



Nebraska Money in Politics

Part 3 Conclusion

Restoring Nebraska's Second House

So often, we Nebraskans find ourselves comfortable ranking in the middle tier of various state to state comparisons, the only exception being Cornhusker football. We like to think we may not be the very best, but we're not the worst either. **The one big exception is regulation of money in politics.** If politicians in other states did what is entirely legal and commonly practiced in Nebraska, they would be behind bars. Most states as well as the federal government have criminalized what we in the Cornhusker state have legalized and normalized.

Part 1 of this report looked at the 2016 Nebraska State Legislative races and found a high correlation between the amount of money a candidate raised and winning. On average, winners raised twice as much as the losers, with most of the money coming from large donations, primarily from non-individuals. Clearly Big Money was the winning ticket in 2016. Seventy percent of all money raised came from fewer than 526 donors.

Part 2 focused on a comparison between Nebraska's campaign finance laws and surrounding states: Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming. The central finding was that Nebraska is highly unregulated compared to our neighbors.

Part 3 explores the consequences of lax Nebraska's campaign finance laws and poses Nebraska based, common sense solutions.

Note: When this report is read online, source links are enabled for those wishing to see the full 50 state comparison or additional commentary.

Nebraska's Perfect Storm

A perfect storm churns over Nebraska because of its lack of campaign finance regulation. A lack of regulation in any one area, such as contribution limits, is serious in itself, but when our overall lack of regulation is viewed in its entirety, it is clear an ominous storm is roaring, threatening our basic identity as independent, law abiding Nebraskans and ripping away at the fabric of our public institutions. Sirens should be sounding all across our state.

Assessing the Damage from the Perfect Storm

1. The Unicameral is not representative of Nebraskans.

The “Mr. Smith Goes to Washington” idealized movie about the naïve, but passionately earnest young man winning against a jaded, money driven establishment does not hold true in Nebraska. It takes money to win and you need to get it from Big Money, Nebraska's Fortune 526.

If the Nebraska Legislature were truly representative of Nebraskans, there would be a majority of women State Senators, it would be slightly younger, and at least nine Senators would not list their race as Caucasian. If politically proportional to voter registration the 2017 Legislature would have consisted of 24 Republicans, 15 Democrats, and 10 Independents. Instead there were 31 Republicans, 16 Democrats, 1 Independent and 1 Libertarian.

2. Important issues languish if they don't impact monied interests.

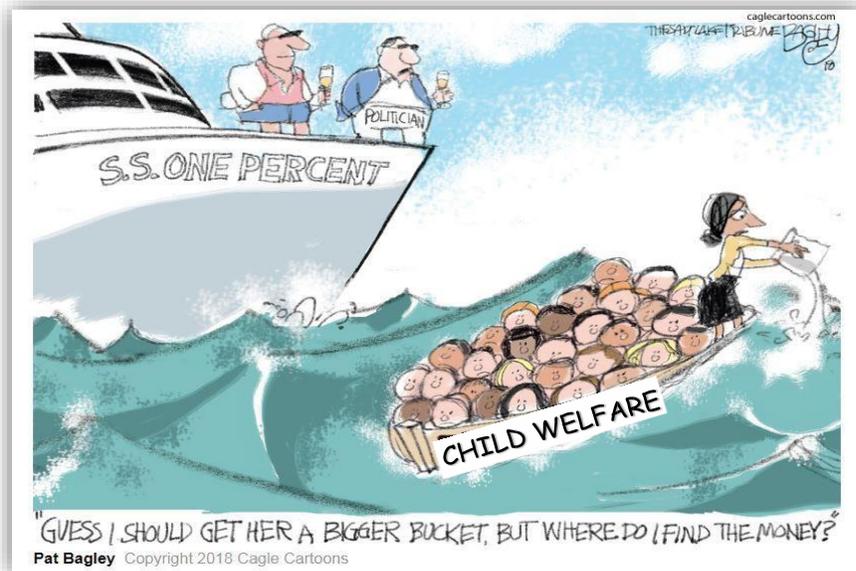
It would seem our State Senators all too often have that “deer in the headlights” look when confronted with issues that have little impact on their Big Money donors. What follows are four examples of the Unicameral's inability to deal with substantive issues unrelated to large donor interests:

- I. **Prison reform:** It appears Nebraska may have passed Alabama and possibly ranks No. 1, not in football, but in prison overcrowding now at 163 % of capacity. It's not like this is an issue that just popped up, it has been festering away for years, while lawmakers and the governor, session after session, have been unable to effectively legislate and implement prison reform. Numerous reports have pointed to overcrowding as the cause for unrest in the prison system, including two deadly “incidents” (we used to call them riots) at the maximum-security prison in Tecumseh that left four dead. Pleas for reform through sentencing and programming have been around decades. ([*Prisons still overcrowded, is there any relief?*](#)) Prisoners don't have the right to vote in Nebraska and they don't show up on the list of top donors to State Senators' campaigns. Nebraska has chosen a harsh option when it comes to restoring felon voting rights compared to surrounding states. Only Iowa surpasses Nebraska in keeping felons from exercising their rights as citizens. Based on Nebraska's highly monetized political environment is it any wonder prison reform languishes, the only recourse being years of expensive litigation to force action?

Restoring Voting Rights to Returning Citizens-Surrounding State Comparison

State	Source: National Council of State Legislatures
Colorado	Voting Rights Lost Until Completion of Sentence (Parole and/or Probation Automatic Restoration After)
Iowa	A person convicted of any infamous crime shall not be entitled to the privilege of an elector (Iowa Const. Art. 2, § 5). In 2016 the Iowa Supreme Court upheld the ban on felon voting, finding that all felonies are “infamous crimes” resulting in permanent disenfranchisement
Kansas	Lost Until Completion of Sentence (Parole and/or Probation Automatic Restoration After)
Missouri	Lost Until Completion of Sentence (Parole and/or Probation Automatic Restoration After)
Nebraska	In felony cases, there is a two-year waiting period after completion of probation for the restoration of voting rights (Neb. Rev. St. § 29-2264).
South Dakota	Lost Until Completion of Sentence (Parole and/or Probation Automatic Restoration After)
Wyoming	A person convicted of a felony is not a qualified elector unless his rights are restored (W.S. § 610-106). For persons convicted of nonviolent felonies or a first-time offender, rights are restored automatically (W.S. § 7-13-105). Persons who do not meet the above qualifications must be pardoned (W.S. § 6-10-106).

- II. **Child Welfare:** Since 2011 child welfare has been in a chronic state of crisis due to turmoil caused by a failed privatization effort. In 2012, legislation was passed creating an Office of Inspector General (OIG) and the Nebraska Children’s Commission to advance new programs to restore the child welfare system. Since its inception, the OIG has repeatedly uncovered evidence that high caseload and workload burdens, staff turnover, and vacancy issues for CFS (Children and Family Services) staff have negatively impacted child welfare operations in Nebraska. ([Local View: Nebraska's child welfare system takes step back](#)) Children do not vote and are legally blocked from donating. Child welfare is not a priority of the Fortunate 526.



- III. **Medicaid Expansion:** After years of inaction by State Senators and the Governor, Medicaid Expansion under the Affordable Care Act was enacted in 2018 through the initiative process with 53.6 % approval by Nebraska voters. Passage of this initiative opened up the opportunity for health care coverage to an estimated 90,000 low-income adults. Clearly Nebraskans had wanted Medicaid Expansion all along, but the Unicameral failed to listen to the Voices of Nebraska's Second House.

- IV. **Minimum Wage:** The Unicameral also turned a deaf ear when it came to raising the minimum wage. Nebraskans found their only recourse an initiative to **increase the minimum wage** in 2014. Again, Nebraskans made their Voices heard at the ballot box, the measure winning by a margin of 59 %.

3.Polarization

Nebraska, which takes justifiable pride in its non-partisan Unicameral, was ironically found to be the most rapidly polarizing state legislature in the nation in 2015. This strange turn of events was linked to the implementation of term-limits in the 2006 election. One of the unintended consequences of limiting state senators to two four-year consecutive terms was the overall increase in partisanship. Researchers Masket and Shor found that to an increasing degree, large donors were contributing along partisan lines. The 2016 election was not only about the amount of money raised, but also the *source* of the money. Prior to term limits, donors contributed along geographic or issue-based lines—donations went to support the local home town candidate or candidates based on their positions on issues. According to the researchers, donations now come with an ever-increasing requirement to toe the party line. If a candidate steps over the line in an independent spirit of bi-partisanship, he or she should expect a well-funded primary opponent in the next election. ([Polarization without Parties: Term Limits and Legislative Partisanship in Nebraska's Unicameral Legislature](#)) In many, if not most states, this might be seen as a minor inconvenience, but in Nebraska with its limitless donations, the Fortunate 526 are using their immense economic advantage to pull apart the basic underpinnings of our nonpartisan Unicameral.

As one example, in 2016, Gov. Ricketts, one of the largest and most partisan donors to the Nebraska legislative races, donated a reported \$124,000 to 17 legislative candidates. Donations of that magnitude from such a highly polarized source are going to impact what goes on in the Unicameral. But consider what the Governor's impact might be if Nebraska had in place Colorado's \$200 donation limit. Gov. Ricketts would have been limited to only one \$200 donation to each of the 17 candidates he supported. In Colorado he would have been able to donate only 2.7 % of what he was able to legally donate to Unicameral elections. His donations would have had the same effect on partisanship as the myriad unnamed donors who go unitemized on candidates' campaign statements.

Term limits might be a contributing element to polarization but actually it is Nebraska's unlimited donations that make polarization a reality.

Gov. Ricketts' donations compared to Colorado's limit on individual donations.

Candidate	Ricketts	Colorado Limit
HILGERS, MICHAEL (MIKE)	\$ 15,000	\$ 200
GEIST, SUZANNE	\$ 15,000	\$ 200
BOSTELMAN, BRUCE	\$ 13,000	\$ 200
SWANSON, IAN M	\$ 10,000	\$ 200
LOWE SR, JOHN S	\$ 10,000	\$ 200
HALLORAN, STEVE	\$ 10,000	\$ 200
ELMSHAEUSER, KARL L	\$ 10,000	\$ 200
ALBRECHT, JONI	\$ 6,000	\$ 200
LINEHAN, LOU ANN	\$ 5,000	\$ 200
BREWER, TOM	\$ 5,000	\$ 200
NEUHAUS, GREGG	\$ 5,000	\$ 200
SCHNOOR, DAVID	\$ 5,000	\$ 200
FOX, NICOLE	\$ 5,000	\$ 200
COOK, MICHAEL J	\$ 5,000	\$ 200
MURANTE, JOHN	\$ 3,500	\$ 200
CLARK, DICK	\$ 1,000	\$ 200
GARRETT, TOMMY L	\$ 500	\$ 200
2016 Totals	\$ 124,000	\$ 3,400

4. Too much Pay to Play, Not Enough Ethics

Nebraska is one of only eight states that does not have an internal legislative committee to address ethics issues. In 2018 Sen. John Kuehn introduced LB1099, a bill that would have called for the creation of a Legislative Ethics Board and as might be predicted, the bill was indefinitely postponed.

Most states have some semblance of a legislative ethics committee. These committees hear ethics complaints against legislators, investigate, and impose penalties. Several states have standing ethics committees; they operate with the same status as a committee that deals with public policy issues like education or transportation. Other state legislatures have the power to create ad hoc committees. These committees only meet if there has been a violation of an ethics law or rule or if a complaint is filed.

In Nebraska with no official legislative body to investigate or call into question ethical or moral lapses, senators have found another way to avoid accountability. Voters are once again kept in the dark while Big Money holds sway over the legislative process. ([Nebraska lawmakers aim to clarify 26-year-old sexual harassment policies](#))

Ethics Committees-Surrounding State Comparison

State	Source: National Conference of State Legislatures
Colorado	<p>Joint Committee: Board of Ethics for the General Assembly (Select). Four-member board, with one member from the majority and minority parties in each chamber. May issue advisory opinions.</p> <p>In the House, the Speaker, Majority and Minority leaders may receive complaints then issue a preliminary decision as to if the committee should review the complaint. After investigation into the allegation, the committee issues findings either dismissing the complaint or recommending sanctions. House Rule 49.</p> <p>In the Senate, the President receives the complaint and, upon consulting with majority and minority leadership, issues a preliminary decision as to whether or not the committee should review the complaint. Senate Rule 43.</p>
Iowa	<p>Both chambers required to establish a 6 person bipartisan ethics committee. May receive complaints, investigate, and dismiss or recommend disciplinary action. Iowa Code Ann. § 68B.31.</p> <p>House: Ethics Committee (Standing). Power to investigate allegations and recommend responses. House Rule 9. Hearing and investigatory powers further detailed in the House Code of Ethics.</p> <p>Senate: Ethics Committee (Standing). Receives complaints. Senate Code of Ethics 2. Receives disclosure statements. Id. at 11. Investigatory and hearing powers. Id. at 18-19.</p>
Kansas	<p>Senate: Ethics, Elections and Local Government (Standing). Handles ethics legislation, not ethics complaints.</p>
Missouri	<p>House: Ethics Committee (Standing). Consists of an equal number of members from each party. House Rule 21. May consider and report upon complaints involving a member of the House. Authorized to investigate, hold hearings, make recommendations to the House regarding proposed resolution of the complaint. Rule 37.</p> <p>Senate: The Committee on Rules, Joint Rules, Resolutions and Ethics (Standing). Examines related bills. Recommends to the Senate rules by which investigations and disciplinary proceedings will be conducted. Senate Rule 28.</p>
Nebraska	No ethics committees.
South Dakota	<p>Senate: Committee on Discipline and Expulsion (Select). Senate president appoints nine members with a 5-4 party split. The Senate president consults with the majority and minority leaders on all appointments except the chair and vice chair, who must be from different political parties. Duties: conduct hearings, investigate complaints. Senate Rule 8.</p> <p>House: House Select Committee on Discipline and Expulsion (Select). The House speaker appoints nine members with a 5-4 party split. The speaker consults with the majority and minority leaders on all appointments except the chair and vice chair, who must be from different political parties. The committee can hold hearings, subpoena witnesses, administer oaths, require the production of books and records, and to do all other things necessary to accomplish the purpose of its hearings and deliberations; make disciplinary recommendations to the full House. Also has the power to punish for contempt and to provide for the prosecution of any person for refusal to testify, false swearing, or perjury before the select committee in accordance with law. House Rule 6.</p>
Wyoming	No ethics committees.

Pay to Play vs. Honest and Competitive

Nebraska scores a triple whammy when it comes to vendors wanting to do business with state government:

1. Nebraska has no restrictions on vendors making donations to office holders with oversight of the procurement process--lottery vendors the only exception.
2. Nebraska has no restrictions on when and how much vendors can donate.
3. Nebraska does not allow for judicial review by unsuccessful bidders.

Taken singly, each failure to regulate creates doubt in the legitimacy of the bidding process, but when taken as a whole, the state's procurement process proves to be flagrantly flawed and perceived to be driven by pay-to-play, the end result 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 to honest and competitive business. ([Journal Star 8/26/18](#))

In Nebraska it is entirely legal and customary for State Senators and the Governor to accept massive contributions from vendors as they did when Centene was seeking a contract valued at \$1 billion, the largest in Nebraska history. The questions we Nebraskans need to ask each other: even if it is legal, is it ethical? Is it good business? Do we want our public officials to accept limitless donations under these conditions?

5. Elections Cost More and More

2016 was a record setting year in campaign donations, followed by 2018 which set a new record. An Omaha World-Herald analysis, based on reports filed with the NADC found campaign spending has been rising since 2012, when the Nebraska Supreme Court tossed out the state's Campaign Finance Limitation Act. ([Nebraska legislative candidates spent combined \\$2 million in primary, smashed old records](#))

One of the primary reasons given for the rapid increase in campaign donations was the fear of **last-minute attack ads**. Serious candidates must assess and plan carefully for unregulated Dark Money attacks, yet amazingly when legislation was proposed to bring some accountability into Dark Money electioneering, the Unicameral was hesitant to act. Sen Sue Crawford's [LB839](#) introduced in 2018, was designed to close a loophole in state election law by requiring individuals who spend more than \$1,000 on electioneering communications to file reports with the NADC. The bill was indefinitely postponed--that means there was no collective energy within the Unicameral to push the bill forward.

Sen. Crawford re-introduced the bill in 2019, re-numbered [LB210](#). A hearing was held March 13, 2019. There has been no further action as of the date of this report.

It would seem the sense of our Unicameral is to resist efforts to regulate campaign finances.

6. Loss of Public Trust

Given the Unicameral's preoccupation with raising money for short term partisan gain while on the other hand, its yawning lack of interest in ethics, transparency or disclosure, recruiting ethical and independent-minded Unicameral candidates is a tough sell. Many well qualified candidates simply refuse to get involved. And who would blame them?

Too many Nebraskans are turned off by state house politics. From the Missouri to the Wildcat Hills, for those who are listening, you can hear the Voices of Nebraskans—and what they are saying is that the deck is stacked against them. They do not believe their Voices are relevant at the Unicameral.

Asked to rank which issue most concerned them in the upcoming presidential race, respondents in a *Wall Street Journal*/NBC News poll chose “wealthy individuals and corporations will have too much influence over who wins” as their top choice.

A June 2015 *New York Times* poll found 84 percent said money has too much influence on campaigns, with even more saying the **campaign funding system needs to be fundamentally changed or completely rebuilt.** [Brennen Center for Justice](#)



LWVUS Action on Campaign Finance

The League of Women Voters of the United States has long advocated for greater transparency and disclosure in campaign finance regulation. The League believes that the methods of financing political campaigns should:

- Enhance political equality for all citizens;
- Ensure maximum participation by citizens in the political process;
- Protect representative democracy from being distorted by big spending in election campaigns;
- Provide voters sufficient information about candidates and campaign issues to make informed choices;
- Ensure transparency and the public's right to know who is using money to influence elections;
- Enable candidates to compete equitably for public office;
- Ensure that candidates have sufficient funds to communicate their messages to the public; and,
- Combat corruption and undue influence in government.

Source: [Options for Reforming Money in Politics](#)

These are more than lofty goals; they are fundamental to a working democracy where citizens share equal access to their legislators and the legislative process. Nebraska's motto “Equality Before the Law” is meaningless jargon without significant, relevant and substantial participation by our Second House.

What follows is a list of realistic, non-partisan, Nebraska based changes that could be made to our current campaign finance laws—our version of the Cornhusker Big Ten.



Making Elections About the Voters Not Big Money Interests

The Nebraska Way—The Cornhusker Big 10

1. **Limit donations from individuals.** The donation limit of our surrounding states ranges from \$200 to \$2600 for state legislative races. Considering the wage and income levels of the great majority of Nebraskans, lower donation limits are more realistic and will provide candidates with a broader base of support.
2. **Differentiate types of nonindividuals and apply limits accordingly.** Four out of six neighboring states have banned corporate donations entirely, the other two states have set limits. Limits or bans have also been put in place for unions and PACs.
3. **Eliminate the \$250 Black Hole.** The \$250 itemizing threshold creates needless mystery throughout campaign finance reporting, not just with itemizing donations. The same \$250 applies to expenditures creating another “Black Hole” of mystery money. For most Nebraskans, \$250 is not an insignificant amount of money and should be fully disclosed.
4. **Implement a “Revolving Door” cooling off period.** Most surrounding states have a two-year cooling off period before former public officials may lobby their former colleagues.
5. **Eliminate In-session fundraisers.** They pose an ethical challenge with which our State Senators should simply not be faced. It is an easy fix—no donations while the Legislature is in session.
6. **End pay to play.** Vendors must be assured their bids for state contracts will be judged on merit, not by political intrigue through Big Money donations. Nebraska law wisely prohibits lottery vendors from donating—apply the same rule to all state contracts over a designated amount.
7. **Require robust enforcement of existing laws.** This would include the consistent use of donors’ legal names and residence addresses. Late fees should be paid in full with few exceptions.
8. **End campaign to campaign donations.** Donors rightfully need to be assured their donations are used as legally intended—“for the purpose of influencing the nomination or election of a candidate”.
9. **Regulate Dark Money communications prior to an election.** We need to know who is behind the attack ads and flyers filling our mailboxes and air waves in the days before an election.
10. **Make disclosure voter friendly.** The NADC’s antiquated computer system does not provide campaign finance information in easy-to-use formats for the general public. The long-awaited roll out of a new computer system promises improvements, but they remain to be seen.

Taking Back the Second House

The core findings of this report are a clarion call for deep systemic change. But let's not get ahead of ourselves, in our current highly polarized, monetized state of the state, even the smallest of incremental changes in campaign finance regulation have as much chance as the Doane Tigers against the Cornhuskers at Memorial Stadium. It is clear as a cloudless day in the Sandhills, our State Senators, who found electoral success under the current campaign finance laws, have been unable to muster even the slightest enthusiasm toward changing a system that has worked so well to their advantage.

We have been down this well-worn path before: when State Senators fail to listen to the voters, our only recourse has been through the [initiative](#) process at the ballot box. This is how the Voices of Nebraska's Second House will be heard over the roar and racket of unregulated Big Money. It is time to stand together to take back Nebraska's Second House, our rightful place, our Voices, in the Legislative process.

Put Campaign Finance Regulation to the vote by the citizens of Nebraska.

