



## Nebraska Money in Politics Part 2

### Nebraska Campaign Finance Laws Compared to Surrounding States

Normally a proud slogan of the Cornhusker State, “There is no place like Nebraska” is a motto that could be applied with more shame than pride when it comes to money inundating politics in our state. In its lack of effective campaign finance laws, as well as overall lax enforcement of existing weak campaign finance laws, our state is in a league of its own. Just as Nebraska was once called a “place where the West begins,” today it is the Wild West of campaign finance—a uniquely deregulated environment in which donors, candidates, and lobbyists are allowed to operate without the same expectations of accountability and transparency that the rest of the nation generally requires.

What follows is a series of comparisons between Nebraska and surrounding states: Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. In some areas, Nebraska campaign finance law matches other states, but when taken as a whole, a picture develops of a state that has allowed its most fundamental democratic practices of fair and open elections to be put up for sale to those with the deepest pockets. In many cases, behavior that is legal and normal in Nebraska is behavior that would lead to prison sentences in other states.

#### **Our neighbors have found ways to stem the flood of Big Money, why can't Nebraska?**

Besides the Nebraska Accountability and Disclosure Commission (NADC) and articles from Nebraska newspapers, primary sources for this report came from:

1. [Council of State Governments](#): non-partisan, non-profit organization that fosters the exchange of insights and ideas to help state officials shape public policy.
2. [National Conference of State Legislatures](#): bi-partisan organization which serves as a resource to state legislatures. It is recognized for its comprehensive and unbiased research.
3. [Ballotpedia](#): digital encyclopedia of American politics and elections
4. [Follow the Money](#): promotes an accountable democracy by compiling comprehensive campaign donor, lobbyist, and other information from government disclosure agencies nationwide and making it freely available

When this report is read on-line, links to the full data are enabled for readers who wish to see a full 50 state comparison or additional commentary.

## Campaign Donation Limits by Individuals

Only eleven states impose no contribution limits on individual donors (besides Nebraska, Alabama, Indiana, Iowa, Mississippi, North Dakota, Oregon, Pennsylvania, Texas, Utah, and Virginia). The other 39 states restrict the amount of money any one individual can contribute to a state campaign. The 50-state average for a contribution limit by individuals to a state senate race was \$2508. The Nebraska surrounding five-state average for the states with a limit was \$1160 for the lower house and \$1260 for the upper house.

**Donation Limits from Individuals--Nebraska and Surrounding States.**

State	State Legislature upper house	State Legislature lower house	Notes
Colorado	\$200	\$200	Limits apply per election
Iowa	Unlimited	Unlimited	
Kansas	\$1000	\$500	Limits apply per election
Missouri	\$2600	\$2600	Limits apply per election
Nebraska	Unlimited	Unlimited	
So. Dakota	\$1000	\$1000	Limits apply per election
Wyoming	\$1500	\$1500	Limits apply per election

[Ballotpedia](#)

## Campaign Donation Limits by Non-individuals

Unlike other states, Nebraska campaign finance law does not differentiate between types of non-individuals such as corporations, unions or political action committees (PACs). In Nebraska there is no limit to the amount any type of non-individual may contribute to candidates.

State	PAC Contributions	Corporate Contributions	Union Contributions
Colorado	"Small Donor" Committees: \$5,675/governor & statewide candidates \$2,250/legislative candidates Regular PACs and Federal PACs: Same as individual limits	Prohibited	Same as corporations
Iowa	Unlimited	<b>Prohibited</b>	Unlimited
Kansas	\$2,000/statewide candidate \$1,000/senate candidate \$500/house candidate Amounts are per election	Same as for PACs	Same as for PACs
Missouri	\$2,600/candidate/election	Prohibited	Prohibited
Nebraska	Unlimited	Unlimited	Unlimited
So. Dakota	Unlimited	\$4,000/statewide candidate \$1,000/legislative candidate  Per calendar year	\$4,000/statewide candidate 1,000/legislative candidate  Per calendar year
Wyoming	Unlimited for statewide office \$5,000/non-statewide office Amounts are per election	Prohibited	Prohibited

[National Conference of State Legislatures](#)

Prohibiting donations from corporations is one way of eliminating the problems that arise when donations are funneled through shadowy groups who use their nonprofit status to shield donors from disclosure. In an effort to achieve greater transparency and accountability, Colorado, Iowa, Missouri, Wyoming, and the federal government have prohibited such donations, but Nebraska has not, leaving the state’s voters to guess and wonder who might be bankrolling their state’s politicians.

### Federal Campaign Donation Limits

		Recipient				
D o n o r	<i>Federal Donation Limits 2018</i>	Candidate committee	PAC	Party committee: state/district local	Party committee: national	Additional national party committee accounts
	Individual	\$2,700 per election	\$5,000 per year	\$10,000 per year (combined)	\$33,900 per year	\$101,700 per account, per year
	Candidate committee	\$2,000 per election	\$5,000 per year	Unlimited transfers	Unlimited transfers	
	PAC: multi candidate	\$5,000 per election	\$5,000 per year	\$5,000 per year (combined)	\$15,000 per year	\$45,000 per account, per year
	PAC: Non-multicandidate	\$2,700 per election	\$5,000 per year	\$10,000 per year (combined)	\$33,900 per year	\$101,700* per account, per year
	Party committee: state/district/local	\$5,000 per election	\$5,000 per year	Unlimited transfers	Unlimited transfers	
	Party committee: national	\$5,000 per election	\$5,000 per year	Unlimited transfers	Unlimited transfers	

[Federal Election Commission](#)

According to the Federal Election Commission, **corporations** and **labor unions** are completely prohibited from contributing to **political** candidates. Compared to federal laws, Nebraska’s finance law is permissive in the extreme. Although state and federal laws certainly don’t always need to concur, it’s worth noting that what happens routinely and habitually in Nebraska would be prosecuted as a crime at the federal level.

### Itemized Donations Threshold

State	Reporting threshold 2006	Percentage of all contributions 2006
Colorado	\$359.82 or less	.9%
Iowa	\$50 or less	.3%
Kansas	\$200 or less	2 %
Missouri	\$100 or less	7.5%
Nebraska	\$250 or less	30.5%
So. Dakota	\$200 or less	12.3%
Wyoming	Under \$25	.1%
50 state Av.	\$100	3.8%

[Follow the Money](#)

**Contributing to Nebraska’s lack of campaign finance regulation is its high threshold for itemizing donations--250 percent of the fifty-state average.** All campaign donations, down to the penny, must be recorded with the donor’s name and address and deposited by the candidate’s committee. When the cumulative total of donations from any individual or non-individual exceed \$250 within a calendar year, they are itemized listing the name and address of the contributor on the Candidate’s Campaign Statement. The sum of all donations from individuals and non-individuals the candidate received that were \$250 or less is listed as an aggregate amount--not itemized. (Note: It was found during the course of this study that some Campaign Statements itemized \$250 donations, but it seems to be a misunderstanding—only donations **over \$250** are itemized; donations \$250 or less are not required to itemized.)

### Nebraska’s \$250 Black Hole/Lax Enforcement

**In the 2016 Legislative races, 23% (\$1,226,668) of all reported donations went unitemized.** That’s a substantial amount of money for which the source and amount can be kept secret. This is where the lack of enforcement begins to add up. The NADC does not track individuals in a consistent manner.

Individuals contribute using various names and addresses even though:

- The [NADC Treasurer’s Guide](#) states: “A person may not make a contribution in a name other than the person’s legal name.”
- [Nebraska Political Accountability and Disclosure Act](#) (NPADA) 49-1473: “Contributions; legal name of contributor; violation; penalty. A contribution shall not be made, directly or indirectly, by any person in a name other than the name by which that person is identified for legal purposes. Any person violating the provisions of this section shall be guilty of a **Class III misdemeanor.**” A Class III misdemeanor in Nebraska includes the possibility of incarceration.

Part 1 of this report included a list of 526 contributors who donated \$1000 or more to legislative candidates in 2016. Names on the list which appear to be same person but appear as two or more separate individuals were highlighted in gray--including Governor Ricketts who appears multiple times with slight variations of his name. This places a cloud over NADC data as there is an element of uncertainty about the accurate dollar amount of donations made by any specific individual. The Omaha World-Herald,

in its [dataomaha.com](http://dataomaha.com) Nebraska Campaign Finance website [FAQ](#), lays out several issues with NADC data collection and explains why NADC’s data presentation is confusing and less than fully transparent. Given that a muddled display of data benefits the state’s politicians at the expense of the general public, this would seem to be a crucial area for improvement and reform.

Citizens are required to use their legal name when registering to vote. Drivers licenses and Social Security Cards also require legal names. It doesn’t seem a stretch to require the same when donating.

A prime example of the loose enforcement of this rule comes from Gov. Ricketts. At the NADC, Gov. Ricketts has been turned into four separate individuals, three of whom have their own donation record. The addresses provided however confirm the opposite as they verify, in fact, the four are actually one person.

When donating, the governor has used his home address in Omaha, his official post office box at the Capitol and an address for [Drakon, LLC](#), a business he owns in downtown Omaha. When he files his Statement of Financial Interests with the NADC, he lists his name as **John Peter Ricketts, but uses the Office of the [Governor’s Post Office Box](#) at the State Capitol.**

Individual	Sources of Income / Business Associations	Pr
NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION 11th Floor, State Capitol P.O. Box 95086 Lincoln, NE 68509 (402) 471-2522		STATEMENT OF FINANCIAL INTERESTS  NADC FORM C-1
<ul style="list-style-type: none"> <li>• Individuals listed under Sections I - A &amp; B of the General Information - Filing Requirements on page</li> <li>• Dollar values need not be reported for any item, except for item 11.</li> <li>• File with the Nebraska Accountability and Disclosure Commission and with the election commission</li> <li>• Persons who fail to file this report or otherwise do not comply with the reporting provisions of the la</li> </ul>		
ITEM 1	YOUR NAME, ADDRESS AND PHONE NUMBER	
Name	JOHN PETER RICKETTS	
Address	PO BOX 94848 LINCOLN NE 68509	
ITEM 2	OCCASION FOR FILING	

Below is a list copied from NADC records showing the various names and addresses our Governor uses when he donates and the amounts for each name and address. For the public not in the know, the NADC records each variation as a separate individual with a separate donation record. This makes it very hard for a lay person to figure out just how much the Governor has donated. None of these variations of the same person include donations to candidates \$250 or less.

J. PETER RICKETTS 6450 PRAIRIE AVE OMAHA NE 68132	\$1,824,520	
PETE RICKETTS PO BOX 944848 LINCOLN NE 68509	\$2,500	This address doesn't exist.
PETER RICKETTS 6450 PRAIRIE AVE OMAHA NE 68132	\$2,500	
J. PETER RICKETTS 1209 HARNEY STREET OMAHA NE 68102	\$10,000	

NADC: Where One Plus One Equals One—or maybe 3.

When two individuals donate as in the example below of John and Mary Smith, NADC treats them as if they were one unique individual.

Individual donor	amount	itemized
John Smith	\$250	no
Mary Smith	\$250	no
John & Mary Smith	\$250	no
total	\$750	no

When either John or Mary donate separately, that donation is listed as coming from another completely different individual. Here is where the NADC data collection veers off the tracks—in this example, two people have donated a total of \$750, none of which will be itemized because, based upon the NADC’s passive and unsystematic bookkeeping procedures, these are treated as three unique individuals each donating \$250—and none of the three donations will be itemized because each of them is technically below the itemizing threshold. **This obvious loophole in the current system is, perhaps, an explanation for why Nebraska has a relatively high percentage of unitemized donations compared to surrounding states.**

The accounting procedures of the NADC fly in the face of common sense. Any casual observer or member of the general public, untrained in the law and unfamiliar with campaign finance rules, can determine that a human with three different versions of a name is still just one human and that two persons are not one individual. Common sense would dictate that each single human being should have his or her own **individual donation record—one per person**. The NADC Treasurer’s Guide seems to confirm this: *“A contribution drawn on a joint checking account shall be considered a contribution from the person signing the check, unless the check is accompanied by a statement indicating the amount to be attributed to each person...”*

The list that follows was taken from [FollowtheMoney.org](http://FollowtheMoney.org), downloaded 7/1/17 showing donations to 2016 Nebraska Legislative Candidates. It shows two individuals donating as a unit and one of the individuals donating separately. The NADC treats them like two different entities. In the interest of accuracy, the relationship of the two individuals donating as one individual is not known—they might be a married couple, yet again they might have another relationship such as parent/child, siblings, or just two people with the same last name.

This list demonstrates that the number of contributors and the amount they have donated as recorded by the NADC is most likely **highly inaccurate**.

CYZY, JAMES	Individual	\$1,000.00
CYZY, JAMES & MARY	Individual	\$1,000.00
HADLEY, GALEN	Individual	\$500.00
HADLEY, GALEN & MARILYN	Individual	\$500.00
HARRIS, BEN H	Individual	\$1,000.00
HARRIS, BEN H & MAJA	Individual	\$250.00
HARTNETT, D. PAUL	Individual	\$600.00
HARTNETT, PAUL & MARJORIE	Individual	\$450.00
HAWKS, HOWARD	Individual	\$2,000.00
HAWKS, HOWARD & RHONDA	Individual	\$1,500.00
HAWKS, RHONDA A	Individual	\$2,500.00
HAWKS, RHONDA A	Individual	\$500.00
HEJKAL, RITA	Individual	\$1,000.00
HEJKAL, THOMAS & RITA	Individual	\$2,000.00
MANHART, NICHOLAS & CAROLYN	Individual	\$1,350.00
MANHART, NICK	Individual	\$250.00
NELSON, STEPHAN D & ELMA	Individual	\$500.00
NELSON, STEPHEN D	Individual	\$1,000.00
POLLOCK, ANDREW	Individual	\$150.00
POLLOCK, ANDY & KRIS	Individual	\$37.69
RUBIN, BARRY	Individual	\$500.00
RUBIN, BARRY	Individual	\$200.00
RUBIN, BARRY & WHITNEY	Individual	\$1,750.00
SCHIMEK, DIANNA	Individual	\$250.00
SCHIMEK, HERBERT & DIANNA	Individual	\$827.40
SCUDDER, EARL	Individual	\$300.00

SCUDDER, EARL & PATRICIA	Individual	\$2,725.00
SULLIVAN, MARK	Individual	\$400.00
SULLIVAN, MARK & KAREN	Individual	\$350.00
SUTTLE, JAMES & DEBORAH	Individual	\$250.00
SUTTLE, JAMES H	Individual	\$1,050.00
WHITE, THOMAS & BARBARA	Individual	\$500.00
WHITE, THOMAS M	Individual	\$1,000.00
WILSON, JOHN	Individual	\$1,500.00
WILSON, JOHN	Individual	\$600.00
WILSON, JOHN	Individual	\$500.00
WILSON, JOHN & MARY	Individual	\$1,000.00

### Enforce Existing Regulations

In the absence of a statement regarding the division of a donation when two individuals donate as a unit, the NADC might more reasonably treat them as a committee according to [49-1413. Committee, defined...](#) ***“any combination of two or more individuals which receives contributions or makes expenditures of more than five thousand dollars in a calendar year for the purpose of influencing or attempting to influence the action of the voters.”*** Clearly, enforcing this regulation about using legal names would cause more donations to be itemized, and would therefore create greater accuracy, disclosure, and transparency. It is also worth noting that the Governor and the Unicameral are tasked with ensuring the efficient and accurate administration of the state’s laws, but are also, in many cases, the most direct and immediate beneficiaries of the current system of inefficient and inaccurate administration of the state’s campaign finance laws.

Sprinkled throughout Campaign Finance Reports, irregularities and duplicates appear, as slipshod reporting procedures multiply one individual into several. Below are three instances, copied from Campaign Finance Statements, in which a single person has become twins:

JAMES TIMMERMAN PO BOX 367 SPRINGFIELD NE 68059	JAMES TIMMERMAN P O BOX 367 LINCOLN NE 68509
STEPHEN D NELSON 639 25 ROAD ZIP NOT VALID NE 69124	STEVE NELSON 639 25 ROAD AXTELL NE 68924
MARY HOLLAND 673 N 58TH ST OMAHA NE 68132	MARY (ANDY) ANN HOLLAND 673 N 58TH ST OMAHA NE 68132

### Non-Disclosure, Non-Payment of Late Fees

**Another example of what appears to be lax enforcement is the process for late fees to be waived or reduced based on rules approved by elected officials who directly stand to gain.** Waiving late fees

excuses elected officials, candidates, lobbyists, and others subject to NADC regulation from penalties when their reports are not filed on time.

For each day a report is late, a \$25 fee is assessed, up to a maximum of \$750. However, policy has been put in place allowing waiving a late fee the first time a report is late; the second time it is reduced to \$25; the third time, the full fee is due. Every two years the fee-waiving clock is reset, and the rule starts over.

Based on information provided by the NADC requested for this study, in 2016 about \$180,000 in fees was waived, \$50,000 was collected and \$20,000 was owed. Here are examples of those who had their late fees waived or reduced:

- Great Plains Communication (NE largest independent telecommunications company) assessed \$750, waived;
- Mueller Robak (a top lobbying firm) assessed \$750, waived;
- Novartis Pharmaceuticals Corp., assessed \$750, reduced to \$25;
- Smithfield Foods (world's largest pork processor), assessed \$750, reduced to \$25; State Sen. Jim Scheer (speaker of the Legislature) assessed \$225, waived.

Late fees are not treated the same as NADC violations. The NADC website displays a listing of violations in the [Enforcement Actions](#) section. Another link leads to the actual documents, complete with the violators' signatures. In 2016 there were three settlements totaling \$2,000; in 2017 there were four settlements totaling \$5,000. In addition, the NADC issues a press release with each enforcement action.

The website contains **no information about late fees** and there are no press releases with lists of the offenders, although late fees are many times greater than civil penalties. The state is volunteering to not collect a substantial sum of money from parties who have clearly violated the law—and this forsaking of potential revenue occurs without a ripple of protest or comment from elected officials, many of whom portray themselves as tough on crime and often loudly lament the state's budget shortfalls.

### In-Session Fund Raisers

According to the [National Conference of State Legislatures](#), 28 states place restrictions on campaign contributions during a legislative session. Nebraska isn't one of them, which at first glance matches some of our neighboring states but not upon closer inspection.

**In practice, in-session fundraisers allow Nebraska State Senators to legally collect unlimited donations from individuals, unions, political parties, PAC's, and lobbyists exactly at the moment when they are voting on key legislation.** From the chart below it would appear Nebraska's lack of regulation matches, Missouri, South Dakota and Wyoming rules, however:

- Missouri and Wyoming ban *all* corporate and union contributions—in session or otherwise.
- South Dakota places a \$1000 limit on corporate and union contributions.

STATE 	In-Session Rule 
Colorado	Lobbyists and the principals of lobbyists are <b>prohibited</b> 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
Iowa	Political action committees and lobbyists are <b>prohibited</b> 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
Kansas	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
Missouri	no legal reference
Nebraska	no legal reference
South Dakota	no legal reference
Wyoming	no legal reference

The regulations put in place by our neighbors have effectively shut down or limited in session fundraisers while in Nebraska, State Senators' campaign committees remain open for business throughout the legislative session. This is where Nebraska's lack of campaign donation limits coupled with the \$250 Black Hole and no limit on in-session fundraising create a synergistic multiplier effect. What happens in Nebraska simply wouldn't happen (legally) in other states.

### Campaign Extortion?

The Unicameral is in session and 350 lobbyists are eager to win favor. What a perfect time to hold a fundraiser breakfast at Billy's or the Nebraska Club. Of course, the Senators are not influenced by campaign contributions and the lobbyists give generously with no strings attached. A restaurant like Billy's is closed to the public for breakfast. The public and the press are not permitted to witness the transactions. Lobbyists and Senators send out private invitations usually asking lobbyists for a \$100 contribution at the door while fellow Senators get complimentary passes. **Individual contributions must be kept under \$250 so the contributor's names will not have to be reported.** A Public Service Commissioner appears to hold the record by raising over \$19,000 at a Billy's fundraiser. **Only the total amount raised has to be reported.** [Nebraska Common Cause](#)

## Revolving Door—Out and In—No Waiting!

**Revolving door** is the practice of public officials leaving public service and immediately taking lobbying jobs. Alternate terms include "cooling-off period," "mandatory waiting period," and other variations. Here in Nebraska we don't need to use any of these terms because in Nebraska, State Senators have no legal requirement to hold off or cool their jets--not even for one day.

Ethics experts say an unlimited revolving door erodes public trust in government and corrupts policymaking. Ethics laws in most states regulate "revolving door" lobbying by imposing mandatory waiting periods before a legislator may engage in lobbying activities, but **Nebraska is only one of a handful of seven states with no limits on cashing in on recent legislative experience** and immediately lobbying those who, until perhaps just hours ago, were fellow elected officials on the floor of the Legislature. As the chart below indicates, Nebraska is, once again, an outlier in its lack of regulation:

### Revolving Door/Cooling Off--Multi-state Comparison

STATE <input type="text"/>	<a href="#">Source: National Conference of State Legislatures</a>
<b>Colorado</b>	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, for <b>2 years following vacation of office</b> . C.R.S.A. Const. Art. 29, § 4.
<b>Iowa</b>	A person who serves as a member of the general assembly shall not act as a lobbyist during the time in which the person serves, or within <b>2 years after termination of service</b> . Iowa Code Ann. § 68B.5A.
<b>Kansas</b>	No generalized mandatory waiting period by statute found. However, there is a bar on accepting employment for <b>2 years</b> if participated as a state officer in the making of any contract with the prospective employer. Shall not, for <b>1 year</b> after expiration of a term, be interested in any contract with the state or represent any person in a court proceeding attacking any legislative action taken or enactment made during any such term as a legislator as being unconstitutional due to error in the legislative process. Kan. Stat. Ann. § 46-233. Shall not, within <b>1 year</b> after the end of a term, receive any civil appointment to a state office created by law during the last term for which such person had been elected. Kan. Stat. Ann. § 46-234.
<b>Missouri</b>	<b>month</b> prohibition on lobbying for any former legislator based on the expiration of any term of office or after he or she vacates office. Excludes unpaid lobbyists or those who act, serve, or register as a lobbyist for a state department or agency. Mo. Ann. Stat. § 105.455. <u>Term extended to two years</u> by constitutional amendment passed via ballot measure during the November 2018 election.
<b>Nebraska</b>	No mandatory waiting period by statute found.
<b>South Dakota</b>	No elected officer may be compensated, act, or register as a lobbyist, other than a public employee lobbyist, for <b>2 years</b> after termination of service. S.D. Codified Laws § 2-12-8.2.
<b>Wyoming</b>	No mandatory waiting period by statute found.

## The Gifts That Keep on Giving

Nebraska campaign finance law allows candidate committees to donate to each other. This has created an environment where money flows freely between and among campaign committees allowing virtually unlimited donations with the effect of soaking up access and compliance from fellow elected officials. In Nebraska, candidate committees are not just purchasing a few tickets to help out fellow candidates--these are significant donations. Donors should rightfully be concerned how their contributions are being used and whose pockets they end up in. A list of 2016-17 State Senator campaign committee donations to other campaign committees is at the end of part 2.

Most of the states surrounding Nebraska have limited or outright banned campaign to campaign donations. In the chart following, note Iowa's law appears to be similar to Nebraska's except there is a limit to purchasing two fundraising tickets and the candidate must actually attend. Nebraska law makes no such similar provision which basically throws the door open to another way of making more unlimited contributions.

State	Campaign to Campaign Donation Rule
<a href="#">Colorado</a>	Colorado law <b>prohibits</b> candidates and candidate committees from accepting contributions from another candidate committee (local, state, or federal).
<a href="#">Iowa</a>	Only fundraiser tickets for a candidate or PAC event for up to two people, <b>as long as they attend.</b>
<a href="#">Kansas</a>	Kansas <b>prohibits</b> a candidate from donating his or her campaign funds to any other candidate for federal, state, or local office or to any PAC.
<a href="#">Missouri</a>	Article VIII, Section 23.3(4) <b>prohibits</b> a candidate committee from giving to or accepting a contribution from other candidate committees, including federal candidate committees.
<a href="#">Nebraska</a>	Candidate committee shall not make a contribution to or an independent expenditure in behalf of another candidate committee, except that a candidate committee may make a contribution to another candidate committee for a fundraising event of such other candidate committee.
<a href="#">South Dakota</a>	Contributions received by a candidate campaign committee may only be used for: A purpose related to a candidate's campaign; Expenses incident to being a public official or former public official; or Donations to any other candidate, political committee, or nonprofit charitable organization.
<a href="#">Wyoming</a>	Except as otherwise provided in this section, <b>no organization of any kind</b> including a... <b>candidate's campaign committee</b> organized under W.S. 22-25-101, directly or indirectly through any officer, member, director or employee, <b>shall contribute funds, other items of value or election assistance directly to any candidate or group of candidates.</b>
<a href="#">Federal</a>	The maximum donation a lawmaker can give a candidate from his or her campaign account is <b>\$1,000 per election.</b>

Once again, compared to other state laws, Nebraska law seems intentionally vague creating a situation which allows politicians to use money which is technically not their own to exert power and influence over other candidates and elected public officials.

## Pay-to-Play the Nebraska Way

Pay-to-play is the all-too-common practice of an individual or business entity making campaign contributions to a public official with the hope of gaining a lucrative government contract. Usually, though not always, pay-to-play abuses do not take the form of outright bribery for a government contract. Rather, pay-to-play more often involves an individual or business entity buying access for consideration of a government contract. Using campaign contributions to influence the awarding of government contracts damages the integrity of the contracting process and undermines the public's confidence in government.

Like sixteen other states Nebraska has regulations regarding pay-to-play but they affect only state lottery contracts. [Pay-to-Play Restrictions on Campaign Contributions from Government Contractors, 2016](#) Our neighboring states also do not have pay-to-play regulations in place, but most have bans on corporate contributions and other limits which serve to curb *some* pay-to-play.

### Case Study--Pay to Play

In 2016, the Nebraska Department of Administrative Services (DAS) awarded the largest [contract](#) in Nebraska history—valued at more than \$1 billion annually—to three vendors for Managed Medicaid Services. During this time, a tsunami of contributions flooded in from the bidders to the Governor, the Republican Party, and State Senators, including the entire Health and Human Services (HHS) Legislative Committee which had oversight of the agency responsible for Medicaid, the Nebraska Department of Health and Services (NDHHS). [Centene](#), a Fortune 500 firm, known in Nebraska as [Nebraska Total Care](#), washed over the other bidders in terms of campaign donations and lobbying, and came out on top as one of three companies awarded the coveted contract.

According to a 2012 St Louis-Post Dispatch article, Centene's business plan was, "Save the states between 5 percent and 8 percent of the cost of care for their poorest, sickest and youngest patients—and pocket a piece of the difference." [Fremont Tribune](#)

The losing bidders [protested](#) and sought redress in a court of law but found no relief. [Coventry Health Care of Neb., Inc. v. Neb. Dep't of Admin. Servs.](#)

The newly revamped Nebraska Medicaid Program, renamed Heritage Health, went into effect January, 2017. Just five months after it began protests erupted. Centene's Nebraska Total Care received a notice of serious deficiencies from the state Medicaid division because of specific concerns that providers were not adequately addressed, including not paying them in a timely manner [Questions surround contractors](#)

**"They're screwing things up every which way they can. The errors are over and over and over again,"** said Topher Hansen, CEO of CenterPointe. [Nebraska's new Medicaid managed care system blamed for problems with billing and getting approval for care](#)

Nebraska joined in the chorus of other states expressing dissatisfaction with Centene:

- “Two of **California’s** most profitable insurers, Centene and Anthem, ran some of California’s worst-performing Medicaid plans, state quality scores and complaints in government records show. California officials have been clawing back billions of dollars from health plans after the fact.” [St Louis-Post Dispatch](#)
- “The corporation selected to help manage **Iowa’s** controversial privatized Medicaid system has faced serious charges of mismanagement resulting in at least **\$23.6 million in penalties** in more than a **dozen states**, a Des Moines Register investigation shows. [Iowa Total Care, a subsidiary of Centene, was awarded a state Medicaid contract in May](#) by the Iowa Department of Human Services despite scoring nearly 14 points lower on its evaluation than when it had applied and was rejected in 2015, public records show.” [Des Moines Register](#)
- Centene paid **Kentucky** \$7.5 million to settle a lawsuit alleging it wrongfully terminated its Medicaid agreement and cost the state \$28 million to \$40 million. [Modern Healthcare](#)

State Sen. Merv Riepe, HHS committee chair, urged patience with the process, noting the new managed care system was only in its sixth month of operation. “We cannot tolerate low standards but the department (HHS) is not and never will be perfect,” he said according to an [Omaha World Herald article](#). The article failed to mention Riepe had accepted over \$7,500 in donations from Centene, the most received by any State Senator.

Riepe spoke up again objecting to Kate Bolz’s LB442 that would have created a special committee charged with looking at the quality of care, cost of services, coordination of care and other aspects of Medicaid. Riepe said he didn’t believe there were enough votes on the Legislature’s Executive Board to advance LB442, but if the bill did get out of committee, he vowed to fight it vigorously. [OWH](#) That was a prescient observation, considering the chair of the powerful Executive Committee, Dan Watermeier, had accepted \$2000 in Centene donations. [dataomaha](#) (Note: These donations were received after Watermeier had run unopposed for a second term in 2016. Clearly the intent of the donation was not to help him get elected to the legislature as he was term limited.) The bill, as might be expected, didn’t get out of committee and oversight remained in the HHS committee where every member had also accepted Centene donations. Riepe said the proposed oversight committee represented an attempt to usurp the responsibility of the HHS Committee which was most likely, true.

In addition to \$79,500 in direct campaign donations to State Senators, Centene donated another \$22,000 to the Nebraska Republican Party and \$55,000 to Governor Ricketts. Add to that, another \$338,752 in reported lobbying expenses--Centene employed a top lobbying firm with ties to the Governor, [CP Strategies](#).

Centene found safe harbor in Nebraska, no sanction imposed unlike many other states which imposed millions in penalties. Our legislators and governor might have chosen another path---to stand up for Nebraska’s [242,529](#) Medicaid recipients and the providers who serve them, another opportunity lost by Nebraska’s Second House. The Second House spoke up well and passionately, but it’s hard to be heard over the din of teeming flood waters of cash and influence.

## Judicial Review

Nebraska allows unlimited campaign donations from those who would wish to do business with the state, the only exception being lottery vendors. That in itself is startling, but add to this--even billion-dollar Medicaid contracts are not subject to judicial review by any court; there is no right to discovery; published vendor materials are not legally binding; prior court decisions do not apply; award decisions are solely at the discretion of politically appointed agency heads, subject only to the limits of bad faith.

In Nebraska, a losing bidder's only recourse is to submit a written protest and meet with the DAS agency representative--in the case of the \$1 billion Medicaid Managed Care contract, a [Ricketts appointee, Bo Bothelho](#)

Aetna, one of the losing bidders, claimed "...the state's rescoring process was flawed, ignored standard procedure and violated the law." The company also claimed state officials infringed on its constitutional due process rights by contracting with WellCare and two other organizations before Aetna could fully protest the decision. [Aetna fights Nebraska officials over Medicaid plan picks](#) One factor that might help explain this pattern of preference at the public expense is that donations from Aetna during this time period totaled \$41,000 compared to Centene's \$138,500.

The right to judicial review is one our most basic rights, dating back to the 1803 landmark Supreme Court decision, [Marbury v. Madison](#). If, for example, a Medicaid recipient is denied approval for a \$50 service, he or she has a right to sue in court. The court has the power to decide if the government took the correct action in denying the Medicaid service. However, in Nebraska, losing bidders for the largest government contract in Nebraska history discovered they lacked the same right to judicial review that a Medicaid recipient would have in a dispute over a \$50 medical claim.

Most states have adopted all or part of the [American Bar Association's Model for Public Procurement](#) which provides for a fair and transparent procurement process including the right of judicial review. It contains ethical standards with accompanying sanctions applicable to all participants in the public procurement process. The proposed ethical standards cover conflicts of interest, gratuities and kickbacks, contingent fees, and misuse of confidential information. **Unlike most states, and many of our neighbors, Nebraska allows campaign donors to influence the government procurement process, then forbids judicial review.** In this sense, the absence of effective judicial review amplifies the effects of the state's failure to regulate pay to play coupled with no donation limits.

Unlike in Nebraska, judicial review of procurement decisions is specifically authorized and available in more than half of the states in the United States, as well as in the District of Columbia. Judicial review is authorized in many of Nebraska's neighboring states, including Iowa, Colorado and Missouri. Judicial review of state procurement decisions is specifically authorized by statute in the majority of these states. Several of the states, including Idaho, Iowa, Maine, Maryland, Montana, Nevada, and Oklahoma, authorize judicial review of procurement decisions pursuant to those states' respective Administrative Procedure Acts. **Similarly, Nebraska has not adopted the American Bar Association State and Local Model Procurement Code.** [Caveat Vendor, The Case for Repairing Nebraska's Procurement Process](#)

When the bidding system is flawed and perceived to be driven by pay-to-play, the end result is that qualified bidders with good reason may choose to bypass our state in favor of states with a less arbitrary process. This has led companies to question if Nebraska is open for honest business. [Journal Star 8/26/18](#)

### **Educating or Electioneering?**

In 2016, three incumbent Senators seeking a second term—Les Seiler, Al Davis, and Jerry Johnson—faced a deluge of attack ads and robo-calls paid for by [Trees of Liberty](#) and [Americans for Prosperity](#). All three lost their bid for a second term. Although inaccurate claims are common in campaigns, the information distributed by these organizations in the days prior to the November election could be quite accurately described as especially and conspicuously misleading, including brazenly erroneous misrepresentations of Seilers’ nearly perfect attendance record at the Unicameral or Al Davis’ residency within his district.

Both groups are classified by the Internal Revenue Service as 501(c)(4) non-profit corporations and therefore are legally allowed to keep the names of their donors hidden from public view. Since the ads were determined to be educational rather than political, they did not come under NADC regulation. Nebraska voters may suspect, but to this day do not know who was behind these false ads and robo-calls which, even by stretching the farthest limits of the definition of “educational,” could not be considered enlightening or factual.

Most ordinary Nebraskans share a common ability to spot a political ad when they see one, but apparently once elected to the Unicameral that ability is lost.

#### **Free Speech or Just More Unregulated Money in Politics?**

According to an attorney representing Americans for Prosperity: “AFP’s communications are not distributed in assistance of, or in opposition to, the nomination or election of a candidate. Rather, AFP’s communications are distributed to inform citizens of certain aspects of legislative records, cite specific pieces of legislation and discuss policy implications. A communication that merely informs citizens of a legislator’s record does not constitute ‘express advocacy,’ and does not ‘assist’ or ‘oppose’ the election of a candidate. [Senator takes aim at electioneering loophole](#)”

The politics behind these attack ads are beyond the scope of this study. What is at issue is whether Nebraska voters should have the right to know who is bankrolling the overwhelmingly negative and misleading ads that flood our airwaves and mailboxes in the days before an election. Voters should be able to know how much these groups are spending to sway our vote with their so-called “educational” materials.

According to a 50-state analysis by the [National Institute of Money in Politics](#), which looked at independent spending disclosure laws and lax rules that provide cover for sponsors of attack ads, Nebraska received an F, scoring 45 out of a possible 100. Fifteen states, including Colorado, had a perfect score. A perfect score meant the states’ laws were at least as robust as federal independent spending requirements. Wyoming and Iowa scored 40; Kansas, 45; Missouri, 50; and South Dakota, 60.

## Part 2 Summary

- Nebraska has no limit on donations from individuals.
- Nebraska has no limit on donations from non-individuals.
- Nebraska has a “\$250 Black Hole”.
- The NADC does not enforce the requirement to use legal names.
- Nebraska is losing money waiving NADC late fees.
- Nebraska has no limits on elected officials cashing in as lobbyists.
- Nebraska has no limit on in-session fund raisers.
- Nebraska has no pay-to-play restrictions except for lottery vendors.
- Nebraska does not include the right of judicial review in its procurement process.
- Nebraska scores an “F” in regulating attack ads by independent groups.

<b>2016-2017 Campaign to Campaign Donations from State Senators</b>		
<b>Donor Candidate Committee</b>	<b>Recipient Candidate Committee (Tickets)</b>	<b>Amount</b>
<a href="#"><u>Kathy Campbell For Legislature</u></a>	Mello For Mayor	\$1,500.00
	Brad Ashford for Congress	\$500.00
	Jim Gordon For Legislature	\$500.00
	Boswell For School Board	\$1,000.00
<a href="#"><u>Joni Craighead For Legislature</u></a>	Jean Stothert for Omaha	\$250.00
	Mary Jane Truemper For County Board	\$350.00
<a href="#"><u>Bolz For Legislature</u></a>	Mello For Mayor	\$1,000.00
	Jane Raybould	\$500.00
	Neighbors for Sean Flowerday	\$500.00
<a href="#"><u>Fox for Legislature</u></a>	Pete Ricketts For Governor	\$2,163.00
<a href="#"><u>Mike Gloor for Legislature</u></a>	Mello For Mayor	\$500.00
<a href="#"><u>Burke Harr for Legislature</u></a>	Brad Ashford for Congress	\$1,000.00
	Mello For Mayor	\$1,000.00
	Marque Snow for Ops School Board	\$500.00
<a href="#"><u>Hadley For Legislature</u></a>	Jerry Johnson for Legislature	\$500.00
	Al Davis for Legislature	\$500.00
	Les Seiler for Legislature	\$500.00
<a href="#"><u>Ken Haar for Legislature</u></a>	Mello For Mayor	\$1,000.00
	Anna Wishart for Legislature	\$100.00
	Bennie Shobe for City Council	\$249.00
	Chuck Hassebrook for Legislature	\$249.00

	Friends of Adam Morfeld	\$100.00
	Krist For Nebraska	\$100.00
	Hansen for Legislature	\$100.00
	Lathrop for Legislature	\$249.00
	Leirion for Lincoln	\$249.00
	McCollister for Legislature	\$100.00
	Pansing Brooks for Legislature	\$150.00
<a href="#">Neighbors for Sara Howard</a>	Mello For Mayor	\$1,000.00
	Hansen for Legislature	\$250.00
	Morfeld for Legislature	\$250.00
	Pansing Brooks for Legislature	\$250.00
	Snow for OPS	\$500.00
<a href="#">KOLTERMAN FOR LEGISLATURE</a>	Murante for Legislature	\$100.00
	Friends of Dan Watermeier	\$250.00
<a href="#">BOB KRIST FOR LEGISLATURE</a>	Al Davis for Legislature	\$800.00
	Committee to Elect Tommy Garrett	\$250.00
	Vargas for Nebraska	\$500.00
	Mello For Mayor	\$1,000.00
	Neighbors for Cavanaugh	\$500.00
	Dan Quick for Legislature	\$300.00
<a href="#">LATHROP FOR NEBRASKA</a>	Mello For Mayor	\$1,000.00
<a href="#">MCCOLLISTER FOR LEGISLATURE</a>	Brown for Legislature	\$300.00
<a href="#">MCCOY FOR NEBRASKA</a>	Linehan for Legislature	\$1,000.00
	Bacon for Congress	\$1,000.00
<a href="#">FRIENDS OF MIKE MCDONNELL</a>	Neighbors for Jim Rogers	\$1,000.00
	Mello For Mayor	\$5,000.00
<a href="#">FRIENDS FOR ADAM MORFELD</a>	Mello For Mayor	\$1,000.00
<a href="#">NELSON FOR LEGISLATURE</a>	Jean Stothert for Omaha	\$400.00
<a href="#">NORDQUIST FOR LEGISLATURE</a>	Mello For Mayor	\$20,000.00
	Friends of Adam Morfeld	\$1,250.00
	Brad Ashford for Congress	\$500.00
	Neighbors for Cavanaugh	\$500.00
	Chuck Hassebrook for Legislature	\$300.00
	Friends of Jeff Paris	\$300.00
	Hansen for Legislature	\$300.00
	Lathrop for Legislature	\$1,000.00

	Reddick for Congress	\$500.00
	Team Schuller	\$300.00
	Wendy DeBoer for Legislature	\$300.00
<a href="#">CITIZENS TO ELECT SCOTT PRICE</a>	Ebke for Legislature	\$1,000.00
<a href="#">SCHEER FOR STATE LEGISLATURE</a>	Bob Evnen for Nebraska	\$1,000.00
	Dan Hughes for Legislature	\$500.00
	Pete Ricketts For Governor	\$500.00
<a href="#">CITIZENS TO ELECT JIM SMITH</a>	Friends of Mike Hilgers	\$1,000.00
	Jerry Johnson for Legislature	\$1,000.00
	Wayne for Nebraska	\$1,000.00
	Linehan for Legislature	\$2,000.00
	Mary Jane Truemper For County Board	\$250.00
<a href="#">STINNER FOR LEGISLATURE</a>	Mello For Mayor	\$1,000.00
	Jean Stothert for Omaha	\$1,000.00
<a href="#">SULLIVAN FOR LEGISLATURE</a>	Mello For Mayor	\$250.00
	Seiler for Unicameral	\$500.00
<a href="#">SYNOWIECKI FOR LEGISLATURE</a>	Mello For Mayor	\$1,200.00
<a href="#">TANYA COOK FOR LEGISLATURE</a>	Jill Brown for Legislature	\$250.00
<a href="#">VARGAS FOR NEBRASKA</a>	Neighbors for Jim Rogers	\$250.00
<a href="#">Source: Jack Gould, Nebraska Common Cause LB175 Testimony</a>		<b>\$70,009.00</b>