

PREFACE

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

Under the NPADA, a ballot question committee is formed whenever a group of individuals either supporting or opposing a ballot question exceed \$5,000 of campaign-related receipts or expenditures during any calendar year. Every ballot question committee is required to file a *Statement of Organization of a Political Committee* in connection with its formation. Every ballot question committee is also required to file periodic *Campaign Statements* in connection with the committee's campaign. **Any person (the committee and/or its treasurer) who does not file these statements on or before the prescribed due dates is subject to statutory late filing fees.**

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

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

<http://nadc.nol.org>

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

Anyone having questions regarding his or her obligations under the NPADA is encouraged to contact the Commission office either by mail at:

Nebraska Accountability and Disclosure Commission
11th Floor State Capitol Building
P.O. Box 95086
Lincoln, NE 68509

or by telephone at (402) 471-2522. Our office hours are 8:00 a.m. to 5:00 p.m. Central Time, Monday through Friday (state holidays excluded).

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WHAT IS A BALLOT QUESTION?

Under the Nebraska Political Accountability and Disclosure Act (the NPADA), a “ballot question” is defined as any question that is submitted or intended to be submitted to a popular vote at an election, whether or not the question qualifies for the ballot. The term “ballot question” includes, but is not limited to, any question submitted or intended to be submitted by way of initiative, referendum, recall, judicial retention, or bond issue, or as a result of legislative action or action of a government body.

TYPES OF BALLOT QUESTIONS

There are two types of ballot questions:

1. **A statewide ballot question** is a question that is subject to a vote by voters throughout the state. For example, any question concerning a State Law or the State Constitution would be a statewide ballot question.
2. **A local ballot question** is a question that is subject to a vote by voters in an area which does not include the entire state. For example, a school bond issue would be a local ballot question.

WHAT IS A BALLOT QUESTION COMMITTEE?

Under the NPADA, a “ballot question committee” is defined as any combination of two or more individuals that receives contributions or makes expenditures of more than \$5,000 during a calendar year to support or oppose the qualification, passage, or defeat of a ballot question.

GENERAL REQUIREMENTS GOVERNING A BALLOT QUESTION COMMITTEE

Under the NPADA, if a group of individuals has raised, received, or spent more than \$5,000 during a calendar year for the purpose of supporting or opposing a ballot question, then that group has formed a ballot question committee.

Upon its formation, a ballot question committee must:

1. Appoint a committee treasurer who is a qualified elector of the State of Nebraska.
2. Designate one account in a Nebraska financial institution as the committee’s official depository. All funds received by the committee must be deposited into

this account. All expenditures made by the committee must be made from this account.

3. File a *Statement of Organization of a Political Committee* (NADC Form A-1) within ten (10) days after the committee's formation. This statement must list the committee's name, street address, treasurer, and controlling members. This statement must also list the location of the committee's depository account. NOTE: This statement must be filed within two (2) days if the committee is formed during the 30 days preceding the election.
4. Pay a filing fee of \$100. A check or money order should be made payable to the State of Nebraska.

After its formation, a ballot question committee must file periodic *Campaign Statements* (NADC Form B-1), which disclose contributions received and expenditures made by the committee.

A ballot question committee must maintain adequate records to document all contributions received and all expenditures made by the committee, and to document contributions and expenditures reported on the committee's *Campaign Statements*.

RESPONSIBILITIES OF THE COMMITTEE TREASURER

Under the NPADA, each ballot question committee must have a treasurer. **The treasurer is the key member of the committee.** The treasurer is responsible for maintaining the committee's records and for preparing all statements and reports required under the NPADA. A committee may also designate an assistant treasurer to act in lieu of the treasurer.

The treasurer must keep a detailed record of the following:

- The name and address of each person from whom a contribution is received by the committee, the date each contribution is received, and the amount of each contribution received. If the contributor is a political committee, the name of the contributor's treasurer must also be recorded.
- The name and address of each person to whom an expenditure is made by the committee, the purpose of each expenditure, the date of each expenditure, and the amount of each expenditure. This information must also be recorded for disbursements from a petty cash fund, if the committee has one.
- The date and amount of each loan received by the committee, the name and address of each lender, and the date and amount of each loan repayment. The name and address of any person who is either directly, indirectly, or contingently liable on each loan must also be recorded.

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

NOTE: The treasurer of a ballot question committee may be held personally liable for late filing fees, civil penalties and interest assessed against the committee. See BOND REQUIREMENTS in this publication

THE COMMITTEE DEPOSITORY

A ballot question committee must designate one account in a financial institution in Nebraska as its official depository. All monies received and all cash expenditures made by the committee must pass through and be recorded in this account.

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

A ballot question committee should list the name of each contributor and the amount of each contribution on the committee's deposit slips.

Contributions received by a ballot question committee shall not be commingled with the funds of any other person.

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

INVESTMENTS BY THE COMMITTEE

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

CONTRIBUTIONS TO THE COMMITTEE

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

Under the NPADA, a contribution is considered received on the date it is received by the committee’s treasurer or an agent thereof (not the date it is deposited). All contributions received by any individual acting on behalf of a ballot question committee must be reported to the committee treasurer within five (5) days of their receipt, and not later than the closing date of the *Campaign Statement* next due.

All contributions received by a ballot question committee fall into one of four classes:

1. Cash contributions are monies (currency, checks, money orders) received by the committee.
2. In-kind contributions are anything of value other than money received by a committee. Goods and services (such as materials for yard signs or donated office space) provided to the committee are considered in-kind contributions. Expenses incurred by the committee, but paid for by other persons on the committee’s behalf, are also considered in-kind contributions.
3. Pledged contributions are promises (oral or written) of future payments (cash or in-kind) to the committee. A pledged contribution is considered a contribution on the date the pledge is made to the committee.
NOTE: payment of a previously reported pledge is not considered a contribution.
4. Loans are contributions of money that will be repaid by the committee.

Under the NPADA, an offer or tender of a contribution is considered a contribution, and the ballot question committee must record and report the contribution as required, unless the contribution is rejected or returned by the committee within a reasonable time (and no later than the closing date of the next *Campaign Statement* required to be filed).

There are no dollar limitations on the amount that a person may contribute to a ballot question committee. However, there are certain restrictions on contributions that a ballot question committee may accept:

- A contribution of more than \$50.00 in the form of currency cannot be accepted. All cash contributions of more than \$50.00 must be made via written instrument.

- An anonymous contribution cannot be accepted. Any anonymous contribution received by the committee must be forwarded to a tax-exempt charitable organization (a receipt from the charity is required for documentation).
EXCEPTION: Contributions of \$50.00 or less received as the result of a fundraising event, or from the sale of political merchandise, are not considered anonymous contributions.

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

A cash 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.

A cash contribution drawn on a business account shall be considered a contribution from the business entity. Under the NPADA, “business” includes any corporation, partnership, limited liability company, proprietorship, association, organization, trust, or entity.

A contribution made by a minor shall be reported as a contribution from the minor’s parent or guardian.

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

EXPENDITURES OF THE COMMITTEE

Under the NPADA, an “expenditure” is defined as a payment, donation, loan, pledge, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities made in assistance of, or in opposition to, the qualification, passage, or defeat of a ballot question.

A “ballot question committee” may not make expenditures unless the committee has filed its Statement of Organization and has appointed a treasurer.

There are no dollar limitations on the amount that a ballot question committee may expend. However, there are certain restrictions on expenditures that a ballot question committee may make:

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

A ballot question committee must make all of its cash expenditures from its depository account, except for expenditures made from a petty cash fund. The uses of and record keeping requirements for a petty cash fund are specified in Title 4, Chapter 10, Section 13 of the Nebraska Administrative Code – Petty Cash Funds, All Committees (see p. 16).

A ballot question committee must maintain the following information concerning its expenditures in the committee's records:

- The name and address of each payee, plus the name and address of the actual provider of goods or services if different than the payee.
- A description of the goods or services for which each expenditure was made.
- The date on which each expenditure was made.
- The amount of each expenditure.

A ballot question committee must also maintain the information noted above for expenditures made by an agent or independent contractor on the committee's behalf.

Under the NPADA, "expenditure" includes a promise of payment. Information concerning unpaid bills and other accrued expenses must also be maintained.

EXPENDITURES OF AGENTS AND INDEPENDENT CONTRACTORS

A ballot question committee must maintain information regarding expenditures made by agents or independent contractors on behalf of the committee. The agent or independent contractor is required to provide this information to the committee.

EXAMPLE: A ballot question committee contracts with an advertising agency to secure broadcast time for radio ads. The committee must keep records of the name of, address of, and amounts paid to the advertising agency. The committee must also keep records of the names of, addresses of, and amounts paid to radio stations by the advertising agency on the committee's behalf.

Other than for overhead or normal operating expenditures, **agents and independent contractors may not make expenditures on behalf of a ballot question committee unless those expenditures are properly reported.** Any expenditure made by an agent or independent contractor, including an advertising agency, on behalf of a ballot question committee must be reported in one of two ways:

1. By the ballot question committee as if the committee made the expenditure directly to the vendor or payee; or
2. By the agent or independent contractor on an *Agent's Expenditure Report* (NADC Form B-10).

IMPORTANT: To avoid reporting problems, a ballot question committee should consider including in any agreement with an agent or independent contractor a provision specifying who will report expenditures made by the agent or independent contractor on the committee's behalf. Failure to properly report expenditures made by agents or independent contractors may be subject to civil and/or criminal penalties.

EXPENDITURES OF PETITION CIRCULATORS

Under the NPADA, a "petition signature" is defined as a signature affixed to a petition for the purpose of qualifying a ballot question to appear on a ballot.

A ballot question committee must maintain information regarding expenditures made by any individual or entity gathering petition signatures for the benefit of or on behalf of the committee. The individual or entity gathering petition signatures is required to provide this information to the committee.

Other than for overhead or normal operating expenses, **individuals or entities who are gathering petition signatures may not make expenditures on behalf of or for the benefit of a ballot question committee unless those expenditures are properly reported.** Any expenditure made by an individual or entity gathering petition signatures must be reported in one of two ways:

1. By the ballot question committee as if the committee made the expenditure directly to the vendor or payee; or
2. By the individual or entity on an *Agent's Expenditure Report*.

IMPORTANT: To avoid reporting problems, a ballot question committee should consider including in any agreement with an individual or entity for signature gathering services a provision specifying who will report expenditures made by the individual or entity on the committee's behalf. Failure to properly report expenditures made by individuals or entities that are gathering petition signatures may be subject to civil and/or criminal penalties.

IDENTIFICATION OF CAMPAIGN ADVERTISING

Printed materials that support or oppose a ballot question must contain the name and street address of the person or committee paying for the matter. If the person paying for the matter acts at the direction of a committee, or receives reimbursement from a committee, then that committee is considered to be the person paying for the matter. Television and radio advertisements must also include the name of the person or committee who paid for the ads. However, that person's or committee's street address need not be included in the ad if the station broadcasting the ad agrees to keep the street address on file and available to the public for six (6) months after the advertisement is broadcast.

A prerecorded message relating to a ballot question disseminated by any means of telecommunication shall include the name of the person or committee who paid for the message. A person or committee disseminating by any means of telecommunication a message not prerecorded relating to a ballot question shall disclose the name of the person or committee paying for the message upon the request of the recipient of the message. If the message is disseminated through an agent or employee of the person or committee making the expenditure for the message, the disclosure shall be of the identity of the person or committee making the expenditure. A message relating to a ballot question which is disseminated by any electronic means (including the internet and email) shall include the name of the person or committee making the expenditure.

Individuals who use their own personal resources and who do not raise or spend more than the \$5,000 threshold amount requiring formation of a committee are exempt from the requirements to identify campaign advertising. However, if two or more individuals acting jointly reach the \$5,000 threshold requiring formation of a committee, then this exemption would no longer apply.

Certain items that are printed or reproduced at the request of a ballot question committee are exempt from the identification requirements. Exempt items include yard signs, bumper stickers, campaign buttons, balloons, billboards, and other items specified in Title 4, Chapter 8 of the Nebraska Administrative Code – Designation of Printed or Reproduced Items Exempt from Disclaimer Requirements and Rules and Regulations on the Size and Placement of Disclaimers (see p. 17).

BOND REQUIREMENTS

Certain ballot question committees must file a surety bond in favor of the Commission for the purpose of insuring the payment of all late filing fees, civil penalties and interest. A bond in the amount of five thousand dollars must be filed within thirty days after the ballot question committee receives or spends more than one hundred thousand dollars in a calendar year. The amount of the bond shall be increased by five thousand dollars

within thirty days after each additional five hundred thousand dollars is received or expended by the ballot question committee. The Commission will look to the bond for any late filing fees, civil penalties or interest which are not paid by the committee. The committee treasurer is personally liable for any late filing fees, civil penalties or interest assessed against the committee.

REPORTING REQUIREMENTS OF THE COMMITTEE

Where To File: All ballot question committees must file certain campaign statements and other reports with the Commission.

When To File: The NPADA establishes the due dates for the filing of required campaign statements and other reports. If a statutory due date falls on a weekend or holiday, the actual due date for that filing is the next business day.

EXAMPLE: A required filing that would normally be due on April 11, 2004 (a Sunday), is actually due on April 12, 2004 (the next business day).

Under Nebraska law, a required campaign statement or other report is filed on time if it is either received in the Commission's office or postmarked by the U.S. Postal Service on or before its due date. NOTE: Statements or reports delivered by commercial courier services are considered filed when received at the Commission's office.

Statement of Organization of a Political Committee (NADC Form A-1): The Statement of Organization registers a ballot question committee with the Commission. A ballot question committee must file its Statement of Organization within ten (10) days after the committee's formation (within ten days after exceeding \$5,000 of receipts or expenditures during a calendar year). NOTE: If formation occurs during the 30 days immediately preceding the election, a committee must file its Statement of Organization within **2 days** after the committee is formed. The statement must be accompanied by a check or money order in the amount of \$100 made payable to the State of Nebraska.

A ballot question committee must report any changes of information included in its Statement of Organization. These changes may be reported either on an amended Statement of Organization or on a *Campaign Statement*. It is important that any changes of the committee's address or treasurer be promptly reported. This helps ensure that the committee receives notices and bulletins from the Commission.

A committee's failure to file a *Statement of Organization of a Political Committee* as required is subject to late filing fees of \$25 per day, not to exceed \$750, and may also result in civil penalties. A committee's failure to file a Statement of Organization subject to the 2 day rule is subject to late filing fees of \$100 per day, not to exceed \$1,000. Interest accrues on unpaid late filing fees and civil penalties.

Campaign Statement (NADC Form B-1), general information: All ballot question committees are required to file periodic *Campaign Statements*. For a committee's initial *Campaign Statement*, the reporting period begins with the date the committee first raised, received, or spent any funds in connection with the ballot question the committee is supporting or opposing, and ends on the closing date as specified in the NPADA. For a committee's subsequent *Campaign Statements*, the reporting period begins with the day after the closing date of the committee's previous *Campaign Statement*, and ends on the closing date as specified in the NPADA.

A committee's failure to file a *Campaign Statement* as required is subject to late filing fees of \$25 per day, not to exceed \$750 per statement, and may also result in civil penalties. Interest accrues on unpaid late filing fees and civil penalties.

Campaign Statement, Statewide Petition Drives: Any ballot question committee that supports or opposes a statewide petition effort (initiative or referendum) must file petition effort *Campaign Statements* as follows:

- A *Campaign Statement* is due on the last day of the calendar month in which the petition form is filed with the Secretary of State [pursuant to §32-1405 of the Election Act], with a closing date of five (5) days before the end of the month.
- Additional *Campaign Statements* are due on the last day of each calendar month after the petition form is filed with the Secretary of State through the month prior to the deadline for submitting petition signatures, with closing dates of five (5) days before the end of each month.
- A *Campaign Statement* is due thirty (30) days after the deadline for submitting petition signatures to the Secretary of State [pursuant to §32-1407 of the Election Act], with a closing date of twenty-five (25) days after the petition deadline.

Campaign Statement, All Elections: Any ballot question committee that supports or opposes a ballot question that has qualified for an election (and will appear on a ballot) must file *Campaign Statements* as follows:

- The first election *Campaign Statement* is due thirty (30) days before the election, with a closing date of thirty-five (35) days before the election.
- The second election *Campaign Statement* is due ten (10) days before the election, with a closing date of fifteen (15) days before the election.
- The post election *Campaign Statement* is due forty (40) days after the election, with a closing date of thirty-five (35) days after the election.

EXCEPTION: for ballot questions appearing on the general election ballot, the post election *Campaign Statement* is due seventy (70) days after the election, with a closing date of December 31.

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

Report of Late Contribution (NADC Form B-5): Under the NPADA, a “late contribution” is defined as a contribution of \$1,000 or more received after the closing date of the last *Campaign Statement* required to be filed prior to an election.

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

NOTE: A Report of Late Contribution is considered timely filed if it is received in the Commission’s office or postmarked by the U.S. Postal Service on or before its due date. Reports of Late Contribution may be faxed to the Commission office at 402-471-6599. The committee may call to confirm that the fax has been received. It is the responsibility of the filer to insure that fax transmissions are received by the Commission.

Any committee which does not file a *Report of Late Contribution* in a timely manner is subject to late filing fees of \$100 per day for each of the first 10 days the report remains not filed. Beginning on the 11th day an additional daily late fee of 1% of the amount to be disclosed by the report is assessed, not to exceed 10%.

Statement of Dissolution of a Political Committee (NADC Form A-2): Once formed, a ballot question committee remains in existence, and subject to the reporting requirements of the NPADA, until it is formally dissolved. A ballot question committee is encouraged to dissolve after the ballot question that the committee supported or opposed has been decided.

A ballot question committee may dissolve if the committee:

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

To begin the dissolution process, a ballot question committee must file a Statement of Dissolution along with a final *Campaign Statement* which shows that the committee has no remaining obligations or assets. A ballot question committee is not formally dissolved until the Commission has accepted the committee's Statement of Dissolution.

REMINDER: records of a ballot question committee must be maintained for a period of five (5) years after the committee's dissolution.

REPORTING REQUIREMENTS OF OTHERS

Report of Political Contributions of a Corporation, Union or Other Association (NADC Form B-7): Any corporation, labor organization, or industry, trade, or professional association that is organized under Nebraska Law or does business within the State of Nebraska is subject to reporting requirements for its political contributions.

If such an organization makes a contribution (cash, in-kind, pledge, or loan) of more than \$250 to a ballot question committee, the organization must report the contribution to the Commission on NADC Form B-7 within 10 days after the end of the calendar month in which the contribution is made.

The contributor is responsible for filing this B-7 report. However, ballot question committees should consider informing their contributors of this requirement. A contributor's failure to file this report as required is subject to late filing fees, and may also result in civil and/or criminal penalties.

Out Of State Contribution Report (NADC Form B-9): Under the NPADA, a "major out-of-state contributor" is defined as a corporation, union, industry association, trade association, or professional association that is not organized under the laws of the State of Nebraska, is not doing business in the state, and makes contributions or expenditures totaling more than \$10,000 for Nebraska state and local elections during any calendar year. "Major out-of-state contributor" does not include an individual, a committee registered with the Commission, a committee registered with the Federal Election Commission, or an entity required to file B-7 reports with the Commission. Any "major out-of-state contributor" is required to report its contributions for Nebraska state and local elections to the Commission on NADC Form B-9.

The contributor is responsible for filing this B-9 report. However, ballot question committees should consider informing their out-of-state contributors of this requirement. A contributor's failure to file this report as required is subject to severe late filing fees, and may also result in civil penalties.

Report of Earmarked Contribution (NADC Form B-3): Any person or committee who acts as an intermediary or agent for a contribution "earmarked" to a ballot question

committee is required to report the actual source of such a contribution to the Commission on NADC Form B-3. Under the NPADA, a completed copy of this form must also be filed with the ballot question committee at the time an “earmarked” contribution is made.

The intermediary or agent is responsible for filing this B-3 report. However, if a ballot question committee is aware that a contribution is earmarked, it should consider informing the intermediary or agent of this requirement. An intermediary’s or agent’s failure to file this report as required is subject to late filing fees, and may also result in civil and/or criminal penalties.

Report of Independent Expenditure (NADC Form B-6): Under the NPADA, an “independent expenditure” is defined as an expenditure to support or oppose the qualification, passage, or defeat of a ballot question that is not made at the direction of, under the control of, or with the cooperation of another person, and that is not a contribution to a committee.

Committees [political party committees and PACs] are required to report (on their *Campaign Statements*) any independent expenditures which they have made to support or oppose ballot questions. Corporations, labor organizations, and industry, trade, or professional associations are required to report (on either their B-7 reports or their B-9 reports) any independent expenditures which they have made to support or oppose ballot questions.

Any person, other than a committee, corporation, labor organization, or industry, trade, or professional association, who makes an independent expenditure of more than \$250 to support or oppose the qualification, passage, or defeat of a ballot question must report the independent expenditure to the Commission and to the appropriate election official on NADC Form B-6.

The person making the independent expenditure is responsible for filing this B-6 report. Any such person’s failure to file this report as required is subject to late filing fees, and may also result in civil and/or criminal penalties.

Report of Late Independent Expenditure (NADC Form B-11): The NPADA defines a late independent expenditure as an independent expenditure of \$1,000 or more made by an independent committee (including a PAC) to support or oppose the qualification, passage or defeat of a ballot question. To qualify as a late independent expenditure, the expenditure must be made during the fourteen days immediately preceding the election. A Report of Late Independent Expenditure must be filed with Commission within two (2) days after the late independent expenditure is made.

Agent’s Expenditure Report (NADC Form B-10): Any agent or independent contractor must disclose to a ballot question committee information regarding

expenditures made on the committee's behalf. Any individual or entity gathering petition signatures must disclose to a ballot question committee information regarding expenditures made on the committee's behalf.

In addition, any such agent or independent contractor, plus any such individual or entity gathering petition signatures, may be required to file NADC Form B-10 with the Commission concerning expenditures made on behalf of a ballot question committee.

Failure to file this B-10 report as required may result in civil and/or criminal penalties. To avoid reporting problems, a ballot question committee should consider including in any agreement with any such agent, independent contractor, individual, or entity a provision specifying who will report expenditures made by the agent on the committee's behalf.

AUDITING OF BALLOT QUESTION COMMITTEES

The statements and reports filed by any ballot question committee are subject to random field audits by Commission staff. The records of a ballot question committee must be made available to the Commission for inspection and audit upon a request of the Commission after reasonable notice.

ENFORCEMENT OF THE NPADA

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

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

- The receipt of a *Complaint* signed under oath;
- The recommendation of the Executive Director; or
- A motion of the Commission.

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

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

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

The Commission may refer possible criminal violations of the NPADA to the State Attorney General who may file a criminal complaint against the alleged violator.

ADVISORY OPINIONS

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

A request for an Advisory Opinion must be in writing, and must set forth a specific transaction or activity that the person or committee requesting the opinion either plans to undertake or is presently undertaking and intends to continue in the future. A request for an Advisory Opinion should include a complete description of all the relevant facts involved in the transaction or activity at issue. Requests regarding general questions about or interpretations of the NPADA, hypothetical situations, or the activities of third parties will not be considered as requests for an Advisory Opinion.

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

SAMPLE FORMS

Copies of the following campaign finance reporting forms to be filed by a ballot question committee are included in this Treasurer's Guide:

- NADC Form A-1 – *Statement of Organization of a Political Committee*
- NADC Form B-1 – *Campaign Statement*
- NADC Form B-5 – *Report of Late Contribution*
- NADC Form A-2 – *Statement of Dissolution of a Political Committee*

Additional forms are available from the Commission.