

GOVERNMENT, MILITARY AND VETERANS AFFAIRS  
COMMITTEE

LR 163—Interim study to examine the issues which fall under the  
jurisdiction of the Nebraska Accountability and Disclosure  
Commission

GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE  
INTERIM STUDY

December 2009

SENATOR BILL AVERY, CHAIR

## **INTRODUCTION**

The purpose of LR 163 is to examine the issues that fall under the jurisdiction of the Nebraska Accountability and Disclosure Commission, including the financing of campaigns, the role of lobbyists, and ethics in the political system. This interim study was ranked by the Government Committee as its top priority. LR 163 was introduced as the result of a discussion on the floor of the legislature on LB 626 (101<sup>st</sup> Legislature) regarding the Campaign Finance Limitation Act and how campaigns are financed.

Over the interim, a series of meetings with various stakeholders was scheduled to discuss these issues. The first meeting dealt with lobbyist issues such as the gift limits and electronic filing of lobbyists' reports. Lobbyists at the meeting were in favor of allowing electronic filing of their reports but had differing opinions on gift limits.

At the second meeting, independent committees and expenditures were discussed. While it was generally agreed that independent committees are difficult to regulate because of First Amendment concerns, the group felt greater disclosure in some circumstances could be helpful.

The third meeting discussed various topics including revolving door legislation and the use of campaign funds. The final meeting discussed the issues of conflict of interest and the enforcement process of the Nebraska Accountability and Disclosure ~~Office~~ Commission.

LR 163 participants included representatives from the Nebraska Accountability and Disclosure Commission (NADC) staff, NADC commissioners, the League of Nebraska Municipalities, the Nebraska Association of County Officials, Nebraska State Education Association, Common Cause, the Nebraska Democrat and Republican Parties, the League of Women Voters, the Nebraska Cattlemen and other lobbyists.

## **SUMMARY**

### **Lobbyist Gift Limits and Electronic Filing of Lobbyist's Reports**

The first meeting discussed the issues of lobbyist and principal gift limits and the electronic filing of lobbyists' reports.

Most states place some restrictions on gifts legislators and other elected officials may receive and lobbyists can give. States agree that giving and receiving gifts is prohibited if they influence official action. Beyond that, the states differ on the details. Some states prohibit gifts from a lobbyist to a legislator. Other states allow gifts, but limit the amount per year in the range from \$10 to \$1,000. (See appendix for more information.)

A few states, like Nebraska, have a monthly gift limit. Currently in Nebraska, a lobbyist, principal or someone acting on behalf of either is not allowed to give gifts in the value of more than \$50 in a calendar month to officials, their staff, or immediate families in the

legislative or executive branches of government. Since the adoption of the Nebraska Political Accountability and Disclosure Act (NPADA), the gift limit has increased from ten dollars in 1976 to the current limit of \$50 in a calendar month. (See appendix for more information.)

At the meeting, the participants discussed the \$50 gift limit and whether that limit was too low. Some participants argued that the gift limit has not been raised in several years and should be increased to meet increased costs. Many recommended an increase to \$75 or \$100. One of the recommendations was to increase the gift limit for certain items, such as flowers or memorials for funerals and recognition plaques. The argument for this increase was that the \$50 limit is really too low for these items.

The second topic discussed at the meeting was the electronic filing of lobbyists' reports. Most participants agreed that the ability to file lobbyists' reports electronically would reduce errors and make the process easier. Currently, both the NADC and the Clerk of the Legislature re-enters the data from the lobbyists report on their websites. This can cause errors to occur because the data are re-entered twice. The group discussed whether electronic filing should be permissive or mandatory. There are approximately 19 other states that provide for electronic filing of these reports. Some states mandate electronic filing, but most states have it as an option. (See appendix for more information)

### **Independent Committees and Expenditures**

During the debate in 2009 on LB 626, which dealt with the use of public resources, the Legislature discussed the issues of independent committees and expenditures. The legislators commented on the apparent increased use of independent committees. Many senators felt the committees were used for "negative campaigning." There was a great deal of discussion regarding how independent committees could be regulated, either through limiting contributions or increased disclosure of the donors to the independent committees. As with many areas dealing with money in campaigns, there are First Amendment implications in regulating independent committees.

The United States Supreme Court's leading case in addressing the issue of independent expenditures is *Buckley v. Valeo*, 424 U.S. 936 (1974). *Buckley* held that restrictions on independent committees placed a "substantial and direct restriction on the ability of candidates, citizens, and associations to engage in protected political expression," which runs afoul of the First Amendment. Courts have determined that states have a substantial interest in notifying the public about the sources of expenditures and preventing actual and perceived corruption. However, most courts find the First Amendment protections outweigh the states' substantial interest.

Two states have attempted to put some regulations on independent committees: Michigan and New York. Michigan allows independent committees to give candidates 10 times the amount of money a political committee or individual can give if it meets certain criteria including: receiving contributions from at least 25 persons and, in the same calendar year the 25 contributions are received, expends funds to support or oppose three candidates.

New York requires any independent expenditure over \$1000 to clearly state the name of the person who paid for the communication and state that the communication was not authorized by any candidate.

In Nebraska the concern appears to be independent expenditures made by independent committees, rather than direct contributions from independent committees to candidates.

The most successful regulation of independent committees is through increased disclosure. Courts have upheld provisions requiring, for example, that persons making independent expenditures include in communications a statement that the communication is not authorized by any candidate or candidate committee. Although this disclosure also implicates the First Amendment, some courts have upheld this regulation.

Many states have limits on the contributions from a single donor to candidates. For example, states limit how much an individual, state political party, PAC, corporation or union may contribute to candidates. Some states prohibit corporate and union contributions to candidates. Currently, the United States Supreme Court is considering a case that could impact states' prohibition on corporate contributions. In Nebraska, there is no regulation on the amount of independent expenditures or on contributions to candidates, other than the aggregate contribution limits applicable to candidates subject to the Campaign Finance Limitation Act. (See appendix for more information)

Courts have also upheld the contribution limits, but not limits on expenditures. However, recent court cases have held that contribution limits that are too low, such as \$100, violate the protections of free speech. It is possible that reasonable limitations on independent contributions may be constitutionally permissible.

At the meeting to discuss independent committees, the participants discussed the limitations on regulating these committees because of First Amendment concerns. Some of the ideas presented included more information on donors who contribute to independent committees, better disclosure on mailers and other communications that the communication is not authorized by a candidate or candidate committee, and educating the public so people are able to access information about the independent committees and who is contributing to them.

Many of the participants were concerned about the increased negativity around campaigns. Of particular concern was whether it is having an adverse effect on voters, such as making voters more cynical about the political system. Some of the suggestions included notifying candidates when an independent expenditure is made for or against them, requiring independent committees to pay a filing fee to subsidize a website containing information on the contributors to independent committees, and setting up a "truth panel" to review claims made in mailings by independent committees.

## Miscellaneous Ethics Issues

At the third meeting, there were four major issues discussed. Each will be addressed below.

### **1. Revolving Door legislation**

“Revolving door laws,” or prohibitions on elected officials lobbying after leaving their office, are in place in over 30 states. Many states have one or two year bans on elected officials becoming lobbyists. (See appendix for more information) Proponents of such legislation argue that legislators have a great deal of influence while serving and if allowed to lobby immediately after the end of their term, they can use their influence with current senators to give their clients an advantage in the policy making process. It also restores public confidence that officials in public service are there to serve, and not have financial gain from their position.

Currently, Nebraska has no revolving door statute. When revolving door legislation has been introduced, the arguments against the measures have been that legislators in Nebraska are paid very little and it is unfair to exclude them from a job in which they have experience after their terms end. Also, senators have developed interests in certain public policy areas and one way to continue to make changes to public policy is through lobbying.

At the meeting, the participants discussed the merits of this idea. Some participants felt term limits reduce the effectiveness of former senators and therefore, it is not needed. Others argued revolving door legislation may help restore public confidence in elected officials.

### **2. Corporate Donations**

Approximately 20 states currently prohibit corporations from contributing to candidates. Those in favor of bans on corporate donations argue that opening the way for unlimited corporate spending to influence elections may affect the individual freedoms of ordinary citizens, whose right to free speech is essentially unequal, because of the corporations superior wealth. Those who oppose limits on corporate donations raise constitutional questions about the corporation’s free speech rights. Some have speculated that restrictions on corporate donations may impede the ability of small businesses from participating in the electoral process. Currently, the United States Supreme Court is considering a case on whether to strike down bans on corporate funding based on First Amendment concerns.

In Nebraska, there is no prohibition on corporate donations, other than the aggregate contribution limits applicable to candidates subject to the Campaign Finance Limitation Act.

The participants in the meeting were not in favor of adopting restrictions for corporations in Nebraska, particularly in light of the pending Supreme Court case.

### **3. Out of State Contributors**

Most states do not have outright bans on “out of state contributors,” most likely because they raise constitutional questions. Vermont attempted to limit candidates from receiving more than 25 percent of their contributions from out-of-state organizations and individuals. It was struck down as being in violation of the First Amendment. Nebraska has provisions to report major out of state contributors, but not ban them. Nebraska requires special reports from out of state contributors of more than \$10,000.

At the meeting, the participants discussed that most out of state contributions are for ballot issues but there is a trend toward seeing more of these contributions for candidates. Again, the participants did not have an interest in banning out of state contributions in Nebraska because of the First Amendment concerns and because Nebraska’s current laws on disclosures of out of state contributors is better than most states.

It was noted that enforcement of Nebraska’s disclosure laws can be difficult when a group is located outside of the state.

### **4. Contributions During Legislative Session**

Currently, over half of states place restrictions on giving and receiving campaign contributions during the legislative session. Some states ban only contributions by lobbyists, principals and political committees. Other states have a general prohibition on contributions during the legislative session. One state, South Carolina, bans lobbyist contributions at any time, not just during a session. (See appendix for more information). Proponents of this legislation argue that incumbents have an advantage during sessions. Enacting an in-session ban on fundraising puts candidates on a level and fair playing field. Opponents argue such a prohibition may “tie the senators’ hands” when they are in the Legislature. For example, if a senator is running for higher office, it may put them at a disadvantage. The other candidates who are not in the Legislature would be able to have fundraisers, but not the sitting senator.

At the meeting, there was a great deal of discussion on this topic and whether restrictions on contributions during legislative session would help or hinder incumbents. There was also discussion on whether the ban would be limited to fundraisers in the capitol city and if fundraisers could be held outside of Lincoln.

Other topics discussed at the meeting included:

- disclaimers on donations to charity when the donation comes from campaign funds;
- disclosure of expenditures before the Campaign Finance Limitation Act reporting period begins; and

- prohibitions on contributions from utility companies to candidates for and members of the Public Service Commission.

### **Conflicts of Interest and the Nebraska Political Accountability and Disclosure Act Enforcement Process**

All states have provisions dealing with situations in which a legislator has a conflict of interest. Some states prohibit legislators from participating in or voting on issues in which they have a conflict. Other states, like Nebraska, require legislators to disclose information about the conflict but do not require them to abstain from voting.

In Nebraska, a senator is required to prepare a written statement describing the matter requiring action and the nature of the potential conflict. The senator needs to also disclose whether he or she will abstain from voting, and if they are going to vote, why they will vote in spite of the conflict. The statement is delivered to the NADC and the Speaker of the Legislature.

Nebraska also has conflict of interest provisions relating to officials in the executive branch and political subdivisions. Executive branch officials or employees who are required to take action on an issue in which they may have a conflict of interest are required to prepare a written statement describing the conflict and deliver it to the NADC and their immediate supervisor. If the immediate supervisor does not resolve the matter, the official or employee is required to follow direction from the NADC or remove himself or herself from the action or decision. Political subdivisions are handled in a similar manner as executive branch officials and employees. In other words, senators are allowed to vote on matters of conflict of interest after disclosure, but other officials and employees may be required to abstain from acting or voting.

In addition to the general conflict of interest statutes, Nebraska also has provisions dealing with conflicts in contracts with government bodies. Generally, no public official or employee is allowed to enter into a contract with a government body unless the contract is entered into through an open process with disclosure of the interest. Also, a public official or employee with an interest in a contract is required to disclose the matter and abstain from participating or voting on the contract. (See appendix for more information).

At the meeting, there was extensive conversation about the current conflict of interest provisions for legislators and how they may be improved. One suggestion was that the law be changed to require the conflict of interest to have a specific impact on a legislator. There was also discussion about whether senators should be allowed to vote on matters where they have a conflict of interest. Some argued senators should be treated similarly to executive branch officials and not be allowed to vote. Others argued that the senator is there to represent his or her entire district and it is not fair for the entire district to be unrepresented on an issue. Further, the participants discussed making the conflict of

interest statements more public by putting them on the NADC website or printing them in the legislative journal.

At this meeting, the participants also discussed the enforcement process of the NADC. Frank Daley, the Executive Director of the NADC, explained both the informal and formal enforcement process.

In the informal process, the Commission staff provides information to public officials and employees and candidates in order to help them comply with the NPADA and the Campaign Finance Limitation Act (CFLA). In addition, the General Counsel for the Commission provides written staff opinions and the Commission issues formal Advisory Opinions.

In the formal enforcement process, an investigation is commenced by the Executive Director, the Commission acting as a body, or when there is a filing of a formal complaint. The complaint is reviewed to determine if it states a cause of action. If there is a cause of action, an investigation is commenced. The person or entity accused in the complaint is notified of the investigation, which then proceeds under the direction of the General Counsel for the Commission. The Commission determines if there is probable cause to believe a violation has occurred. If there is no probable cause, the complaint is dismissed. If probable cause is found, the Commission then determines whether there is sufficient evidence to reasonably believe the NPADA or CFLA was violated. If no, the matter is dismissed. If yes, the matter proceeds to a hearing.

At the hearing, a hearing officer presides in a role similar to that of a judge. The hearing is conducted in accordance with the NPADA and the State Administrative Procedures Act. The General Counsel introduces evidence and the person accused of the violation is allowed to introduce or rebut evidence. After the hearing, the hearing officer submits Proposed Findings of Fact and Conclusions of Law which are given to each member of the Commission. The Commission, outside the presence of staff or any other person, deliberates on the matter and adopts findings and conclusions. An order is then issued either finding, or not finding, a violation. Commission orders may be appealed to the District Court and may be enforced by the District Court.

Regarding confidentiality, the Commission investigation and hearing process is subject to the confidentiality provisions found in the NPADA. Matters relating to investigations and hearings are only made public if the Commission finds there has been a violation and enters an order or the person accused of the violation requests the matter be public. (See appendix for further information).

## **CONCLUSION**

This comprehensive study on the subjects under the jurisdiction of the Nebraska Accountability and Disclosure Commission is the first since the adoption of the Nebraska Political Accountability and Disclosure Act in 1976. The input of the stakeholders who attended the meetings was interesting and insightful. A common theme throughout the

meetings was the idea of increasing the transparency and disclosure to the public of the issues of the NADC. The Government, Military and Veterans Affairs Committee will likely hear several bills in the upcoming session to attempt to improve and refine these sections of statutes, including legislation increased transparency and disclosure to the public.

**Appendices:**

Legislative Resolution LR 163

Lobbying Issues (prepared by the staff of the NADC)

Electronic Filing of Lobbyists Reports

Ethics: Giving, Receiving and Reporting Coffee (report by The Center for Ethics in Government)

Independent Expenditures and Independent Committees (prepared by the staff of NADC)

Revolving Door Prohibitions Against Legislators Lobbying State Government After They Leave Office (prepared by NCSL)

Limits on Contributions During the Legislative Session (prepared by NCSL)

The NPADA Conflicts of Interest (prepared by the staff of NADC)

Voting Recusal Provisions (prepared by NCSL)

The NPADA Enforcement Process (prepared by the staff of NADC)

## ONE HUNDRED FIRST LEGISLATURE

## FIRST SESSION

## LEGISLATIVE RESOLUTION 163

Introduced by Avery, 28.

PURPOSE: The purpose of this interim study is to examine the issues which fall under the jurisdiction of the Nebraska Accountability and Disclosure Commission, including the financing of campaigns, the Campaign Finance Limitation Act, the role of lobbyists, and ethics in the political system. Specific issues to be examined include, but are not limited to:

- (1) Independent committees and their role in campaigns;
- (2) Ways to provide more transparency in the system, including reporting requirements; and
- (3) Elected officials becoming lobbyists.

The Nebraska Accountability and Disclosure Commission, along with other interested parties, will be invited to participate in this study.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

**Government, Military and Veterans Affairs Committee**  
**LR 163**  
**July 28, 2009**

**LOBBYING ISSUES**

Generally

Under current law a person attempting, on behalf of another, to affect matters before Legislature must register as a lobbyist. The person represented is known as the principal.

Clerk of the Legislature- The lobbyist registration, quarterly lobbyist reports and statements of activity must be filed with the Clerk of the Legislature. Quarterly principal reports are also filed with the Clerk. The lobbyist registration fee is paid to the Clerk of the Legislature. In accordance with a statutory formula, part of the registration fee is transferred to the NADC.

The Nebraska Accountability and Disclosure Commission (NADC) - By statute, the NADC is charged with enforcing the lobbying laws.

Websites

Both the Clerk of the Legislature and the NADC maintain websites on which information from lobbyist and principal reports is displayed. The information appears on the websites by way of manual data entry.

Gifts

Definition of Gift- Gift shall mean a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is given therefor.

Exceptions to definition of Gift- Gift shall not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, a gift received from a relative, a breakfast, luncheon, dinner, or other refreshments consisting of food and beverage provided for immediate consumption, or the occasional provision of transportation within the State of Nebraska

Gifts of Admissions- A gift of an admission to a state-owned facility or a state-sponsored industry or event to a public official, a member of a public official's staff, or a member of the immediate family of a public official which is given by an agency, political subdivision, or publicly funded postsecondary educational institution. A gift of admissions is not subject to the gift limit.

Gift Limits- a) A lobbyist, principal or someone acting on behalf of either shall not give gifts with an aggregate value or more than \$50 in any calendar month to an official in the Legislative or Executive Branches of State Government, members of an official's staff, or a member of the official's immediate family; b) An official in the Legislative or Executive Branches of State Government, members of an official's staff, or a member of the official's immediate family shall not accept gifts with an aggregate value of more than \$50 in a calendar month from a lobbyist, principal or someone acting on behalf of either.

#### History of Gift Limits

1976- \$10 in a one month period

1979- \$25 in a one month period

1991- \$50 in a one month period

2000- \$50 in within a calendar month

Nebraska Accountability & Disclosure Commission  
11<sup>th</sup> Floor State Capitol  
Lincoln, Nebraska

**Ethics: Giving, Receiving and Reporting Coffee \***

The Center for Ethics in Government - *UPDATED March, 2008*

This table is intended to provide general information and does not necessarily address all aspects of this topic. Because the facts of each situation may vary, this information may need to be supplemented by consulting legal advisors. It reflects in summary form statutes in effect as of 12/31/07 or statutes set to take effect shortly thereafter.

Most states place restrictions on the gifts that legislators may receive and lobbyists can give. This table outlines these restrictions, with a focus on exemptions for food and beverage, for the 50 states and gives the statutory reference for that state's gift restriction laws.

States agree that giving and receiving gifts is prohibited if they influence official action. From that point on, states differ in the details. Gift restriction statutes generally can be grouped into three categories: zero tolerance laws, bright line test laws, and states using disclosure and discernment instead of restrictions.

State	Statutory Reference	Zero Tolerance State		Bright Line Test State		Other
		Gift Threshold	Food and beverage exempt	Gift Threshold	Food and beverage exempt	
Alabama	Ala. Code §36-25-7 §36-25-1 (31)					
Alaska	Alaska Stat. §24.60.080, §24.60.990	\$0 for lobbyists, unless the gift is tickets to a charity event.	◆ Exempt only for immediate consumption	\$250/ gift for non-lobbyists	◆ Exempt only for immediate consumption	
Arizona	Ariz. Rev. Stat. Ann. §38-504, §38-542 d: §38-541(5) d: §41-1231 (j)			\$10/ year		
Arkansas	Ark. Stat. Ann. §21-8-801, §21-8-607 D: §21-8-402			\$100/ gift		

California	Ca. Govt. Code §86203, §89503			\$10/legislator per month \$250/year aggregate		
Colorado	Colo. Constitution Art. XXIX	\$0 from professional lobbyists	◆ Exempt only if consumed at event at which recipient appears to speak or to answer questions as part of a scheduled program	\$50/calendar year		◆
Connecticut	Conn. Gen. Stat. §1-79			\$10/gift; \$50 aggregate per year	◆ \$50 limit on food and beverage given in presence of lobbyist with \$150 /year aggregate.	
Delaware	Del. Code Ann. Tit. 29§5806, 29§5835					◆
Florida	Fla. Stat. §112.3148, §112.313(2)(4)			\$100/gift	◆ Exempt only under certain circumstances, including as honoraria and for immediate consumption at certain events.	
Georgia	Ga. Code §45-10-3(6)(9), §21-5-11(c) d: §21-5-3(12), d: §21-5-70(1)			\$100/gift	◆ Exempt only as honoraria.	
Hawaii	Hawaii Rev. Stat. §84-11					◆
Idaho	Idaho Code §18-1356(4); §67-6619			\$50/gift		
Illinois	Ill. Rev. Stat. Ch 5 ILCS 425/10					◆

Indiana	Ind. Code §4-2-6					◆
Iowa	Iowa Code §68B.22	\$0	◆ Nonmonetary items, including food and beverage allowed up to \$3/day.	\$3/day for nonmonetary items, including food and beverage		
Kansas	Kan. Stat. Ann. §46-237			\$40/year	◆	
Kentucky	Ky. Rev. Stat. §6.611, §6.751	\$0	◆ Food and beverage allowed up to \$100/year per legislator if consumed on premises.	\$100/year per legislator for food and beverages if consumed on premises.		
Louisiana	La. Rev. Stat. Ann. §42:1102(22)(a), §42:1115, §42:1111A	\$0	◆			
Maine	Me. Rev. Stat. Ann. Tit. 25§1012, 25§1014(1)(b), §605					◆ Note: Gift ban on gifts of \$300 or less from a single source applies only to giving something of value for the explicit purpose of influencing legislation, usually interpreted to be a bribe.
Maryland	Md. State. Govt. Code Ann. §15-505			\$20/gift	◆ Exempt only under specified circumstances, meaning occasions where more than one legislator is present.	

Massachusetts	Mass. Gen. Laws Ann. Ch.268B	\$0 for lobbyists		\$50 for non-lobbyists, if gift is deemed a "conflict of interest"		
Michigan	Mich. Comp. Laws §15-342, §4.414			\$25/month	◆ Exempt only for immediate consumption	
Minnesota	Minn. Stat. §10A.071(2)	\$0 for lobbyists	◆ Exempt only if provided for giving a speech or speaking on a panel.			
Mississippi	Miss. Code Ann. §25-4-101					◆
Missouri	Mo. Rev. Stat. §105					◆
Montana	Mont. Code Ann. §2-2-101 to 104			\$50/gift	◆	
Nebraska	Neb. Rev. Stat. §49-1490, §49-1423			\$50/month	◆ Exempt only for immediate consumption	
Nevada	Nev. Rev. Stat. §281.481, §281.571, §218.908, §218.942			\$100/year	◆	
New Hampshire	N.H. General Court's Ethics Guidelines and Procedural Rules					◆ Although legislators can accept up to \$50/gift or \$250 aggregate in violation of the gift restrictions.
New Jersey	N.J. Rev. Stat. §52:13D-14 §52:15D-24	\$0	◆			
New Mexico	N.M. Stat. Ann. §10-16B-1			\$250/gift \$1,000 aggregate		◆

				total from lobbyist		
New York	N.Y. Public Officers Law §73					◆ No gift ban of anything of more than nominal value unless under circumstances where it is reasonable to infer an attempt to influence a public official.
North Carolina	N.C. Gen. Stat. §120-86, §120-47.1					◆
North Dakota	N. D. Cent. Code §54-05.1-06					◆
Ohio	Ohio Rev. Code Ann. §102.031			\$75/year	◆ Exempt under only under certain circumstances.	
Oklahoma	Okla. Stat. Tit. 257§20-1-9, 257§1-1-2			\$300/year	◆	
Oregon	Or. Rev. Stat. §244.040, §244.020			\$100/year; \$100/event; \$250/year in entertainment	◆	
Pennsylvania	Pa. Cons. Stat. Tit. 1103					◆
Rhode Island	R.I. Gen. Laws §36-14-5009			\$150/gift or \$450/year aggregate		
South Carolina	S.C. Code Ann. §8-13-705, §8-13-100	\$0 for lobbyists		\$25/day and \$200/year aggregate for lobbyists employers		
South Dakota	S.D. Codified Laws Ann. §2-12-10					◆

Tennessee	Tenn. Code Ann. §3-6-305(b)(1) thru (11)	\$0	◆		\$50/event per legislator (see 3-6-305(b)(1) thru(11))	
Texas	Tex. Penal Code Ann. §36.07 to §36.10			\$500/year	◆	
Utah	Utah Code Ann. §67-16-5			\$50/gift		
Vermont	Vt. Stat. Ann. tit. §2-11-261, §2-11-266					
Virginia	Va. Code §30-103(5) d: §30-101					
Washington	Wash. Rev. Code §42.52.150	\$0	Exempts food and beverage under certain circumstances up to \$50/year.			
West Virginia	W. Va. Code §6B-2-5			\$25/gift	◆	
Wisconsin	Wos. Stat. §19.42(1), §19.45, §13.625	\$0	Exempt only if provided to the general public.			
Wyoming	Wyo. Stat. §9-13-103 d: §9-13-102(vi)			\$250	◆	

## **Electronic Filing of Lobbyist Reports**

### **Alaska**

Transitioning to new electronic filing program, Insight, which will be used by lobbyists and their employers. It was introduced February 2007. While paper filing is still in use, it is expected that almost all reporting and registration will be complete electronically when the 2009 lobbying year begins.

### **California**

The California Secretary of State established an electronic filing program for lobbyists. Most filers use this option. Paper reports are not required for electronic filers. Registration statements are required to be filed using paper forms, and may also be required to file electronically.

### **Colorado**

A fee of \$25.00 is charged for electronic filing, as opposed to a \$50.00 filing fee for manual filing of lobbyist. The Secretary of State's website further explains the filing fees.

### **Connecticut**

A beta version of an electronic lobbyist filing system was introduced for trial by lobbyists December 2008. On and off-site training programs were offered to instruct lobbyists on the use of the electronic filing system. The electronic filing system was fully introduced in January of 2009.

### **Florida**

Lobbying firms are required to electronically submit a compensation report for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. The compensation reports must be filed within 45 days of the end of each reporting period.

### **Georgia**

All lobbyist reports must be filed electronically.

### **Iowa**

Vendor on process of overhauling electronic filing system for lobbyist and client reports and to permit on-line registrations.

### **Kansas**

Lobbyists can register and file their periodic reports electronically. The Kansas Governmental Ethics Commission provides summaries of reported lobbying data within 15-20 days of the filing deadline. Information may be accessed by the name of the legislator, lobbyist or client.

**Kentucky**

An electronic filing system will be introduced by September 15, 2009. Lobbyists and their employers will be able to file their reports electronically without any associated fee. After approval, the Legislative Ethics Commission will enter the reports to its database. The Legislative Ethics Commission and Commonwealth Office of Technology will work in partnership to create this new program.

**Louisiana**

As of January 1, 2009 monthly lobbying reports are filed electronically and then posted to a searchable online database.

**Maryland**

Lobbying registration, lobbying reports and event reports may be submitted electronically. The lobbying registration form must be signed by the lobbyist and lobbyist's employer. These signatures and the associated \$100 registration fee may not be submitted electronically. Lobbying reports are available for public access after they are filed.

**Minnesota**

Lobbyists may file their periodic activity reports electronically.

**Mississippi**

In 2008, the state introduced the option of electronic filing for lobbyist reports.

**New Mexico**

Lobbyist have the option of filing expenditure reports electronically.

**Ohio**

The Ohio Office of the Legislative Inspector General was set to launch an electronic filing system in January 2009. The new electronic filing system, the Ohio Lobbying Access Center, will phase out the state's paper filing system. Lobbyists are able to register, report activity and file expenditure reports online.

**Tennessee**

Lobbyist employers must electronically file employer disclosure reports detailing the pay and lobbying expenditures of their lobbyists.

**Utah**

The Utah Lieutenant Governor's Office has established the Utah Online Lobbyist Center. Lobbyists may electronically apply for a license, list principles and file expenditure disclosure reports.

**Washington**

The Washington State Public Disclosure Commission maintains an electronic filing system which allows lobbyists and lobbyist employers to file disclosure reports

online. On March 9, 2006 the Washington State Lobbyist Pictorial Directory became available online.

**Wyoming**

An electronic filing system is in place to allow lobbyist to file lobbyist activity reports online.

**Government, Military and Veterans Affairs Committee**  
**LR 163**  
**August 25, 2009**

**Independent Expenditures and Independent Committees**

Independent Expenditures Generally

The term "independent expenditure" is defined by §49-1428 of the Nebraska Political Accountability and Disclosure Act (NPADA) as follows:

Independent expenditure shall mean an expenditure as defined in section 49-1419 by a person if the expenditure is not made at the direction of, under the control of, or with the cooperation of another person and if the expenditure is not a contribution to a committee.

For the purposes of the discussion, an independent expenditure is an expenditure made by a person or group to support or oppose a candidate which is not made through a contribution to a candidate committee or made with the cooperation or otherwise coordinated with a candidate committee.

Regulation of Independent Expenditures

The regulation of independent expenditures has been definitively addressed by the U.S. Supreme Court. It would appear that attempts to limit independent expenditures have largely been unsuccessful. Courts have acknowledged that there is a governmental interest in deterring corruption or the appearance of corruption. However, this interest has been viewed as not substantial enough to permit limitations on the exercise of free speech which the courts believe would occur if limitations on independent expenditures were permitted to stand. A leading case on this subject is Buckley v. Valeo, 424 U.S. 936, 96 S.Ct. 1153 (1976) which considered various constitutional challenges to the Federal Election Campaign Act. In holding limitations on independent expenditures unconstitutional, the Court wrote: "The First Amendment requires the invalidation of the Act's independent expenditure ceiling...{This provision} place{s} substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate..." 96 S.Ct. at 653-4.

Since the holding in Buckley there has been no variance of significance by the federal courts on the issue of the regulation of independent expenditures.

### Regulation of Independent Expenditures by the States

Most states regulate the financing of political campaigns on the state and local level. Because political speech is protected by the First Amendment many controversies regarding the regulation of campaigns end up in federal court. The federal courts have applied Buckley and its progeny to the regulation of independent expenditures by the states. In addition, state courts have applied the Buckley rule to state attempts to regulate independent expenditures.

### Disclosure of Independent Expenditures

The most successful regulation of independent expenditures has been in the area of disclosure. In Nebraska political parties, corporations, unions, industry associations, trade associations, professional associations, separate segregated funds and independent committees may make contributions and expenditures in state and local election campaigns. All are required to file reports in one form or another which identify independent expenditures. There is no Nebraska regulation on the amount of permissible independent expenditures. Any attempt to limit the amount of independent expenditures would likely run afoul of Buckley.

### Limitation on Contributions

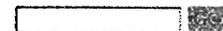
Many jurisdictions limit the amount of contributions that can come from a single donor. For example, in federal elections there is a limit as to how much an individual may contribute to a candidate for federal office. There is also a limit as to how much may be contributed by a PAC or political party to a candidate. A number of states have similar limitations. With the exception of aggregate contribution limits applicable to candidates subject to the Campaign Finance Limitation Act, Nebraska has no contribution limits.

In the Buckley case the U. S. Supreme Court upheld the concept of contribution limits. See also the recent case of Speechnow.Org v. Federal Election Commission, 567 F. Supp. 70 (D.D.C. 2008), where that Court turned back an attempt by potential and actual independent donors to enjoin enforcement of contribution limits against them. However, care must be exercised in the application of contribution limits to any committee. In Day v. Holahan, 34 F.3d 1356 (Eighth Cir. 1994), the United States Court of Appeals for the Eighth Circuit held certain sections of Minnesota's Campaign Finance Law unconstitutional. The Court concluded that a limit on contributions—not expenditures—was too low at \$100. It stated "...we hold that the \$100 limit violates the protections afforded by the First Amendment for free political speech and free association." However, it should be noted that more reasonable limitations on independent contributions may be constitutionally permissible.

## Content of Political Advertising

A frequent criticism of the political advertising resulting from independent expenditures is that it is often negative, false and misleading. Whether the criticism has merit or not, it is clear that the content of political advertising is protected by the First Amendment. There is virtually no possibility that a state can successfully regulate the content of political speech. If the regulation of political speech is being contemplated, research can be provided on this issue.

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Lincoln, Nebraska



## "Revolving Door" Prohibitions Against Legislators Lobbying State Government After They Leave Office

The Center for Ethics in Government - UPDATED November, 2008--reflects statutes in effect as of 12/31/07

*This table is intended to provide general information and does not necessarily address all aspects of this topic. Because the facts of each situation may vary, this information may need to be supplemented by consulting legal advisors. It reflects in summary form statutes in effect as of 12/31/07 or statutes set to take effect shortly thereafter.*

AL| AK| AZ| AR| CA| CO| CT| DE| FL| GA| HI| ID| IL| IN| IA| KS| KY| LA| ME| MD| MA| MI| MN| MS| MO| MT| NE| NV| NH| NJ| NM| NY| NC| ND| OH| OK| OR| PA| RI| SC| SD| TN| TX| UT| VT| VA| WA| WV| WI| WY

State	Policy	Statutory Reference
Alabama	No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of <b>two years</b> after he or she leaves such membership.	§ 36-25-13
Alaska	Legislators may not lobby for compensation for <b>one year</b> after leaving office. State constitution prohibits for one year a legislator from being elected, nominated or appointed to any office or position of profit that has been created or the salary increased during his or her term of office.	§ 24-45-121(c); AK constitution, Article II, Section 5
Arizona	For <b>one year</b> , a former public officer, including legislator, shall not represent another person for compensation before the legislature concerning any matter with which the legislator was directly concerned and personally participated. For <b>two years</b> after he or she leaves office, no public officer, including legislator, may disclose or use for personal profit information designated as confidential.	§ 38-504(a)(b)
Arkansas	None. Prohibited activities §21-8-304.	
California	Former state government officials are banned for <b>one year</b> from contacting specified government agencies. They are prohibited from accepting compensation to act as the agent, attorney or representative of another person for purposes of influencing specific government agencies.	§ 87406 (a.k.a.) Milton Parks Restrictions Act of 1990.
Colorado	For a period of <b>two years</b> following vacation of office, no statewide elected officeholder or member of the general assembly shall personally represent another person or entity for compensation before any other statewide elected officeholder or member of the general assembly.	Colorado State Const. Article XXIX
Connecticut	No legislator shall engage in the profession of lobbyist for <b>one year</b> after expiration of term for which he or she was elected.	§ 2-16a
Delaware	None. Revolving door ban does not apply to legislators. Prohibitions relating to conflicts of interest § 5805. Code of conduct § 5806.	
Florida	Members of the legislature are prohibited from personally representing another person or entity for compensation before the government body or agency of which the individual was a member	§ 112.313(9); FLA Constitution Sec. 8(e), Art. II

	for <b>two years</b> following vacation of office.	
Georgia	None.	
Hawaii	No former legislator for <b>one year</b> shall represent a person or business for a fee or other consideration on matters in which the former legislator or employee participated in or on matters involving official action by the legislature. No former legislator shall disclose confidential information or use the information for personal gain or for anyone's benefit.	§ 84-18
Idaho	None. Non-compensated Public Official exception - allowed an interest in any contract made or entered into by the board to which he or she is a member. §59-704A.	
Illinois	None. Restricted Activities §5 ILCS 420/2-101. There are revolving door provisions that apply to conflicts of interest in government contracts, and to a limited situation in conjunction with an early retirement program. Code of conduct §420/3-102.	
Indiana	None, but current legislators are forbidden from receiving compensation other than their regular salary for lobbying, under <u>IC 2-7-5-2</u> . Also, former legislators who are lobbyists may not be on the floor of either chamber during session, under <u>IC 2-7-5-3</u> .	
Iowa	Former legislators shall not within a period of <b>two years</b> appear before the agency or receive compensation for any services rendered on behalf of any person, firm etc in relation to any case or proceeding with which the person was directly participated. Ban of two years from acting as a lobbyist.	§ 68B.7 § 68B.5A
Kansas	A <b>one-year prohibition</b> on being involved in any contract funded while the legislator was in office; <b>one-year prohibition</b> on representing any person in a court proceeding on certain legislative actions; <b>one year restriction</b> of civil state appointment in an office that was created in previous term prior to departure.	§ 46-233(b)(c) § 46-234
Kentucky	There is a restriction for <b>two years</b> on a former legislator becoming a legislative agent.	§ 6.757
Louisiana	No former elected official, including a legislator, or agency head for <b>two years</b> shall assist another person for compensation in connection with a transaction, or render service on a contractual basis for or be employed/ appointed to any position with a public service board or commission.	§ 15:1121
Maine	None	
Maryland	<b>Until the conclusion of the next regular session</b> that begins after the member leaves office, a former legislator may not assist or represent any party for compensation in a matter that is the subject of legislative action.	§ 15-504
Massachusetts	A public officer, may not, after leaving public service, participate in particular matters in which he or she participated as a public employee. In addition, public officials are prohibited from appearing personally for <b>one year</b> period in connection with any particular matter which was under his or her official responsibility for two years prior to the public official or employee leaving public office.	§ 268A
Michigan	If they resign from office, legislators are prohibited from registering under the Lobby Act for the <b>remainder of a term of office</b> from which they have resigned.	§ 15.342
Minnesota	None	

Mississippi	No public servant, including a legislator, may be interested, directly or indirectly, in any contract with the state, or any level of government, authorized by law passed or order made by any board of which he or she may have been a member within <b>one year</b> after the expiration of such term. No public servant may perform any service for any compensation for any person or business after termination of his or her employment in relation to any case, decision, proceeding or application with respect to which he or she was directly concerned or in which he or she personally participated during the period of his or her service or employment.	§ 25-4-105 (2) (3) (e)
Missouri	(5)There is a prohibition on public officials, including legislators, influencing a decision of the agency or subdivision of which he or she was a member within <b>one year</b> of termination of employment. (6) Prohibition on performing any service for any consideration in relation to any case, decision, proceeding or application in which he or she was directly concerned or personally participated during the period of service.	§ 105-454 (5) (6)
Montana	Public officers may not within <b>one year</b> of voluntary termination of current job obtain employment in which they will take direct advantage, unavailable to others, of matters with which they were directly involved during term of office or employment.	§ 2-2-105(3)
Nebraska	None	
Nevada	None	
New Hampshire	None	
New Jersey	Legislators cannot, within <b>one year</b> of termination of office, register as a governmental affairs agent. A governmental affairs agent is defined as someone who receives more than \$100 compensation, including reimbursement of expenses, over a three month period to influence legislation or regulations.	§ 52:13C-21.4
New Mexico	No waiting period for legislators because § 10-16-2 excludes legislators from the definition of "public officer" and "employee."  Under § 10-16-8, there is in some cases a one-year ban and in others-a lifetime ban. Again, neither of these bans apply to legislators because of § 10-16-2	§ 10-16-2  § 10-16-8
New York	No legislator within <b>two years</b> after termination of service, may receive compensation for any services on behalf of anyone to promote or oppose the passage of bills or resolutions by the legislature.	§ 73(8)a)(iii)
North Carolina	No legislator or former legislator may register as a lobbyist while in office or before the later of the close of the session in which the legislator served or <b>six months</b> after leaving office.	G.S. 120C-304
North Dakota	None	
Ohio	For <b>one year</b> after the conclusion of his or her service as a member of the General Assembly, no former member shall represent, or act in a representative capacity for any person on any matter before the General Assembly, any committee of the General Assembly or the controlling board.	§ 102.03(A)(4)
Oklahoma	Under Oklahoma constitution Section V-23, for <b>two years</b> after legislators' terms expire, they cannot be interested in contracts with the state, its counties or subdivisions if the law calling for the contract or funding it was passed during their term.	
Oregon	A person who has been a member of the Legislative Assembly may	§244.045(6)

	not use or attempt to use the person's position as a former member of the Legislative Assembly to obtain financial gain as a lobbyist as defined in ORS 171.725 <b>during the period beginning on the date the person ceases to be a member of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session</b> of the Legislative Assembly.	
Pennsylvania	No former public official, including legislators, shall represent a person for compensation on any matter before the governmental body with which he has been associated for <b>one year</b> after he leaves that body.	§ 1103(g)
Rhode Island	<b>One-year ban</b> on lobbying and accepting employment to a state agency.	§ 36-14-5
South Carolina	For <b>one year</b> after leaving office, a public official, including a legislator, may not represent clients before the governmental entity served, and accept employment from a person who is regulated by the governmental entity, if it involves a matter in which he or she directly and substantially participated during service or employment.	§ 8-13-755
South Dakota	Lobbying prohibited within <b>one year</b> after termination of service. Violation of section is a Class 1 misdemeanor.	§ 2-12-8.2
Tennessee	None.	
Texas	None. Standards of Conduct listed § 572.051	
Utah	None	
Vermont	None	
Virginia	For <b>one year</b> after his termination a legislator are prohibited from representing any person or group for compensation in any manner before the General Assembly and or any agency of the legislature.	§ 2.1-639.33(7)
Washington	State officials, including legislators, are banned for <b>one year</b> on accepting employment or receiving compensation if during the two years preceding termination of state employment was engaged in the negotiation of a contract, had a direct or indirect beneficial interest in a contract, or participated in any transaction involving the state. Voluntary assistance to person, nonprofit, poor or infirm is permissible.	§ 42.52.080(1)(a) § 42.50.090
West Virginia	None. Prohibition exempts legislators.	§ 6B-2-5(d)(3)(g)
Wisconsin	No former state public official for <b>one year</b> after he or she leaves office may for compensation act on behalf of any party other than the state.	§ 19.45(8)(b)
Wyoming	None	

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## Limits on Contributions During the Legislative Session

Updated April 8, 2009

[Campaign Finance Reform Front Page](#)

[Contribution Limits Main Page](#)

### Summary:

28 states place restrictions on giving and receiving campaign contributions during the legislative session. In some states, the ban applies only to contributions by lobbyists, principals and/or political committees; other states have a general ban on contributions. South Carolina bans lobbyist contributions at any time; not just during a legislative session.

Prohibition/restriction on <i>any</i> contributions during session	Prohibition/restriction only on <i>lobbyist</i> contributions during session
Alabama Alaska Florida Georgia Illinois (b) Indiana  Louisiana Maryland Nevada New Mexico Oklahoma(b) Oregon(c) Tennessee Texas Utah Virginia Washington	Arizona Colorado Connecticut Iowa(a) Kansas(a) Maine Minnesota(a) North Carolina Oklahoma (d) South Carolina Vermont Wisconsin

- (a) Political action committee contributions also restricted during session.
- (b) Limited ban on fundraisers during session; see below for details.
- (c) The ongoing enforcement of Oregon's law is in doubt; see below for details
- (d) Effective November 1, 2008.

### State-by-State Provisions

<b>Alabama</b> Ala. Code §17-22A-7(b)(2)	Candidates for state offices may not solicit or accept contributions during the period when the Legislature is convened in session. Exception for a period of 120 days before any primary, runoff or general election, and for candidates participating in a special election.
<b>Alaska</b> AS §24.60.031	A legislator or legislative employee may not on a day when either house of the legislature is in regular or special session, solicit or accept

	a contribution or a promise or pledge to make a contribution for a campaign for the state legislature. Exception for the 90 days immediately preceding an election for contributions made outside of the capital city.
<b>Arizona</b> Ariz. Rev. Stat. §41-1234.01	Lobbyists are prohibited from soliciting, promising to solicit, making or promising to make campaign contributions to members of the Legislature or the Governor during the regular legislative session, and when legislation from the regular session awaits gubernatorial action.
<b>Colorado</b> C.R.S. §1-45-105.5	Lobbyists and the principals of lobbyists are prohibited from making a contribution to a member of or candidate for the general assembly or to any statewide officer or a candidate for statewide office when the general assembly is in regular session or when a measure approved by the general assembly is pending before the governor.
<b>Connecticut</b> Conn. Gen. Stat. §9-333/(e)	Lobbyists and political committees established by or on behalf of lobbyists are prohibited from making or soliciting contributions on behalf of a candidate for nomination/election to the general assembly or state office, or to a political committee related to such a candidate, during regular and special sessions of the general assembly.
<b>Florida</b> House Rule 26	Fundraising during session is prohibited by House rule.
<b>Georgia</b> Ga. Code §21-5-35	No member of the General Assembly, public officer elected statewide, or campaign committee of either shall accept a contribution during a legislative session.
<b>Illinois</b> 10 ILCS 5/9-27.5	Prohibits holding fundraisers within 50 miles of Springfield on session days during the last 90 days before the scheduled spring session adjournment. Exempts legislators and candidates from districts within that area.
<b>Indiana</b> IC §3-9-2-12	A member of or candidate for the General Assembly may not solicit or accept campaign contributions or conduct other fundraising activities during the period between the General Assembly convenes in January of each odd-numbered year and ending when that session adjourns sine die.
<b>Iowa</b> IA Code §56.15A	Political action committees and lobbyists are prohibited from making campaign contributions to the campaign of an elected state official, member of the Legislature or candidate for state office during a regular session of the Legislature and, in the case of the Governor or a gubernatorial candidate, for a period of 30 days following the adjournment of a regular legislative session.
<b>Kansas</b> K.S.A. §25-4153a	No registered lobbyist or political committee shall make a contribution to any legislator, legislative candidate or candidate committee, or state officer elected on a statewide basis or candidate or candidate committee for such officer or candidate, between Jan. 1 of each year and prior to adjournment sine die of the regular session of the Legislature, or at any other time in which the Legislature is in session.
<b>Louisiana</b> La. R.S. §18:1505.2(Q)	Prohibits a legislator from accepting or depositing campaign contributions, loans, transfers of funds, or in-kind contributions for his own campaign during a regular legislative session, with certain exceptions.
<b>Maine</b> 1 Me. Rev. Stat. Ann §1015(3)	The Governor, a member of the Legislature or any constitutional officer or the staff or agent of the Governor, a member of the Legislature or any constitutional officer may not intentionally solicit or accept a

	contribution from a lobbyist, lobbyist associate or employer during any period of time in which the Legislature is convened before final adjournment.
<b>Maryland</b> MD Election Code Ann. §13-235	During a regular session of the General Assembly, the Governor, Lt. Governor, Attorney General, Comptroller, a member of the General Assembly, or a person acting on behalf of any of these officeholders, may not solicit, accept or deposition a contribution.
<b>Minnesota</b> Minn. Stat. §10A.06	Senate and house "caucus" fundraisers are prohibited during session. A constitutional office candidate, legislative candidate or a principal campaign committee may not solicit or accept, during a regular legislative session, a contribution from a registered lobbyist, a political committee, a political fund, a terminating principal campaign committee, or a committee of a legislative party caucus.
<b>Nevada</b> Nev. Rev. Stat. §§ 94A.300, 294.310	It is unlawful for a member of the legislature, the lieutenant governor or the governor to solicit or accept any monetary contributions for any political purpose during the period beginning 30 days before a regular session of the legislature and ending 30 days after the final adjournment of a regular session
<b>New Mexico</b> NMSA §1-19-31.1	Legislators, candidates for state legislator, and the governor are prohibited from soliciting contributions beginning January 1 prior to a regular session of the legislature, or after the proclamation for a special session has been issued, and ending on adjournment of the regular or special session.
<b>North Carolina</b> N.C. Gen. Stat. §163-278.13B	While the General Assembly is in regular session, no registered lobbyist, lobbyist's agent, lobbyist's principal, or a political committee that employs or contracts with or whose parent entity employs or contracts with a lobbyist may make a contribution to a member of or candidate for the Council of State or a member of or candidate for the General Assembly. Exception for the three weeks prior to a second primary if the contributee is a candidate who will be on the ballot. Violation is a Class 2 misdemeanor.
<b>Oklahoma</b> Ethics Commission Rules §257:10-1-6	Fundraising events for members of the legislature may not be held in Oklahoma County during the regular legislative session. Does not apply to members whose districts include any portion of Oklahoma County.
<b>Oklahoma</b> §21 O.S. 187.1(G)	Newly enacted in 2008 (effective 11/1/08): No lobbyist or lobbyist principal as defined in Section 4249 of Title 74 of the Oklahoma Statutes shall make or promise to make a contribution to, or solicit or promise to solicit a contribution for a member of the Oklahoma Legislature or a candidate for a state legislative office during any regular legislative session, beginning the first Monday in February, through its adjournment, and for five (5) calendar days following sine die adjournment. A member of the Oklahoma Legislature or a candidate for a state legislative office shall not intentionally solicit or accept a contribution from a lobbyist or lobbyist principal as defined in Section 4249 of Title 74 of the Oklahoma Statutes during any regular legislative session and for five (5) calendar days after sine die adjournment.
<b>Oregon</b> Or. Rev. Stat. §260.174	During the period beginning January 1 <sup>st</sup> immediately before a regular biennial session of the Legislative Assembly, or at the start of any special session, and continuing until adjournment, no person shall make, attempt to make or promise to make a campaign contribution to any legislative official, statewide official or candidate for these offices. The Oregon Attorney General issued an opinion in 2001 concerning this statute. The Attorney General ruled that the statute was a violation of Oregon's constitutional right to freedom of expression, an

	gave the opinion that the statute would not be enforced (Or. Atty. Gen. Op. 8874(2001)). However, the statute is still Oregon law at this time.
South Carolina S.C. Code §2-17-80	A lobbyist shall not offer, solicit, facilitate, or provide contributions on behalf of any member of the General Assembly, the Governor, the Lieutenant Governor, any other statewide constitutional officer, any public official of any state agency. (Not limited to just during session)
Tennessee Tenn. Code Ann. §2-10-310	A member of the General Assembly may not solicit or accept contributions from the convening of the General Assembly's regular annual session to the earlier of May 15 or the conclusion of the annual session. Tenn. Code Ann. § 3-6-108(i). A lobbyist or an employer of a lobbyist cannot make a contribution to a candidate for Governor or General Assembly during the regular annual session of the General Assembly.
Texas V.T.C.A., Election Code §253.034; Texas Ethics Commission Rule §22.11	During a period beginning on the 30 <sup>th</sup> day before the date a regular session convenes and continuing through sine die adjournment, neither a person nor a PAC may make a political contribution to a statewide officeholder or a member of the legislature, and such persons shall not accept a political contribution during this period.
Utah Utah Code §36-11-305	It is unlawful for any person, lobbyist, principal, or political committee to make contributions to members of the legislature or the governor or to a campaign committee of such a person during a legislative session.
Vermont 2 V.S.A. §266(3)	Lobbyists' employers are prohibited from making or promising to make a political contribution to any member of the assembly or member's campaign committee when the Vermont General Assembly is in session.
Virginia Va. Code §24.2-940	No member of the General Assembly or statewide official shall solicit or accept a contribution from any person or political committee on and after the first day of a regular session of the General Assembly through adjournment sine die of that session.
Washington RCW §42.17.710	Contributions may not be solicited or accepted by statewide elected officials or state legislators during the period from 30 days before until 30 days after the regular session of the Legislature. Contributions are prohibited during any special legislative session.
Wisconsin Wis. Stats. §13.625	A licensed lobbyist may only make campaign contributions to elective state officials and candidates for elective state office during the year of the candidate's election, between June 1 and the date of the general election, and only when the Legislature is not in session.  Senate Policy. Bans fundraising in Dane County on days that the legislature is in session. Assembly has similar (but unwritten) ban.

For more information on campaign finance reform, contact Jennie Drage Bowser.

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Legislatures &amp; Elections » Ethics » 50 State Table of Voting Recusal Provisions

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## Voting Recusal Provisions

### 50 State Table of Provisions for Legislators in Rules, Statutes and Constitutions

Updated October 2009

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### State Voting Recusal Provisions

#### Alabama

**Senate Rule 38:** Members may be excused for "special reasons."

**House Rule 32:** Members can vote "in absentia."

**Alabama Code 36-25-1, 36-35-5:** A member of a legislative body may not vote for any legislation in which he or she knows or should have known that he or she has a conflict of interest.

A conflict of interest involves any action, inaction, or decision by a public official in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs.

A conflict of interest shall exist when a member of a legislative body has a substantial financial interest by reason of ownership of, control of, or the exercise of power over any interest greater than five percent of the value of any corporation, company, association or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation; or who is an officer or director for any such corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation.

#### Alaska

**Uniform Rule 34:** The chamber can permit a legislator to abstain "for special reasons." Motions to excuse a member from voting must be made before the house divides or before the call for yeas and nays. Members requesting to abstain may make brief oral statement of reasons. The question of granting permission to abstain shall be taken without further debate.

**Alaska Statutes 24.60.030:** Unless required by the Uniform Rules of the Alaska State Legislature, a legislator may not vote on a question if the legislator has an equity or ownership interest in a business, investment, real property, lease, or other enterprise if the interest is substantial and the effect on that interest of the action to be voted on is greater than the effect on a substantial class of persons to which the legislator belongs as a member of a profession, occupation, industry, or region.

#### Arizona

**Senate Rule 15, 30:** Legislators can declare a personal financial interest in a matter when they are called upon to vote. They can either abstain or vote. In either case, they must write a statement describing the matter and the nature of the potential interest as soon as they are aware of the conflict. They must give this public record to the Senate president, the chair of the ethics committee and the secretary of the Senate. If he abstains he must also state the reasons for abstaining before the body and it is recorded in the journal. If they become aware

of the conflict during a committee, subcommittee, or caucus meeting, or on the floor, they can report the conflict as soon as possible after adjournment. A personal financial interest exists if it is reasonably foreseeable that an action in the discharge of his official duties will have a material financial benefit or detriment either directly or indirectly on the member, his spouse or any minor child of whom he has legal custody, except that no personal financial interest exists if the legislator or such member of his household is a member of a class of persons and it reasonably appears that a majority of the total membership of that class is to be affected by such action. A member who has a substantial interest as defined by section 38-502, Arizona Revised Statutes, shall comply with title 38, chapter 3, article 8, Arizona Revised Statutes.

**House Rules 14, 35:** Legislators can declare a personal financial interest in a matter when they are called upon to vote. They can either abstain or vote. In either case, they must write a statement describing the matter and the nature of the potential interest as soon as they are aware of the conflict. When a member declines to vote, the member shall be required to specify the reason. If a member declares a personal financial interest in the question and the member has failed to file a statement pursuant or if the reason given is other than a personal financial interest in the question, a vote of the body can allow him to abstain.

If he abstains he must also state the reasons for abstaining before the body and it is recorded in the journal. A member who anticipates taking an action in the discharge of his official duties in which he may have a personal financial interest must prepare a statement describing the matter to be acted upon and the nature of the conflict, and file the statement with the Speaker, chair of the ethics committee and the chief clerk. If they become aware of the conflict during a committee, subcommittee, or caucus meeting, or on the floor, they can report the conflict as soon as possible after adjournment. A personal financial interest exists if it is reasonably foreseeable that an action in the discharge of his official duties will have a material financial benefit or detriment either directly or indirectly on the member, his spouse or any minor child of whom he has legal custody, except that no personal financial interest exists if the legislator or such member of his household is a member of a class of persons and it reasonably appears that a majority of the total membership of that class is to be affected by such action. A member who has a substantial interest as defined by section 38-502, Arizona Revised Statutes, shall comply with title 38, chapter 3, article 8, Arizona Revised Statutes.

**Arizona Revised Statutes 38-503:** Any public officer (legislators are included) or employee who has, or whose relative has, a substantial interest in any decision of a public agency (legislature is included) shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

#### Arkansas

**Senate Rule 24.07:** A Senator can't take part in the discussion of, or vote on, a question in committee or on the floor on any matter if he knows that:

- He or a family member or an associated business will benefit from the legislative action to a greater extent than other member of his occupation or business.
- The matter will specifically relate to a business which employs the senator or in which he receives compensation as an attorney or consultant, unless the benefit accrues generally to other similar businesses, professions, occupations or groups.

None of the above rules apply if the Senator discloses any financial interests he may have on the issue. Disclosure entails a written statement in the Journal, or with the staff of the appropriate interim committee. Disclosure should detail the source of compensation or financial interests held.

**House Rule 5:** Each member is expected to vote unless he or she has an immediate personal interest.

**Ark. Code Ann. § 21-8-803:** A legislator who is required to take an action in the discharge of his or her official duties which may affect his or her financial interest or cause financial benefit or detriment to him or her, or a business in which he or she is an officer, director, stockholder owning more than 10% of the stock of the company, owner, trustee, partner, or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the public, shall

prepare a written statement describing the matter requiring action and stating the potential conflict.

## California

**Joint Rule 44:** Members can't participate, by voting or other action on the floor or in committee, on matters in which they have a personal interest, except they may participate in the final vote if they first file a statement that declares the interest and states that the legislator is able to cast a fair and objective vote regardless.

If a member wishes to abstain from voting on a matter in which he has a personal interest, he must tell the presiding officer before the vote starts. He will be excused from voting without any entry in the Journal. If either House invokes the rule that everyone present must vote, there will be a mark in the Journal stating that the person was excused from voting pursuant to law.

A person has an interest that is in substantial conflict if he would derive a direct monetary gain or loss because of his action. He is not considered to have an interest in substantial conflict if any benefit or detriment accrues to him as a member of a business, profession, occupation or group to no greater extent than the rest of that group.

**California Government Code 87102.5:** If a member of the legislature has a financial interest in a matter, he cannot:

- Introduce nongeneral legislation related to that matter as a lead author
- Vote in a legislative committee or subcommittee on related nongeneral legislation.
- Participate in a rollcall vote on the Senate or Assembly floor on related nongeneral legislation.

If the member has received any earned income within the preceding 12 months from a lobbyist employer, the member cannot take action on a matter if the action will have a direct and significant financial impact on the lobbyist employer. The impact must be greater on this lobbyist employer than it would be on a significant segment of the public.

If the member has appeared before a local board or agency on behalf of someone for compensation, the member cannot vote on any legislation that would affect the person who paid him if the affect would be greater to that person than it would be to a significant segment of the public.

## Colorado

**Senate Rule 17, 41:** Senators can't vote on bills in which they have personal or private interests. If this is the case, they must disclose those interests before being excused. A senators is considered to have personal or private interests in measures if he:

- Has substantial economic interests in the measure distinct from those held generally by members of the same occupation or business, or if a close relative has such an interest,
- Has an interest in an enterprise that would be affected by the proposed legislation differently from like enterprises,
- Has a close relative or a close economic association with someone who has a financial interest in an enterprise that would be affected differently from others,
- Has a close economic association with, or has a relative who is, a lobbyist or lobbyist employer who is influencing legislation on which the legislator would be expected to vote,
- Accepts a gift, loan, service or other economic opportunity from someone who would be affected by or has interest in an enterprise that would be affected by the legislation. This provision applies when close relatives of a senator accept the same.

Senators are always allowed to vote for something that would adversely affect their personal or private interests.

**House Rule 21:** A request by a member to be excused from voting shall be made before the call for the ayes and noes has begun; any member desiring to be excused from voting on a question shall make a brief statement of the reasons therefor, and the question shall be put without further debate. A member who has

an immediate personal or financial interest in any bill or measure proposed or pending before the General Assembly shall disclose the fact to the House, and shall not vote upon such bill or measure.

**Colorado Constitution Art 5, Sec. 43:** A member of the General Assembly who has a "personal or private interest" in pending legislation must disclose the fact of such interest and may not vote on the legislation.

**Colorado Revised Statutes 24-18-107. Ethical principles for members of the general assembly.** ... In deciding whether or not he has a personal or private interest, a member shall consider, among other things, the following:

- (a) Whether the interest impedes his independence of judgment;
- (b) The effect of his participation on public confidence in the integrity of the general assembly; and
- (c) Whether his participation is likely to have any significant effect on the disposition of the matter.
- (3) An interest situation does not arise from legislation affecting the entire membership of a class.
- (4) If a member of the general assembly elects to disclose the interest, he shall do so as provided in the rules of the house of representatives or the senate, but in no case shall failure to disclose constitute a breach of the public trust of legislative office.

#### Connecticut

**Senate Rule 15:** No member who is interested in the decision of any question in such a manner that he cannot vote thereon may stay in the Senate when the question is discussed or decided.

**House Rule 40:** The speaker has authority to excuse someone from voting who is present in the chamber.

**Connecticut General Statutes Sec. 1-85:** A public official, (legislators are public officials) who has a substantial conflict may not take official action on the matter.

A substantial conflict occurs when a public official has reason to believe or expect that he, his spouse, a dependent child, or a business with which he is associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. It is not considered a substantial conflict if the benefit or detriment accrues to him, his spouse, a dependent child, or a business with which he, his spouse or such dependent child is associated as a member of a profession, occupation or group to no greater extent than any other member of such profession, occupation or group.

#### Delaware

**Senate Rules:** None found

**House Rule 16:** Members with personal or private interests in measures can't vote on them or take part in related discussion, and must disclose their interests. Non-voting members may answer questions about the bill, though, and may correct wrong information. A member is considered to have a personal or private interest in a measure if:

- He or a close relative would receive benefit or harm to a greater extent than other members of the same class or group of people.
- He or a close relative has a financial interest (more than \$5000 interest) in an enterprise that would benefit or be hurt to a greater degree than similar enterprises.
- A lobbyist who is a close relative of the legislator is acting to influence passage of the bill.

**Delaware Code Annotated 1002:** A legislator who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to his chamber and shall not participate in the debate nor vote thereon; provided, that upon the request of any other member, a legislator who has such a personal or private interest may respond to questions concerning any such measure. A personal or private interest in a measure or bill is an interest which tends to impair a legislator's independence of judgment in the performance of his or her legislative duties with respect to that measure or bill. A member is considered to have a conflict that impairs his judgment in the same situations laid

out in House Rules above.

Florida

**Senate Rule 1.20, 1.39:** No senator is permitted to vote on any question immediately concerning his or her private rights as distinct from the public interest. Senators must disclose any personal, private or professional interest in a bill that would inure to that senator's special private gain, or the gain of a principal to whom the senator is obligated. This disclosure statement may explain either the logic of voting, or abstaining from voting.

**House Rule 3.1:** Members cannot vote on measures that would inure to that members special private gain. The member must disclose the interest that is keeping him from voting. Members must also disclose interests in measures at hand of family members or principals by whom the legislator or his family members are retained or employed.

**Florida Statutes 112.3143:** Any state public officer voting in an official capacity upon any measure which would inure to the officer's special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained; or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer shall, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

Georgia

**Senate Rule 5-1.8:** Members can't vote on measures if they, or members of their immediate family, have a direct pecuniary interest that is distinct, unique or peculiar to them.

**House Rule 134:** "... every member within the chamber shall vote unless the member is immediately and particularly interested therein, or unless the member is excused by the house."

**No additional provisions found in statutes that apply to legislators.**

Hawaii

**Senate Rule 71:** Members with conflicts of interest shall be excused from voting. Situations considered conflicts of interest include those involving monetary interests in the matter at hand; those involving the behavior of the member; and those in which the member's right to a seat in the Senate will be affected by the outcome. Members who believe they have conflicts shall rise and disclose their interests to the Senate president who will rule on whether there is a conflict.

**House Rule 60.5:** Members who believe they have a conflict of interest with the matter at hand shall disclose the interest prior to a vote. Situations considered to be conflicts are the same as those in the Senate. The speaker will rule on whether he thinks the member has a substantial enough conflict to be excused from voting.

A conflict of interest means that the legislation affects the member's direct personal familial or financial interest except if a member or relative is part of a class of affected people.

**No additional provisions found in statute.**

Idaho

**Senate Rule 39:** Senators must disclose any conflicts of interest, he must disclose this conflict to the presiding officer in writing, or to the body. The senator may vote on the issue, or may ask to abstain. A 2/3 vote is necessary to be excused from voting.

**House Rule 38:** If a Senator has a conflict of interest under applicable law, the conflict must be disclosed to the presiding officer in writing or to the body. Upon disclosure of any such conflict, the Senator may vote upon any question or issue to which the conflict relates, unless the Senator requests to be excused.

**Idaho Code 59-704:** A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as provided in this section. Disclosure of a conflict does not affect an elected public official's authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the public official requests to be excused from debate and

voting at his or her discretion.

Legislative public officials who have real or potential conflicts shall disclose the nature of the conflict of interest and/or be subject to the rules of the body of which he/she is a member and shall take all action required under such rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue.

Illinois

**No rules found.**

**5 ILCS 420/Sec 3-202:** When a legislator must take official action on a legislative matter as to which he has a conflict situation created by a personal, family, or client legislative interest, he should consider the possibility of eliminating the interest creating the conflict situation. If that is not feasible, he should consider the possibility of abstaining from such official action. In making his decision as to abstention, the following factors should be considered;

- whether a substantial threat to his independence of judgment has been created by the conflict situation;
- the effect of his participation on public confidence in the integrity of the legislature; whether his participation is likely to have any significant effect on the disposition of the matter;
- the need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature.

He need not abstain if he decides to participate in a manner contrary to the economic interest which creates the conflict situation. If he does abstain, he should disclose that fact to his respective legislative body.

**Sec 3-203:** When, despite the existence of a conflict situation, a legislator chooses to take official action on a matter, he should serve the public interest, and not the interest of any person.

**Senate Rule 4, 89, 90:** Senators may request to be excused from voting if they have direct personal or pecuniary interests in the matter. A senator who has a direct personal or pecuniary interest in a piece of legislation which is so substantial as to affect the Senator's independent legislative judgment can participate in committee and floor debate on the legislation if the senator publicly proclaims that interest. Rules also provide guidelines senators should look to when deciding whether to request to be excused from voting: 1. Whether the Senator's interest in the legislation is so substantial as to affect the Senator's independence of judgment with respect to the legislation. 2. To what extent the Senator's interest in the legislation mirrors the interest of the citizenry to which the Senator is directly responsible. 3. The effect of the Senator's participation in the voting on the legislation on public confidence in the integrity of the legislature. 4. The need of the Senator's particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature. 5. Whether the legislation would have a unique, direct, and material effect on the nonlegislative income of the Senator, a member of the Senator's immediate family or those of a partnership, corporation, or business in which the Senator holds a legal or equitable interest

Indiana

**House Rule 47:** Members who are immediately and particularly interested in a measure shall ask to be excused and shall not vote on it. Members requesting recusal may make a brief statement, but the question is to be considered without debate.

No additional provisions relating to legislators found in statutes.

**Senate Rule 23:** Senators may abstain from voting by disclosing a personal interest in the matter at hand when called upon to vote. The Senate code of ethics provides guidelines for senators in deciding whether to vote on an issue. The senator should consider, among other things, whether his participation would effect public confidence in the integrity of the legislature and the legislatures' need for the senator's particular special knowledge. A senator with a conflict may participate in floor discussion after he discloses his conflict.

Iowa

**House Rule 75:** House can excuse a member from voting for special reasons as long as the member asks to be excused before the question is put to a vote.

**House Rule 76:** No member shall vote on any question in which the member or the member's immediate family member, as defined in chapter 68B of the Code, has a direct financial interest different from other similarly situated persons or classes of persons of the general public.

**Iowa Code 68B.2A:** If a public servant holds any outside employment or activity that is subject to the official control, inspection, review, audit, or enforcement authority of the person during the performance of the person's duties of office or employment, the public servant shall either cease the outside employment or activity or publicly disclose it and refrain from taking any official action or performing any official duty that would detrimentally affect or create a benefit for the outside employment or activity.

**Senate Rule 19:** Any senator who is directly interested in a question may be excused from voting even though there is a call of the Senate. The member has five minutes to explain why he requests to be excused. Request is granted with 2/3 vote.

Kansas

**House Rule 2508:** Any member who is directly interested in a question may be excused from voting when there is a call of the House. The member has five minutes to explain why he requests to be excused. Request is granted with 2/3 vote.

No additional provisions found in statute or constitution.

#### No rules found

**Kentucky Constitution, Section 57:** A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly, shall disclose the fact to the House of which he is a member, and shall not vote thereon upon pain of expulsion.

**Kentucky Revised Statutes 6.761:** A legislator shall not intentionally participate in the discussion of a question in committee or on the floor, vote, or make a decision in his official capacity on any matter:

- In which he, a family member, or the legislator's business associate will derive a direct monetary gain or suffer a direct monetary loss as a result of his vote or decision; or
- Which relates specifically to a business in which he owns or controls an interest of \$10,000 or more, or more than 5%.

Kentucky

A legislator may participate and vote on a matter if any benefit or detriment which accrues to him as a member of a business, profession, occupation, or other group, or to a member of his family or a business interest specified above is of no greater extent than the benefit or detriment which accrues generally to other members of the business, profession, occupation, or other group.

A member shall disclose his interest by filing a disclosure statement with the clerk or by a verbal announcement to the body.

The right of legislators to represent their constituencies, however, is of such major importance that legislators should be barred from voting on matters of direct personal interest only in clear cases and if the matter is particularly personal.

**Senate Rule 12.1, 13.60, 13.87:** Any member may recuse himself from all committee and floor proceedings related to a measure in which he believes he has a conflict of interest. The Senate can excuse members for "reasons assigned," both on the floor and in committee.

Louisiana

**House Rule 10.1, 14.9:** Any member may recuse himself from all committee and floor proceedings related to a measure in which he believes he has a conflict of interest. Members who recuse themselves are allowed to give a written explanation.

**Louisiana Revised Statutes §1120:** If any elected official would be required to vote on a matter which vote would be a violation of R.S. 42:1112, he shall recuse himself from voting. Recusing members can participate in discussion and debate if they disclose the conflict or potential conflict prior to doing so.

**1112:** No public servant, except as provided in R.S. 42:1120, shall participate in a transaction involving the governmental entity in which to his actual knowledge, any of the following persons has a substantial economic interest: members of his immediate family; persons with whom the public servant has a close economic association; prospective employers; persons with whom he is an officer, director, trustee, partner, or employee; persons who are a party to an existing contract with such public servant; or legal entities with whom the member controls or owns interest.

A "substantial economic interest" is one that is of greater benefit to the public servant or other person than to a general class or group of persons.

**Joint Rule 104:** A member may not vote on any question in committee when that question immediately involves that member's private right, as distinct from the public interest.

**Senate Rule 401:** Every Senator who is present shall vote unless excused by the Senate, or excluded by interest.

**House Rule 401:** A member may not vote on any question before the House when that question immediately involves that member's private right as distinct from the public interest.

Maine

**Maine Revised Statutes Annotated, Title 1, 1014:** When a member of the Legislature has a conflict of interest, that member has an affirmative duty not to vote on any question in connection with the conflict in committee or in either branch of the Legislature, and shall not attempt to influence the outcome of that question.

Many situations fall under the state's definition of conflict of interest in section 1014, including, when a legislator or a member of his immediate family has a direct substantial personal financial interest, distinct from that of the general public, in an enterprise which would be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation.

**Senate Rule 93:** A member may not vote on a measure in which he has an immediate personal of financial interest. Members who recuse themselves are noted in the Journal as excused.

Maryland

**House Rule 93:** A member may not vote on a measure in which he has an immediate personal of financial interest. Members who recuse themselves are noted in the Journal as excused.

**Maryland Code 15-501:** An official may not participate in a matter if he or a qualifying relative has an interest in the matter and knows of that interest. This statute contains a long list of other situations that constitute a conflict serious enough to warrant recusal. Officials may participate if they disclose the nature of the conflict and if: the disqualification would leave a body with less than a quorum capable of acting; the disqualified official or employee is required by law to act; or the disqualified official or employee is the only individual authorized to act.

**Senate Rules 10A:** No member of the Senate shall act on a matter before a committee or vote on any question in which his private right is immediately concerned, distinct from the public interest.

**House Rule 16A:** No member shall serve on any committee or vote on any question in which his/her private right is immediately concerned, distinct from the public interest.

Massachusetts

**General Laws of Massachusetts Chapter 268A, Section 6A:** Any public official who in the discharge of his official duties would be required knowingly to take an action which would substantially affect such official's financial interests, unless the effect on such an official is no greater than the effect on the general public, shall file a written description of the required action and the potential conflict of interest with the state ethics commission.

**Senate Rule 1.306:** A senator having a personal, private or professional interest

Michigan

in a bill, of which he or she has knowledge, shall not vote on the bill and shall disclose in writing to the Secretary of State his or her interest in the bill. Such an interest is defined as one that would particularly benefit the senator or an individual or entity to whom the senator is financially or legally obligated, or personally related. If a senator votes on a bill in which it may appear that he has a conflict of interest, he may submit a statement explaining his reasons for voting.

**House Rule 13, 31:** A member may abstain from voting because of a potential conflict of interest by rising, announcing his intent not to vote and reserving the right to explain the abstention. The member has the right to have an explanatory statement of at most 100 words printed in the Journal.

**No additional provisions found in statute or constitution.**

**Senate Rule 41.2, 57:** A member wishing to be excused from voting may make a brief statement of the reason for making the request. The question on the motion to excuse must be taken without further debate. A member who must take action or make a decision that would substantially affect his financial interests or those of an associated business shall disclose the potential conflict by following procedures detailed in Minnesota Statutes Section 10A.07, unless the benefit the legislator would receive is no greater than others in the member's business, classification, profession or occupation.

Minnesota

**House Rule 2.05:** A member who does not vote when his name is called must state his reasons. After others vote, the presiding officer shall ask the body if the member shall be excused from voting.

**Minnesota Statutes 10A.07:** A public official who would be required to take an action that would substantially affect the official's financial interests or those of an associated business, unless the effect is no greater than on other members of the official's business classification, profession, or occupation, must prepare a written statement describing the matter requiring action and the nature of the potential conflict of interest and deliver a copy to the presiding officer. If there is insufficient time to comply with this, the public official must orally inform the official body.

**Senate Rule 124:** No senator shall act in committee or vote on a question in which his private interest, distinct from the public interest, is immediately concerned.

Mississippi

**House Rule 26:** No member shall vote on any question, the result of which he is pecuniarily interested.

**No additional provisions found in statute.**

**Senate Rules:** None found

**House Rule 89:** Every member shall vote on each question put unless he has a direct personal or pecuniary interest in such question.

Missouri

**Missouri Revised Statutes 105.461:** Any member of the general assembly who has a substantial personal or private interest in any measure before the general assembly, shall, before such official passes on the measure, bill, order or ordinance, file a written report of the nature of the interest with the chief clerk of the house of representatives or the secretary of the senate and such statement shall be recorded in the appropriate journal. If the legislator has filed his annual financial disclosure statement, and that statement is current, this statement is not necessary.

**Joint Rule 10-60:** A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house to which the member belongs.

**Montana Code Annotated 2-2-112:** A legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest. When a legislator must take official action on a matter as to which he has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter, the legislator shall disclose the interest prior to participating in the official action.

In making a decision as to whether to take official action, the legislator shall consider:

- whether the conflict impedes the legislator's independence of judgment;
- the effect of the legislator's participation on public confidence in the integrity of the legislature;
- whether the legislator's participation is likely to have any significant effect on the disposition of the matter; and
- whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation.

Montana

A conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class. A legislator who is a member of a profession, occupation, or class affected by legislation is not required to disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct and distinctive personal impact on the legislator.

**No rules found.**

**Nebraska Revised Statutes 49-1499:** A member of the Legislature who would be required to take any action that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall disclose information about the conflict in this manner. He shall prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict, and if he or she will not abstain from voting, deliberating, or taking other action on the matter, the statement shall state why, despite the potential conflict, he or she intends to vote or otherwise participate. The statement should be delivered to the ethics commission and the speaker of the legislature.

Nebraska

The member of the Legislature may abstain from voting, deliberating, or taking other action on the matter on which the potential conflict exists, in which case he or she may have the reasons for the abstention recorded in the journal or minutes of the Legislature.

**Senate Rule 32:** No senator may vote on a question in which he is in any way personally or directly interested.

**Assembly Rule 23:** A legislator who has a conflict of interest may vote upon, advocate or oppose the measure in conflict if he makes a general disclosure of the conflict. In determine whether to vote or abstain, the legislator should consider his independence of judgment, and whether his interest is greater than the interests of an entire class of persons similarly situated, among other factors.

**Nevada Revised Statutes 281A.420:** A public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.

Nevada

However, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by: (a) His acceptance of a gift or loan; (b) His pecuniary interest; or (c) His commitment in a private capacity to the interests of others.

**No provisions found in rules.**

New Hampshire

New Hampshire Revised Statutes: Legislators must disclose areas of potential conflicts on their financial disclosure forms.

**No provisions found in rules.**

**New Jersey Statutes Annotated 52:13D-18:** No member of the Legislature shall participate by voting or any other action, on the floor of the General Assembly or the Senate, or in committee or elsewhere, in the enactment or defeat of legislation in which he has a personal interest.

New Jersey

A member is considered to have a personal interest in legislation if, by reason of his participation in the enactment or defeat of any legislation, he or a member of his immediate family, will derive a direct monetary gain or suffer a direct monetary loss. It is not considered a personal interest if no benefit or detriment could reasonably be expected to accrue to him, or a member of his immediate family, as a member of a business, profession, occupation or group, to any greater extent than any such benefit or detriment could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

**Senate Rule 7-5, 7-6:** Every senator shall vote on each question unless he has a direct personal or pecuniary interest in the event of such a question. A senator desiring to be excused from voting may, when his name is called, make a brief statement explaining his reasons. The senate must vote on whether to excuse him.

New Mexico

**House Rule 7-5, 7-6:** Every member of the house shall vote on each question or motion coming up before the house, unless excused by a majority vote. A member who wishes to be excused from voting may make a brief explaining his reasons. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct of the members. The code of conduct is in House Rule 26-1.

**No additional provisions in statute that apply to state legislators.**

**Senate Rules IX:** Every senator shall vote on each question unless he has a direct personal or pecuniary interest in the event of such a question. Senators wishing to be excused may make a brief statement as to their reasons when they are called upon to vote. The excuse must be approved by 2/3 of the body.

**Assembly Rule V, Part 2:** A member may abstain from a vote only on the grounds that it would constitute a conflict of interest.

New York

No additional provisions in statute pertain to legislators voting in conflict of interest situation, but **New York Consolidated Laws Chapter 32, Article 4, Section 74** says no member of the legislature should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation which is in substantial conflict with the proper discharge of his duties in the public interest. Substantial conflict is not defined.

**Senate Rule 29:** Any senator may move to be excused from voting at any time on any matter. If the senator is excused, he may not debate the bill or any amendments. The senator may make a brief oral or written statement as to his reasons.

**House Rule 24.1A:** Any member shall, upon request, be excused from the deliberations and voting on a particular bill. The member may make a brief oral or written statement of the reasons for making the request. The member excused shall not debate the bill or any amendment to the bill.

North Carolina

**North Carolina General Statutes 138A-37:** Except as permitted under G.S. 138A-38, no legislator shall participate in a legislative action if the legislator knows the legislator or a person with which the legislator is associated may incur a reasonably foreseeable financial benefit from the action, and if after considering whether the legislator's judgment would be substantially influenced by the financial benefit and considering the need for the legislator's particular contribution, including special knowledge of the subject matter to the effective functioning of the legislature, the legislator concludes that an actual financial benefit does exist which would impair the legislator's independence of judgment. Legislator must submit in writing to the principal clerk of the house of which the legislator is a member the reasons for the abstention from participation in the legislative matter.

**138A-38:** A covered person may participate in an official action or legislative action under any of the following circumstances except as specifically limited: (1) The only interest or reasonably foreseeable benefit or detriment that accrues to the covered person, the covered person's extended family, business with which the covered person is associated, or nonprofit corporation or organization with which the covered person is associated as a member of a profession, occupation, or general class is no greater than that which could reasonably be foreseen to

accrue to all members of that profession, occupation, or general class. (2) When an official or legislative action affects or would affect the covered person's compensation. (3) Before participating in the legislative action, the covered person requested and received from the Commission or Committee a written advisory opinion that authorized the participation. (4) Before participating in an official action, a public servant made full written disclosure to the public servant's employing entity which then made a written determination that the interest or benefit would neither impair the public servant's independence of judgment nor influence the public servant's participation in the official action. The employing entity shall file a copy of that written determination with the Commission. (5) When action is ministerial only and does not require the exercise of discretion. (6) When needed for a quorum, the legislator maybe be only be counted for quorum purposes. If a legislator is employed or retained by, or is an independent contractor of, a governmental unit, and the legislator is the only member of the house elected from the district where that governmental unit is located, then the legislator may take legislative action on behalf of that governmental unit provided the legislator discloses in writing to the principal clerk the nature of the relationship with the governmental unit prior to, or at the time of, taking the legislative action.

**Joint Rule 1002:** In striving to maintain ethical standards, each member should recognize the importance of complying with all other rules relating to ethics, including Senate and House Rules 321 regarding disclosure of personal or private interest when voting.

**Senate Rule 321:** Any member who has a personal or private interest in a bill shall disclose that fact to the Senate and may not vote thereon without the consent of the Senate. A personal or private interest is one that affects the member directly, individually, uniquely and substantially.

North Dakota

**House Rules 321:** Any member who has a personal or private interest in a bill shall disclose that fact to the House and may not vote thereon without the consent of the House. A personal or private interest is one that affects the member directly, individually, uniquely and substantially.

No additional provisions found in statute.

**Senate Rule 58, 61:** No senator shall vote upon any question in contravention of the Legislative Code of Ethics or in violation of section 102.031 of the Revised Code. Any senator requesting to be excused from voting may briefly explain the reason for such request, and the Senate shall pass upon the request without debate.

**House Rule 57:** A request to be excused from voting shall be accompanied by a brief written statement of the reasons for making such request, which shall be acted upon by the House without debate.

**Legislative Code of Ethics, Section 4:** A member who has a substantial personal interest in legislation may request permission of the chair to abstain from voting on the legislation and may state the member's reason for the request. The request shall be granted by the chair or the member's respective chamber of the General Assembly pursuant to the rules of that chamber. The request and permission to abstain shall be entered in the Journal.

Ohio

**Legislative Code of Ethics/Ohio Revised Code 102.031:** No member of the General Assembly shall vote on any legislation that is then being actively advocated by a lobbyist who is (1) an employee, (2) a business associate, or (3) a person, other than an employer who is hired under contract to perform certain services and such position involves a substantial and material exercise of administrative discretion in the formulation of public policy.

**Senate Rule:** none found.

Oklahoma

**House Rule 4.2:** A member who has a personal or private interest in any bill or resolution, proposed or pending before the House, shall disclose that fact to the House, and shall not vote on that bill or resolution, as required by Article V, Section 24 of the Oklahoma Constitution.

**Oklahoma Constitution, Article V, Section 24:** A member of the Legislature, who has a personal or private interest in any measure shall disclose the fact to the

House of which he is a member, and shall not vote thereon.

**No additional provisions found in statute.**

**Senate Rule 3.33:** When involved in a potential conflict of interest as defined by ORS 244.020, a member shall announce, on the Senate floor or in the committee meeting, the nature of the potential conflict prior to voting on the issue giving rise to the potential conflict. The member's announcement shall be recorded in the Journal or in the committee minutes. In addition, the member may file a statement with his chamber. If a member suspects that another member is not disclosing a conflict, he may file a complaint and an investigation will ensue.

**House Rule 3.21:** When involved in an actual or potential conflict of interest, as defined by ORS 244.020, a member shall announce, on the floor or in the committee meeting, the nature of the potential conflict prior to voting on the issue giving rise to the potential conflict. The member's announcement of an actual or potential conflict of interest shall be recorded in the Journal or in the committee minutes. In addition, the member may file in writing a statement of the nature of the potential conflict with the Chief Clerk or the committee assistant by 5 pm the next business day following the vote.

**Oregon Revised Statutes 244.120:** When met with an actual or potential conflict of interest, a member of the Legislative Assembly shall announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official. This announcement shall be noted in the official record of the public body.

Oregon

**244.020:** "Actual conflict of interest" means any action, decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (11) of this section.

Subsection (11) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of an interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position; any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged; or membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501 (c) of the Internal Revenue Code.

**Senate Rule XXI:** Senators who have a personal or private interest in any measure or bill shall disclose the fact to the Senate, and shall not vote thereon.

**House Rule 65:** A member who has a personal or private interest in any measure or bill proposed or pending before the House shall disclose the fact to the House and shall not vote thereon.

**Pennsylvania Consolidated Statutes, Title 65, Part II, Chapter 11, 1103:** Where voting conflicts are not otherwise addressed by the constitution of Pennsylvania or by any law, rule, regulation, order or ordinance, the following procedure shall be employed. Any public official who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken, except that if a quorum is not present once the person with the conflict recuses himself, he is permitted to vote as long as the conflict is properly disclosed.

Pennsylvania

**Pa. Constitution, Article 3, Section 13:** A member who has a personal or private interest in any measure or bill proposed or pending before the General

Assembly shall disclose the fact to the House of which he is a member, and shall not vote thereon.

**Senate Rules:** None found

**House Rules 20, 21, 36, 37:** No member shall vote on any question of private property in the event of which he or she is immediately and particularly interested. Every member (except as provided in rule 3) who shall be in the House when the question is put, shall give his or her vote, unless prior thereto the Speaker shall excuse him or her, in accordance with the Code of Ethics statute 36-14-6. If a member alleges a violation of this rule against another member, this rule allows for an investigation.

Rhode Island

**Rhode Island General Laws 36-14-6:** Legislators who are required to take an action, make a decision, or refrain therefrom that will or can reasonably be expected to directly result in an economic benefit to the person, or spouse (if not estranged), or any dependent child, business associate or any business by which the person is employed or which the person represents, shall file a sworn statement describing the conflict and file it with the ethics commission and the presiding officer. If the legislator does not request to be excused from voting, he shall state why he can participate fairly and in the public interest despite the conflict.

**Senate Rules:** None found

**House Rules 3.1:** No member shall be permitted to vote on any question immediately concerning his private rights as distinct from the public interest.

South Carolina

**South Carolina Code 8-13-700:** A public official who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall file with the presiding officer a statement describing the matter and the nature of the conflict of interest. The presiding officer shall excuse the member from participating in the matter.

South Dakota

**Joint Rule 12-1:** Either body may excuse a member from voting.

**No additional provisions found in statute or constitution.**

**Senate Rule 13:** When a member of this body arises to address himself to a bill, section thereof, or amendment in which he has a personal interest, he shall state to the Speaker and members of the body "that it may be considered that I have a degree of personal interest in the subject matter of this bill, but I declare that my argument and my ultimate vote answer only to my conscience and to my obligation to my constituents and the citizens of the State of Tennessee."

Tennessee

**House Rules:** None found

**No additional provisions found in statute.**

**Senate Rules:** None found

**House Rule 5, Part E, Section 42:** Any member who has a personal or private interest in any measure or bill shall disclose the fact and not vote thereon.

**Texas Government Code 572.0531:** Before introducing, sponsoring or voting on a bill on a subject area in which a lobbyist who is the legislator's spouse or first degree relative, the legislator must file a disclosure statement.

Texas

**Texas Government Code 572.053:** A member of the legislature may not vote on a measure or a bill, other than a measure that will affect an entire class of business entities, that will directly benefit a specific business transaction of a business entity in which the member has a controlling interest. "Controlling interest" includes: an ownership interest or participating interest by virtue of shares, stock, or otherwise that exceeds 10 percent; membership on the board of directors or other governing body of the business entity; or service as an officer of the business entity.

**Texas Constitution Article 3, Section 22:** A member who has a personal or private interest in any measure or bill, proposed, or pending before the

Legislature, shall disclose the fact to the House, of which he is a member, and shall not vote thereon.

**Joint Rule 16.05:** If a legislator reasonably believes he may have a conflict of interest, that legislator should, before the vote, orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is. This declaration of conflict of interest shall be noted in the minutes of any committee meeting or in the Journal.

A legislator shall file a Declaration of Conflict of Interest form with the Secretary of the Senate if the legislator is a Senator or with the Chief Clerk of the House of Representatives if the legislator is a Representative. This form shall include the general legislative areas in which the legislator may have a conflict of interest. A "conflict of interest" is defined below. This form satisfies that legislator's disclosure of any conflicts of interest as required by the first paragraph and Utah Code Annotated Section 76-8-109.

Utah

Legislators may vote on matters in which they have a conflict as long as that conflict has been declared.

**Utah Code 76-8-109:** If a legislator must vote on a matter in which he has actual knowledge of a conflict of interest which is not stated on his conflict of interest form, he shall declare this conflict to the body. The declaration shall be noted in the minutes or the Journal. Legislators must also file a declaration of conflict of interest form with the secretary of the senate or chief clerk of the house.

"Conflict of interest" means legislation or action by a legislator that the legislator reasonably believes may cause direct financial benefit or detriment to him, a member of the legislator's immediate family, or a business in which the legislator is associated, and that benefit or detriment is distinguishable from the effects of that action on the public or on the legislator's profession, occupation, or association generally.

**Senate Rule 71:** No senator shall be permitted to vote upon any question in which he or she is directly or immediately interested.

Vermont

**House Rule 75:** Members shall not be permitted to vote upon any question in which they are immediately or directly interested.

**No additional provisions found in statutes or constitution.**

**Senate Rule 20, 36:** A Senator who has a personal interest in a transaction, as defined in § 30-101 of the Code of Virginia, before the entire Senate or a committee, shall neither vote nor be counted upon it, and he shall withdraw, or invoke this rule not to be counted, prior to the division and the fact shall be recorded on the voting machine. If a Senator invokes this rule, the Senator shall not participate, directly or indirectly, in the matter wherein the rule is invoked.

Virginia

**House Rules 69:** No member who has an immediate and personal interest in the result of the question shall either vote or be counted upon it.

**Code of Virginia 30-108:** A legislator who has a personal interest in a transaction shall disqualify himself from participating in the transaction. Unless otherwise prohibited by the rules of his house, the disqualification requirement of this section shall not prevent any legislator from participating in discussions and debates, provided (i) he verbally discloses his personal interest at the outset of the discussion and (ii) he does not vote on the transaction.

**Senate Rule 22:** No senator shall be allowed to vote upon any question upon which he or she is in any way personally or directly interested (See also Art. 2, Secs. 27 and 30, State Constitution.). A member not voting by reason of personal or direct interest may explain the reason for not voting by a brief statement not to exceed fifty words in the journal.

Washington

**House Rule 19:** No member shall vote on any question which affects that member privately and particularly. A member who has a private interest in any bill or measure proposed or pending before the legislature shall disclose the fact to the house of which he is a member, and shall not vote thereon. (Art. II § 30)

**Washington Constitution Article II, Section 30:** A member who has a private

interest in any bill or measure proposed or pending before the legislature, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

**Senate Rule 43:** Every member within the Senate Chamber, when a question is put, shall vote unless he or she is immediately and particularly interested therein, meaning an interest that affects the member directly and not as one of a class, or the Senate excuses him or her. All motions to excuse a member from voting must be made by the member requesting to be excused before the Senate divides, or before the call of the yeas and nays is commenced, and it shall be decided without debate, except that the member making the motion to be excused from voting may briefly state the reason why it ought to be adopted.

**House Rule 49:** When a question is put, any member having a direct personal or pecuniary interest therein should announce this fact and request to be excused from voting. The disqualifying interest must be such as affects the member directly and not as one of a class.

**West Virginia Statutes 6B-2-5:** Public officials, excluding members of the Legislature who are governed by subsection (i) of this section, may not vote on the following:

- A matter in which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business with which they are associated means a business of which the person or an immediate family member is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stocks of any class;
- If a public official is employed by a financial institution and his or her primary responsibilities include consumer and commercial lending, the public official may not vote on a matter which directly affects the financial interests of a customer of the financial institution if the public official is directly involved in approving a loan request from the person or business appearing before the governmental body or if the public official has been directly involved in approving a loan for that person or business within the past 12 months. This limitation only applies if the total amount of the loan or loans exceeds fifteen thousand dollars;
- A personnel matter involving the public official's spouse or relative;
- The appropriations of public moneys or the awarding of a contract to a nonprofit corporation if the public official or an immediate family member is employed by the nonprofit.

A public official may vote if the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses. A class shall consist of not fewer than five similarly situated persons or businesses.

If the matter affects a publicly traded company when:

- (i) The public official, or dependent family members individually or jointly own less than five percent of the issued stock in the publicly traded company and the value of the stocks individually or jointly owned is less than ten thousand dollars; and
- (ii) Prior to casting a vote the public official discloses his or her interest in the publicly traded company.

For a public official's recusal to be effective, it is necessary to excuse him or herself from participating in the discussion and decision-making process by physically removing him or herself from the room during the period, fully disclosing his or her interests, and recusing him or herself from voting on the issue.

**Senate Rule 73, Assembly Rule 77:** Either body may excuse a member from voting by "special cause."

**Wisconsin Statutes 19.46:** No state public official may take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

West Virginia

Wisconsin

**Senate Rule 14-7:** A member who has a personal or private interest in any bill shall disclose the fact to the Senate members at the time of initial consideration during the committee of the whole or at the time of introduction during the budget session. If the status of the conflict changes during the legislative process, the member shall disclose the change in the status of the conflict. Disclosures of a conflict of interest shall be entered in the Daily Journal.

**House Rule 17-3:** A member who has a personal or private interest in any bill shall disclose the fact to the house members at the time of initial consideration during committee of the whole or at the first time the conflict becomes apparent to the declarer, or at the time of introduction during the budget session and shall not vote thereon. On general appropriation and recodification bills a member who has declared a conflict of interest on a section or an amendment to a section shall not vote on that section, but may vote on the entire bill.

Wyoming

"Personal or private interest" means the member shall receive or incur a direct financial gain or loss if the measure or bill is enacted. "Personal or private interest" does not include a financial gain or loss which shall be received or incurred by a member if the gain or loss shall also be received or incurred by a substantial class of persons.

**Wyoming Statutes 9-13-106:** A public official shall not make an official decision or vote on an official decision if he has a personal or private interest in the matter. In determining whether he has a personal or private interest in a matter, the public official shall recognize the importance of his right to represent his constituency and shall abstain from voting only in clear cases of a personal or private interest as defined in this subsection. A public official or public member shall not vote to give money or any direct financial benefit to himself except for tax reductions affecting the general public. For the purposes of this section, a personal or private interest must (i) be direct and immediate as opposed to speculative and remote; and (ii) provide the public official, public employee or public member a greater benefit or a lesser detriment than it does for a large or substantial group or class of persons who are similarly situated.

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**Government, Military and Veterans Affairs Committee**

**LR 163**

**November 2, 2009**

**The NPADA Conflicts of Interest**

The conflict of interest provisions and the contractual interest provisions of the NPADA apply to different categories of public officials and public employees in different ways depending on the level of government and the position held. The following are general concepts which may not apply in the same way to all public officials and public employees.

- I. Conflict of Interest Defined- An official or employee (in certain categories) has a potential conflict of interest if he or she, in the discharge of his or her official duties, would be required to take any action or make any decision that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally, or a broad segment of the public.
- II. Typically, a public official or public employee with a potential conflict of interest is required to disclose the matter in writing and abstain from participating or voting on the matter in which he or she has a conflict. State Senators are not required to abstain, but must state why they will vote in spite of the conflict.
- III. Immediate Family Member Defined-Immediate family member, defined. Immediate family member shall mean a child residing in an individual's household, a spouse of an individual, or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.
- IV. Business Defined- Business shall mean any corporation, partnership, limited liability company, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust, activity, or activity. The definition does not distinguish between for-profit and non-profit entities.
- V. Business Association Defined- Business with which the individual is associated or business association, defined. Business with which the

individual is associated or business association shall mean a business: 1) in which the individual is a partner, limited liability company member, director or officer; 2) in which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth \$1,000 or more at fair market value or which represents more than a 5% equity interest, or is a stockholder of publicly traded stock worth \$10,000 or more at fair market value or which represents more than a 10% equity interest.

- VI. Interest in a Contract- No public official or public employee, a member of that individual's immediate family or business with which the individual is associated shall enter into a contract with a governmental body unless the contract is entered into through an open, public process with disclosure of the interest.
- VII. Typically, a public official or public employee with an interest in a contract is required to disclose the matter and abstain from participating or voting on granting the contract, authorizing payment under the contract and other matters related to the contract.
- VIII. Commission Policy- Commission Policy- It is the policy of the Commission to provide office holders, public employees, candidates and others with the information they need in order to comply with the NPADA and CFLA. The Commission staff responds to telephone, email, letter and personal inquiries about how to comply with the NPADA and CFLA. In addition, the General Counsel provides written staff opinions and the Commission issues formal Advisory Opinions.

**Government, Military and Veterans Affairs Committee**

**LR 163**

**November 2, 2009**

**The NPADA Enforcement Process**

**I Enforcement Process-Informal**

**A. Auditor review**

1. Auditor letter
2. Adjustment sheet
3. Telephone or other contact

**B. Other contact**

**C. Commission Policy-** It is the policy of the Commission to provide office holders, public employees, candidates and others with the information they need in order to comply with the NPADA and CFLA. The Commission staff responds to telephone, email, letter and personal inquiries about how to comply with the NPADA and CFLA. In addition, the General Counsel provides written staff opinions and the Commission issues formal Advisory Opinions.

**D. Late Filing Fees- Assessment and relief**

1. Many campaign related filings are subject to late filing fees if not timely filed
2. Statutory provisions exist for granting relief from late filing fees

**II Enforcement Process-Formal (Investigations and hearings)**

**A. Commencing an investigation**

3. Filing of a formal complaint under oath
4. By Executive Director
5. By Commission acting as a body

**B. Investigation Process**

1. The complaint (if any) is reviewed to determine if it states a cause of action. That is, if the alleged facts could constitute a violation of the NPADA. If no the matter is dismissed or the

complainant given opportunity to amend. If yes, an investigation is commenced.

2. The respondent (person or entity accused) is served with a copy of the complaint (if any) and a copy of the notice of investigation. The notice states the nature of the matter to be investigated. The respondent may respond, but is not required to do so.
3. The investigation proceeds under the direction of the General Counsel who may draw upon the services of the Commission Auditors or a contract investigator. The General Counsel is required to develop evidence which tends to show that a violation has occurred or that a violation has not occurred.
4. The General Counsel submits a report to the Commission.
5. The Commission, acting as a body, determines if there is probable cause to believe a violation has occurred or no probable cause. If no probable cause the matter is dismissed. The respondent and the complainant (if any) are notified.
6. If probable cause is found, the Commission next determines if there is sufficient evidence to reasonably believe that the respondent could be found to have violated the NPADA or CFLA. If no, the matter is dismissed. If yes, the matter proceeds to a hearing.
7. Prior to hearing there is often a settlement agreement entered into by the respondent and Commission staff subject to approval by the Commission.

### C. Hearing Process

1. Notice of hearing served on respondent specifying time and place of hearing, name of hearing officer, allegations and procedural information.
2. Hearing officer presides at hearing in a role similar to that of a judge.
3. The hearing is conducted in accordance with the NPADA and the State Administrative Procedures Act. The General Counsel introduces evidence showing a violation. Respondent or attorney may introduce or rebut evidence. The hearing is conducted in the presence of a court reporter.

4. After the hearing, the hearing officer submits Proposed Findings of Fact and Conclusions of Law.
5. Each Commissioner receives a copy of the Proposed Findings and Conclusions along with a word for word copy of the proceedings.
6. Outside of the presence of Commission staff or any other person, the Commission deliberates and may adopt the findings and conclusions of the hearing officer, adopt a modified version of them, or reject them and develop its own findings of fact and conclusions of law.
7. The Commission staff does not participate in the deliberation process, does not make recommendations to the Commission and does not provide legal advice to the Commission as to its deliberations.
8. An order is issued accordingly finding a violation or no violation

D. Penalties- Upon a finding of a violation the Commission may:

1. Assess a civil penalty of up to \$2,000 per violation;
2. Enter a cease and desist order; and
3. Order the filing of certain reports or statements

E. Commissioner orders can be appealed to the District Court and can be enforced by the District Court.

F. Confidentiality

1. The Commission investigation and hearing process is subject to the confidentiality provisions of the NPADA (see §49-14,124.01)
2. Matters relating to investigations and hearings are only made public if:
  - a) The Commission finds that there has been a violation and enters an order to that effect; or
  - b) The respondent requests that the matter be made public

3. A Commissioner or Commission staff member who discloses confidential material is subject to criminal prosecution (see §49-14,115)

G. Appeals- Orders of the Commission may be appealed to the District Court

**49-14,124.01 Preliminary investigation; confidential; exception.** All commission proceedings and records relating to preliminary investigations shall be confidential until a final determination is made by the commission unless the person alleged to be in violation of the Nebraska Political Accountability and Disclosure Act or the Campaign Finance Limitation Act requests that the proceedings be public. If the commission determines that there was no violation of either act or any rule or regulation adopted and promulgated under either act, the records and actions relative to the investigation and determination shall remain confidential unless the alleged violator requests that the records and actions be made public. If the commission determines that there was a violation, the records and actions shall be made public as soon as practicable after the determination is made.

**49-14,115 Member or employee of commission; confidential information; disclosure, when; violation; penalty.** No member or employee of the commission shall disclose or discuss any statements, reports, records, testimony, or other information or material deemed confidential by the Nebraska Political Accountability and Disclosure Act unless ordered by a court or except as necessary in the proper performance of such member's or employee's duties under the act. Any member who violates this section shall be guilty of a Class III misdemeanor.