be transferred to one or more of the following:

- A candidate committee;
- A political party committee;
- A tax-exempt charitable institution;
- The State of Nebraska or any agency thereof or a fund of any political subdivision of the State subject to the Nebraska Budget Act; or
- The contributors of the funds, provided that no contributor receives more than the amount he/she/they contributed.

Any physical assets of a dissolving Nebraska PAC must be transferred to one or more of the persons set forth above or be sold at a reasonable price with the proceeds transferred as set forth above. NOTE: Electronic equipment is considered to have no value more than 4 years after the purchase date (see Commission Resolution #04-02). Please contact the Commission office for assistance in reporting the value of any electronic equipment which is less than 4 years old.

After a Statement of Dissolution has been filed, and after a final review by Commission staff, a Nebraska PAC will be notified whether its Statement of Dissolution has been accepted.

REMINDER: Once formed, a Nebraska PAC is subject to the reporting requirements of the NPADA until its Statement of Dissolution has been accepted.

A dissolved Nebraska PAC may not make any further contributions or disbursements.

A dissolved Nebraska PAC must maintain its records for a period of five (5) years after its dissolution.

FREQUENTLY ASKED QUESTIONS ABOUT PACs

- Q. Who may contribute to a separate segregated political fund?
- A. Only the employees, officers, directors, stockholders, or members of the fund's sponsoring organization.
- Q. If money is withheld from a person's salary as a contribution to a separate segregated political fund, how soon must the money be transferred to the fund?
- A. Immediately.
- Q. Can a separate segregated political fund hold a fundraising event and solicit contributions from the general public at that event?
- A. No.

- Q. Can a separate segregated political fund accept contributions from a member of the sponsoring organization if the member is a government entity or is owned by a government entity?
- A. No. Public funds may not be used to support or oppose candidates or ballot questions, either directly or through a PAC.
- Q. Can a separate segregated political fund accept contributions from a member of the sponsoring organization which is tax-supported but is not owned by a state or local government entity?
- A. Yes, as long as public funds are not contributed.
- Q. Can the sponsoring organization of a separate segregated political fund pay the administrative expenses of its fund?
- A. Yes. Administrative expenses of a separate segregated political fund may be paid either by the PAC or by the PAC's sponsoring organization. If the PAC pays these expenses, then they should be reported on the PAC's *Campaign Statement NADC Form B-4*. If the sponsoring organization pays these expenses, then they should be reported on the organization's *Report of Political Contributions of a Corporation, Union or Other Entity NADC Form B-7*.
- Q. Are the costs of a fundraising event considered administrative expenses of a Nebraska PAC?
- A. Yes.
- Q. Can a Nebraska PAC pay federal income tax on the interest earned by the PAC's depository account?
- A. Yes (see Advisory Opinion #116).
- Q. Can a Nebraska PAC make disbursements for lobbying activities?
- A. No.

EXAMPLES AND FORMS

A completed sample of a Statement of Organization of a Political Committee (NADC Form A-1), a Report of Earmarked Contribution (NADC Form B-3), and a Campaign Statement for Independent Committees (NADC Form B-4) are reproduced on the pages following the examples set out here. Also included is a sample Report of Political Contributions of a Corporation, Union or Other Entity (NADC Form B-7) as an illustration of what a corporation would report.

The sample Campaign Statement for Independent Committees (NADC Form B-4) represents the First Primary Election Campaign Statement, due 30 days prior to the primary election. This particular sample statement is for the hypothetical committee that filed the foregoing Statement of Organization of a Political Committee (NADC Form A-1).

A listing of hypothetical campaign situations that a typical independent committee may expect to encounter are provided below.

I. CASH BALANCE CARRY-OVER

1. Situation:

The Nebraska Association of Gravel Road Builders (NAGRIB) PAC received its first contribution on January 1st.

Explanation of Entry:

The NAGRIB PAC beginning cash balance would be zero, and the committee's first Campaign Statement would include all contributions received on or after January 1st.

2. Situation:

The 1st primary Campaign Statement for the NAGRIB PAC listed a \$3,125 ending cash balance on Line 26.

Explanation of Entry:

(This explanation is not illustrated in sample forms.) The 2nd Primary Election Campaign Statement should report a beginning cash balance, on Line 18 of the Cash Balance Summary, equal to cash on hand at close of the previous reporting period, or, \$3,125.

II. RECEIVING AND REPORTING CONTRIBUTIONS

1. Situation:

On March 15th the NAGRB PAC received a \$300 cash contribution from M & M Construction.

Explanation of Entry:

This contribution must be included in the total "Cash Contributions" (Line 2(a) of the Summary of Receipts). Additionally, this contribution must be itemized on Schedule A since the amount is more than \$250.

2. Situation:

The NAGRB PAC committee received a \$225 cash contribution from Jay Johnson Gravel, Inc., on March 15, and received an additional \$100 cash contribution from Jay Johnson Gravel, Inc., on March 27th.

Explanation of Entry:

These contributions must be included in the total of "Cash Contributions" (Line 2(a) of the Summary of Receipts). Furthermore, these contributions must also be itemized on Schedule A since the total cumulative amount received from this contributor is more than \$250.

3. Situation:

The NAGRB PAC committee received an additional \$200 cash contribution from the M & M Construction on September 3, which

was during the reporting period of the 1st general election statement. (This situation is not illustrated in sample forms.)

Explanation of Entry:

This \$200 contribution must be included in the 1st general election statement in the total "Cash Contributions" (Line 2(a) of the Summary of Receipts). Since M & M Construction had made contributions totaling \$300 during the Primary Election reporting periods, the \$200 contribution must be listed on Schedule A. In addition, all contributions received during the Primary Election must be aggregated and re-listed for the General Election. Therefore, the committee would include the earlier contributions totaling \$300 from M & M Construction under "Total Contributions Previously Reported During the Calendar Year" and the additional \$200 under "Cash Contributions This Period" on Schedule A.

III. REPORTING CASH EXPENDITURES

1. Situation:

On March 1st the NAGRB PAC paid for the postage to mail out brochures for the Ralph for Legislature committee, \$200, and the Sid Hill for Legislature committee, \$200.

Explanation of Entry:

These expenditures must be included in the 1st primary election statement in the total of "Expenditures to or for the benefit of Nebraska candidates," (Line 11(a) of the Summary of Expenditures). These expenditures would also be listed on Schedule B, Section 1, as in-kind contributions to Ralph for Legislature and Sid Hill for Legislature. Furthermore, a description of the in-kind expenditures should be listed, including the name and address of any 3rd Party Payees (the US Post Office in this situation), either on Schedule B, Section 1, or, in the space provided after Schedule C.

2. Situation:

On March 29th the NAGRB PAC committee made an independent expenditure of \$750 on behalf of the Committee for City Improvement Issues.

Explanation of Entry:

This expenditure must be included in the total of "Expenditures to or for the benefit of Nebraska candidates," (Line 11(a) of the Summary of Expenditures). This expenditure would also be itemized on Schedule B, Section 1, and a description of the independent expenditure (also including the payee name and address) should be listed directly below or in the space provided after Schedule C.

3. Situation:

The NAGRB PAC made a \$600 disbursement to the John Doe for U.S. Senate, Rep. Nebraska committee.

Explanation of Entry:

This expenditure must be included in the total of "Funds disbursed for federal & out-of-state elections," (Line 11(b) of the Summary of Expenditures). This expenditure would also be included on Schedule B, Section 2 (Lines marked "Federal" and "(2) Total Disbursements for federal candidates").

4. Situation:

On March 29th the NAGRB PAC made a \$300 disbursement to United Bank for Check Printing Charges and Other Service Charges.

Explanation of Entry:

This disbursement should be included in the total of "Administrative/ Operating Expenses," (Line 11(c) of the Summary of Expenditures),

and itemized on Schedule B, Section 3 since the amount is more than \$250.

5. Situation:

On February 28th the NAGRB PAC purchased a computerized voter listing from The Vee Company for \$900. The PAC disbursed only \$500 in cash and therefore still owed The Vee Company \$400.

Explanation of Entry

The actual disbursement of \$500 should be included in the total of "Administrative/Operating Expenses," (Line 11(c) of the Summary of Expenditures), and itemized on Schedule B, Section 3 since the amount is more than \$250. Furthermore, the unpaid amount, \$400, should be reported as an "Account payable" on Schedule C, Miscellaneous Transactions.

6. Situation:

On March 13th the NAGRB PAC contributed \$300 worth of the computerized voter listing to the Ralph for Legislature committee.

Explanation of Entry

This contribution must be reported as a non-cash "In-Kind Expenditure this Period," (Line 14 of the Summary of Expenditures). Furthermore it would be listed on "Schedule C, Miscellaneous Transactions."

7. Situation:

On March 4, the NAGRB PAC pledged to give the Citizens for Cindy committee a \$500 contribution. As of the closing date for the 1st Primary Campaign Statement reporting period (Thirty days before election), the PAC had made no payments of the amount pledged.

Explanation of Entry:

The pledged expenditure must be included in the total amount of "Unpaid Pledges Made This Period" (Line 15 of the Summary of Receipts). Furthermore the pledge would be itemized on "Schedule C, Miscellaneous Transactions."

8. Situation:

As of the closing date for the 2nd Primary Campaign Statement (Ten days before election), the NAGRB had not made any payment on the pledge to the Citizens for Cindy committee. (This situation is not illustrated in sample forms.)

Explanation of Entry:

No entries would be made on the Financial Summary Page. On Schedule B Section 1, \$500 would be included under the columns "Total at Close of Last Period" and "Total for the Calendar Year to Date" for the Citizens for Cindy committee.

9. Situation:

On May 1, the NAGRB PAC pays the \$500 on the pledge made to the Citizens for Cindy committee. (This situation is not illustrated in sample forms.)

Explanation of Entry:

This payment will be included in the Cash Balance Summary Line 24, "Payments on Pledges Made in Prior Reporting Periods" of the Post Primary Campaign Statement (Forty days after election). On Schedule B Section 1, \$500 would still be included under the columns "Total at Close of Last Period" and "Total for the Calendar Year to Date" for the Citizens for Cindy committee.

IV. REPORTING EARMARKED CONTRIBUTIONS

1. Situation:

On February 25th Fred Morris Construction gave the NAGRB PAC a \$275 check with the understanding that the PAC would use (earmark) it for the benefit of the Sam Jones for Legislature Committee.

Explanation of Entries:

This contribution is an earmarked contribution from Fred Morris Construction to the Sam Jones for Legislature Committee. A Report of Earmarked Contribution (NADC Form B-3) must be filed by the NAGRB PAC, as the PAC is acting as intermediary or agent in this instance.

This transaction must be reported on the PAC Campaign Statement (NADC Form B-4) as a contribution included in the total "Cash Contributions" (Line 2(a) of the Summary of Receipts) and as an itemized contribution on Schedule A since the amount is more than \$250;

It should also be reported on the Campaign Statement as a Cash Disbursement to be included in the total of "Administrative/Operating Expenses," (Line 11(c) of the Summary of Expenditures), and itemized on Schedule B, Section 3 since the amount is more than \$250.

V. REPORTING RETURNED CONTRIBUTIONS

1. Situation:

On April 11th the Sid Hill for Legislature committee returned a \$100 contribution that was previously reported as disbursed by the PAC to that committee on March 5th. (This situation is not illustrated in sample forms.)

Explanation of Entry:

The returned contribution would be included on Line 12 of the Summary of Expenditures, "Deduct Contributions to Cand./Comm. Previously Reported which were Returned During this Period." Furthermore it would be itemized on "Schedule C, Miscellaneous Transactions" with the letter D under the Nature column and a description such as "Sid Hill for Legislature original expenditure date 3/05/2016."

TITLE 4 - NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

CHAPTER 8 - DESIGNATION OF PRINTED OR REPRODUCED ITEMS EXEMPT FROM DISCLAIMER REQUIREMENTS AND RULES AND REGULATIONS ON THE SIZE AND PLACEMENT OF DISCLAIMERS.

(Adopted September 11, 1987 and amended on October 19, 1990)

STATUTORY AUTHORITY

This rule is adopted pursuant to the provisions of section 49-14,123(1) and section 49-1474.01.

8-(1) **Scope and Application:** This rule designates the items relating to a candidate or a committee which are printed or reproduced at the request of a candidate or committee which are exempt from the disclaimer requirements of section 49-1474.01 and establishes rules and regulations determining the size and placement of disclaimers on non-exempt items relating to a candidate or committee which are printed or reproduced at the request of such a candidate or committee.

8-(2) **Designation:** Pursuant to section 49-1474.01(2) the following items relating to a candidate or committee which are printed or reproduced at the request of such candidate or committee are exempt from the disclaimer requirements of section 49-1474.01(1): windshield stickers, yard signs, bumper stickers, campaign buttons, balloons, Christmas cards, address books, ashtrays, badges & badgeholders, cigarette lighters, clothespins, T-shirts, coasters, combs, cups, earrings, emeryboards, envelopes, erasers, flyswatters, frisbees, glasses, golf balls, golf tees, hats, horns, icescrapers, keyrings, knives, letter openers, magnifying glasses, matchbooks, mini-pocket calculators, nailclippers, nailfiles, napkins, noisemakers, paper & plastic cups, paper & plastic plates, paperweights, pencils, pendants, pennants, pens, pinwheels, plastic table wear, pocket protectors, potholders, ribbons, rulers, shoehorns, staple removers, sunglasses, sunvisors, swizzle sticks, tickets to fundraisers, whistles, billboards, electronic signs, palm or business cards, magnetic stickers, bookmarks.

8-(3) **Size:** Disclaimers on non-exempt items relating to a candidate or committee which are reproduced or printed at the request of such candidate or committee shall be of such size so as to be legible.

8-(4) **Placement:** The disclaimer on printed material shall clearly state in an area apart from any text the name and street address of the person paying for the production, distribution or printing of the printed material.

8-(5) **Printed Material With More Than One Page:** Printed material requiring a disclaimer containing more than one page need only contain the disclaimer on one page of the printed material if the pages of the printed material are taped together, stapled together, or otherwise bound together, or if it clearly appears that the multiple pages of the printed material constitute one document such as by consecutive numbering of pages. Inserts or appendices must contain a separate disclaimer unless physically attached to material containing a disclaimer.

8-(6) **Envelopes:** A disclaimer appearing on an envelope containing political material does not constitute a proper disclaimer on the political material. There is no requirement that a disclaimer appear on an envelope containing printed material.

8-(7) **Person Paying For the Production, Distribution or Posting of Printed Material:** If an individual acts as an agent for another in paying for the printing, production, distribution or posting of printed political materials or is to be reimbursed by another for the payment, that individual is not the person paying for the production, distribution or posting of political material. The ultimate source of the payment is the person who pays for the production, distribution or posting of printed material.

