

Nebraska Will No Longer Enforce Corporate Contribution Restriction

September 2011

The Nebraska Accountability and Disclosure Commission recently announced that it will no longer enforce the state's aggregate limit on campaign contributions from independent committees, corporations, unions, associations and political parties.

While Nebraska has not limited the amount that any single corporation may contribute to a candidate, the state imposes an aggregate limit on the amount of contributions that any candidate may receive from committees, corporations, unions, associations and political parties during an election period. This limit is tied to the spending cap applied to Nebraska's voluntary campaign public funding laws for specific offices. For example, using the 50% limit originally applicable for the 2012 election, the voluntary public funding limit for legislative candidates totaled \$138,000. A candidate for the legislature could therefore only receive \$69,000 - i.e., 50% of \$138,000 - from committees, corporations and political parties even if the candidate did not participate in the public funding program. (Note that earlier this year, Nebraska increased the aggregate limit to 75%.)

In an August 17, 2011, advisory opinion, Nebraska Attorney General Jon Bruning wrote that the rationale behind the U.S. Supreme Court's decision in *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, which struck down Arizona's public financing program, would likely apply with equal force to Nebraska's own public financing law. The opinion went on to note that because the aggregate limit on political contributions to candidates from the entities described above was so interwoven with Nebraska's financing provisions, a court "could find that the invalid" public funding provisions were not severable from the aggregate cap and thus invalid.

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After receiving this advisory opinion, the Nebraska Accountability and Disclosure Commission convened and voted to no longer implement, administer or enforce the aggregate limit.