



Nebraska Democratic Party

1327 H Street, Suite 200 • Lincoln, NE 68508 • 402.434.2180
www.nebraskademocrats.org

BEFORE THE FEDERAL ELECTION COMMISSION

Laura Wigley, Nebraska Democratic Party
1327 H St., #200
Lincoln, NE 68508,

Complainant,

v.

Jon Bruning
P.O. Box 83950
Lincoln, NE 68501

Bruning for Senate 2012 Exploratory Committee
P.O. Box 83950
Lincoln, NE 68501

Jon Bruning Exploratory Committee
P.O. Box 84614
Lincoln, NE 68501

Respondents.

COMPLAINT

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against Jon Bruning, the Bruning for Senate 2012 Exploratory Committee, and the Jon Bruning Exploratory Committee (collectively, the "Respondents") for violations of the Federal Election Campaign Act ("Act"), as described below.

Jon Bruning is the Attorney General of the state of Nebraska. As Attorney General, he is responsible for knowing, defending, and upholding the law. Yet for almost three years, Mr. Bruning and his two "exploratory committees" have refused to disclose their activities to the Federal Election Commission ("FEC") or the Internal Revenue Service ("IRS"), in clear violation

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FEDERAL ELECTION
COMMISSION
2010 DEC 29 PM 12:01
OFFICE OF GENERAL
COUNSEL

MUR # 6449

of Federal law. This pattern of non-disclosure – dating back nearly three years – violates the Act, FEC regulations, and the Internal Revenue Code, and deprives the public of its right to know who is funding Mr. Bruning's campaign.

A. FACTS

On June 13, 2007, Nebraska Attorney General Jon Bruning filed a Statement of Candidacy for the 2008 U.S. Senate race.¹ His 2008 U.S. Senate Committee, "Friends of Jon Bruning," raised \$978,498.88 in contributions and made \$316,033.80 in expenditures.² Mr. Bruning subsequently withdrew from the 2008 Senate race.

Before filing a termination report with the FEC, "Friends of Jon Bruning" transferred \$677,251.49 to the "Jon Bruning Exploratory Committee" (hereinafter, the "first exploratory committee") on December 31, 2007. In the cover letter accompanying the termination report, the committee's Treasurer wrote, "Funds designated by contributors for the Primary election were transferred to an exploratory committee for a future election and funds designated for the General election were either refunded to the contributor, or, if the contributor requested in writing, redesignated to the exploratory committee for a future election."³ But the first exploratory committee registered neither with the FEC nor with the IRS, as it would have been required to do if it wished to be exempt from taxes and remain unregistered with the FEC.⁴ As a result, the first exploratory committee has never disclosed its activities – not to the FEC, the IRS, nor to the public at large.

On November 5, 2010, nearly three years after filing the termination report, Mr. Bruning

¹ See Statement of Candidacy by Jon Bruning, available at <http://herndon1.sdrdc.com/pdf#95/27020190895/27020190895.pdf#navpanes=0>.

² See Friends of Jon Bruning Termination Report, at 2, available at <http://herndon1.sdrdc.com/cgi-bin/fecimg/7C00433193> (click on "Termination Report") (excerpts included in Exhibit A).

³ *Id.*

⁴ See I.R.C. §§ 527(i), (j).

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claimed to be "exploring" a run for the U.S. Senate in 2012. On that same day, he announced the formation of a *new* exploratory committee, the "Bruning for Senate 2012 Exploratory Committee" (hereinafter, the "second exploratory committee"),⁵ and launched a website.⁶ Continuing his three-year pattern of secrecy, Mr. Bruning has not filed a Statement of Candidacy or designated a principal campaign committee since his announcement, and the second exploratory committee has not, to date, registered with the FEC or the IRS.

Mr. Bruning, in fact, has triggered actual candidacy. First, Mr. Bruning has said publicly that he has already decided to be a Senate candidate in the 2012 election. On November 6, 2010, the *Omaha World-Herald* reported that Mr. Bruning "said ... that he could not envision a scenario in which he would not be a candidate."⁷ In the same article, Mr. Bruning was quoted as saying, "I want to run and I'm ready to run ... Nebraska needs to replace Ben Nelson." On the same day, the *Lincoln Journal Star* quoted Mr. Bruning as saying, "I can't imagine any conditions under which I would not run."⁸ And his campaign manager made clear that Mr. Bruning would be a candidate regardless of which other Republicans may enter the race.⁹ On November 9, the *Lincoln Journal Star* reported that "Attorney General Jon Bruning announced

⁵ In addition to having a different name, the second exploratory committee has a different P.O. Box than the first exploratory committee.

⁶ See <http://thecaucus.blogs.nytimes.com/2010/11/05/nebraska-attorney-general-looking-at-senate/?partner=rss&emc=rss> (attached as Exhibit B).

⁷ Paul Wammal, "Senate Interest for Bruning, Stenborg," *OMAHA WORLD HERALD* (Nov. 6, 2010), available at <http://www.omaha.com/article/20101106/NEWS01/711069870/202> (attached as Exhibit C).

⁸ Don Walton, "Bruning says he's actively exploring a Senate candidacy," *LINCOLN JOURNAL STAR* (Nov. 6, 2010), available at http://journalstar.com/news/local/govt-and-politics/article_88d3c204-e8f9-11df-805c-001cc4c002e0.html (attached as Exhibit D).

⁹ See Tricia Miller, "Ben Nelson '12 Challenger Emerges in Nebraska," *ROLL CALL* (Nov. 5, 2010) (attached as Exhibit E) ("Bruning Campaign Manager Andrew Northwall, who oversaw his attorney general race and transitioned to the Senate campaign this week, said his boss doesn't expect to cede the race to another Republican this time."); Walton, "Bruning says he's actively exploring a Senate candidacy" ("Bruning subsequently bowed out of the 2008 Senate race to clear the field for Mike Johanns when he resigned as U.S. secretary of agriculture to seek the Senate seat. Bruning said he deferred at the time to the wishes of President George W. Bush. That's not going to happen again, he said. I'm not asking permission. I'm not asking for a blessing.").

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last week he will seek the Republican nomination for the Senate seat."¹⁰ The next day, the *Omaha World-Herald* confirmed that "Bruning has declared his candidacy."¹¹ On November 13, the *Lincoln Journal Star* reported that Mr. Bruning had "acknowledged the [formation of the exploratory committee] is a precursor to a formal announcement that he will challenge Nelson in 2012."¹² Finally, in an e-mail to supporters on November 30, Mr. Bruning implored, "Please help me defeat Ben Nelson in 2012 by making a contribution today."¹³

Mr. Bruning is not simply "testing the waters"; he is already running a full-fledged Senate campaign, amassing funds and promoting his 2012 bid. On November 6, 2010, the *Omaha World-Herald* reported that "Bruning said Friday that he still has more than \$600,000 in federal campaign funds from his previous run and that he has hired four campaign workers."¹⁴ On the same day, the *Lincoln Journal Star* reported that "Bruning has started raising money for a Senate campaign, formed a four-person campaign staff and is ready to roll."¹⁵ Mr. Bruning has already named a campaign manager – Andrew Northwall – and a campaign chairman – outgoing Nebraska State Treasurer, Shane Osborn.¹⁶ In his communications with the public, Mr. Bruning has made clear that his Senate campaign has already begun. In his e-mail to supporters, quoted above, Mr. Bruning specifically asks for contributions to "defeat Ben Nelson in 2012."¹⁷ When

¹⁰ "Treasurer-elect Don Stenberg ponders race for Senate," LINCOLN JOURNAL STAR (Nov. 9, 2010), available at http://journalstar.com/news/local/govt-and-politics/article_975dae76-eb76-11df-aed0-001cc4c03286.html (attached as Exhibit F).

¹¹ "GOP poll finds Nelson vulnerable, viable," OMAHA WORLD HERALD (Nov. 10, 2010), available at <http://www.omaha.com/article/20101109/NEWS01/101109701/1009364> (attached as Exhibit G).

¹² Margery Beck, "Osborn to chair Bruning's Senate campaign," LINCOLN JOURNAL STAR (Nov. 13, 2010), available at http://journalstar.com/news/local/article_9edcd16c-ef61-11df-bfc7-001cc4c002e0.html (attached as Exhibit H).

¹³ See http://www.jonbruning.com/mail/save/earmark_11_30_2010.htm (attached as Exhibit I).

¹⁴ See Hammel, "Senate Interest for Bruning, Stenberg."

¹⁵ See Walton, "Bruning says he's actively exploring a Senate candidacy."

¹⁶ See Miller, "Ben Nelson '12 Challenger Emerges in Nebraska"; Beck, "Osborn to Chair Bruning's Senate Campaign" ("Osborn said Bruning asked him Thursday to chair his Senate campaign and he accepted.").

¹⁷ http://www.jonbruning.com/mail/save/earmark_11_30_2010.htm

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he named his campaign chairman, Mr. Bruning tweeted, "Nebraska State Treasurer Shane Osborne to chair our Campaign."¹⁸ Likewise, the exploratory committee's website has a volunteer page, which reads, "Get Involved With The Campaign."¹⁹ On that page, Mr. Bruning asks volunteers whether they can: (i) make phone calls, (ii) walk door to door, (iii) place yard signs, and (iv) work in campaign headquarters. It also asks users to commit to "publicly supporting Jon in the following coalition(s)" and then lists several affinity groups with which supporters can affiliate (e.g. elected officials, law enforcement, seniors, etc.). Mr. Bruning has purposefully left no doubt that he is a candidate in the 2012 election and has already begun running a full-fledged campaign for the Republican nomination.

B. LEGAL ARGUMENT

1. Mr. Bruning Has Failed Timely to File as a Federal Candidate or Disclose His Activity.

The Act and FEC regulations define a "candidate" as an individual who "has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000."²⁰ Within 15 days of qualifying as a "candidate," the candidate must designate, in writing, a principal campaign committee.²¹ Within 10 days of designation, the principal campaign committee must file a Statement of Organization.²² The principal campaign committee must file reports of contributions and expenditures with the FEC.²³

There is a limited exception for individuals who are "testing the waters" whether to become a candidate. Funds received and payments made "solely for the purpose of determining

¹⁸ See <http://twitter.com/JonBruning/statuses/4230622713217024> (attached as Exhibit J).

¹⁹ See <http://jonbruning.com/index.php?PID=2&TYPE=DEFAULT> (attached as Exhibit K).

²⁰ 11 C.F.R. § 100.3(a)(1).

²¹ See 2 U.S.C. § 432(e)(1).

²² See 2 U.S.C. § 433(e).

²³ See 2 U.S.C. § 434(a).

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whether an individual should become a candidate" are not treated as "contributions" or "expenditures" for purposes of 11 C.F.R. § 100.3.²⁴ The "regulations seek to draw a distinction between activities directed to an evaluation of the feasibility of one's candidacy, as distinguished from conduct signifying that a private decision to become a candidate has been made."²⁵ The "testing the waters" exception, in other words, does "not apply to campaign activities *undertaken once an individual has decided to become a candidate.*"²⁶

Examples of activities that "indicate that an individual has decided to become a candidate include, but are not limited to" the following:²⁷

- The "individual uses general public political advertising to publicize his or her intention to campaign for Federal office."
- The "individual raises funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate." In other words, "to stay within the exception, funds must be raised only for the purpose of financing the exempt activity."²⁸
- The "individual makes or authorizes written or oral statements that refer to him or her as a candidate for a particular office."
- The "individual conducts activities in close proximity to the election or over a protracted period of time."
- The "individual has taken action to qualify for the ballot under State law."

The FEC's "testing the waters" exception, however, does not apply when the "individual raises funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass campaign funds that would be spent after he or she

²⁴ See 11 C.F.R. §§ 100.72(a), 100.131(a).

²⁵ Advisory Opinion 1982-3 (Cramton).

²⁶ Payments Received for Testing the Waters Activities, 50 Fed. Reg. 9992, 9993 (March 13, 1985) (emphasis added).

²⁷ 11 C.F.R. § 100.72(b).

²⁸ 50 Fed. Reg. at 9993.

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becomes a candidate."²⁹ As the FEC has explained, a "fundraising effort designed and implemented to amass campaign funds that would be used for expenditures after [Mr. Bruning] has become a candidate ... is prohibited as a testing the waters activity."³⁰ Likewise, the "testing the waters" exception does not apply when an "individual conducts [testing the water] activities ... over a protracted period of time."³¹ Engaging in these activities "over a protracted time period would appear to diminish their usefulness for testing the waters purposes and would conversely suggest that their effect as a means of building campaign support would be magnified."³²

Based on his representation in the termination report, which was filed under penalty of Federal false statement law, Mr. Bruning has spent the last three years "testing the waters" for a potential candidacy with nearly \$700,000 in the bank. Such a protracted, expensive "exploratory" period is clearly beyond the scope of the "testing the waters" exception. In Nebraska, a prospective candidate does not require nearly \$700,000 – or three years – to decide whether to run. Instead, it appears that the 2007 transfer was a tactic to "amass" funds to be used *after* he became a candidate in a future election. Consequently, Mr. Bruning became a candidate some time ago, in which case he should have designated a principal campaign committee, and filed reports with the FEC. His failure to do so may have violated 2 U.S.C. §§ 432(c)(1), 433(a), and 434(a), and has prevented the public from knowing who is funding Mr. Bruning's efforts.

At the very least, Mr. Bruning clearly became a candidate no later than November 5, 2010, the day on which he announced the formation of a second exploratory committee. With

²⁹ 11 C.F.R. § 100.72(b)(2).

³⁰ Advisory Opinion 1981-32 (*Asken*).

³¹ 11 C.F.R. § 100.72(b)(4).

³² Advisory Opinion 1981-32.

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his statements and actions, he clearly established himself as a Senate candidate for the 2012 election. The "testing the waters" exception does not apply once a "decision has been made to seek nomination for election, or election, to a Federal office."³³ Mr. Bruning's public statements demonstrate that such a decision has already been made. Mr. Bruning has already stated publicly that "I want to run and I'm ready to run ... Nebraska needs to replace Ben Nelson" and that "I can't imagine any conditions under which I would not run." Unlike others who have properly utilized the "testing the waters" exception, Mr. Bruning's fundraising solicitations do not indicate that Mr. Bruning has yet to determine whether he will seek the Republican nomination, nor do they state that the funds raised will be used for testing-the-waters activities.³⁴ Instead, Mr. Bruning's most recent communication states, "Please help me defeat Ben Nelson in 2012 by making a contribution today."³⁵ By "indicating that the solicited funds will be used to campaign against a specifically named opponent, [Mr. Bruning] effectively communicates that he is committed to the race, and no longer just evaluating the viability of his candidacy."³⁶

Furthermore, the "testing the waters" exception "expressly provides that it is not designed to allow any activities to promote a campaign."³⁷ Likewise, the FEC "cautions specifically that ... [activities] will fall outside the testing the waters exemption if they, in context, represent the establishment of a campaign organization."³⁸ Yet Mr. Bruning has already hired campaign staff, including a campaign manager, and has named a campaign chairman. He has publicly referred

³³ Advisory Opinion 1981-32.

³⁴ *c.f.* Advisory Opinion 1985-40 (Republican Majority Fund).

³⁵ See http://www.globeonline.com/mail/ave/camrark_11_30_2010.htm.

³⁶ Factual and Legal Analysis, MUR 5693 (Aronsohn) (finding that individual was no longer "testing the waters"). Furthermore, unlike candidates who have conditioned their candidacy on another individual not entering the race, Mr. Bruning and his campaign manager have explicitly said that they are running regardless of whether other candidates enter the race. *c.f.* Statement of Reasons, MUR 5930 (Schuring) (individual who explicitly stated that he would not be a candidate if incumbent ran for re-election was still "testing the waters" and not a candidate).

³⁷ Advisory Opinion 1981-32.

³⁸ *Id.*

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to his effort as a "campaign" and the second exploratory committee's website asks users to "Get Involved With The Campaign." Perhaps most strikingly, Mr. Bruning is already asking potential supporters whether they can assist with core campaign activities – such as making phone calls, walking door to door, placing yard signs, and working in campaign headquarters – and whether they are willing to *publicly* endorse his candidacy. These activities are "less oriented to ascertaining whether there is an initial base of political support adequate to launch a campaign effort, and more oriented to shoring up a base already identified that will sustain an actual campaign effort."³⁹

For these reasons, Mr. Bruning clearly became a candidate no later than November 5, 2010. Therefore, at the latest, he was required to designate a principal campaign committee no later than November 22, 2010. That committee was required to file a Statement of Organization no later than December 2, 2010, and a report of contributions and expenditures no later than January 31, 2011. The failure to take these steps in a timely manner violates 2 U.S.C. §§ 432(e)(1), 433(a), and 434(a).

2. By Maintaining a Secret Fund for Three Years, Mr. Bruning Violated Federal Tax Law and Must Pay Penalties at the Highest Corporate Rate.

Political organizations are exempt from tax on the amounts they raise and spend for political activity – but only if they follow the disclosure requirements of federal law. They must either (i) register and file reports as a political committee with the FEC (or a comparable state agency) or (ii) register and file reports with the IRS (known as Forms 8871 and 8872).⁴⁰ As the IRS has explained, "[a]n organization that is required to [register with the IRS by] fil[ing] Form 8871, but fails to do so on a timely basis, *will not be treated as a tax-exempt section 527*

³⁹ *Id.*

⁴⁰ See I.R.C. §§ 527(i)

organization for any period before the date Form 8871 is filed."⁴¹ Likewise, an organization required to disclose its contributions and expenditures to the IRS on Form 8872, but fails to do so, will be assessed a "penalty [of] 35% of the total amount of contributions and expenditures to which a failure relates."⁴²

The first and second exploratory committees have not registered or filed reports with the FEC. In addition, according to the IRS' website, the first and second exploratory committees have *not* filed a Form 8871 or Form 8872 (or a Form 990 tax return) with the IRS.⁴³ Consequently, the contributions and expenditures of both exploratory committees should be taxed at the full 35% rate during the period in which the committees failed to comply with these registration and reporting requirements.

C. REQUESTED ACTION

As we have shown, there is substantial evidence that Respondent has violated the Act. We respectfully request the FEC to investigate these violations, including whether they were knowing and willful, given Mr. Bruning's current job as Nebraska Attorney General and past experience with federal campaign finance law. Should the Commission find reason to believe that Respondents have violated the Act, it should make a field investigation or audit of the two exploratory committees, pursuant to 2 U.S.C. § 437g(2). Should the FEC determine that Respondent has violated the Act, we request that Respondent be enjoined from further violations and be fined the maximum amount permitted by law.

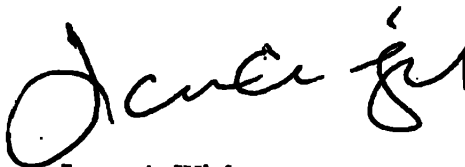
⁴¹ See <http://www.irs.gov/instructions/8871/ch01.html> (emphasis added).

⁴² See <http://www.irs.gov/instructions/8872/ch01.html> (emphasis added).

⁴³ See <http://forms.irs.gov/politicalOrgsSearch/search/basicSearch.jsp?ck>. Mr. Bruning's Attorney General committee filed a Form 8871 in 2002, which suggests that Mr. Bruning was aware of this requirement under Federal tax law. See <http://forms.irs.gov/politicalOrgsSearch/search/generatePDF.action?formId=9627752997854-8871-01%27&formType=P71>.

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Sincerely,



Laura A. Wigley

SUBSCRIBED AND SWORN to before me this 20th day of December, 2010.



Kathy L. Hoeft
Notary Public

My Commission Expires:

2/28/12

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EXHIBIT A

BRUNING

www.jonbruning.com

★ ★ ★
UNITED STATES SENATE

P.O. Box 84614 Lincoln, NE 68501-4614 • 402-438-2400

Mr. Travis Brown
Reports Analysis Division
Federal Election Commission
Washington, D.C. 20463

RE: Friends of Jon Bruning, FEC #C00433193

Dear Mr. Brown:

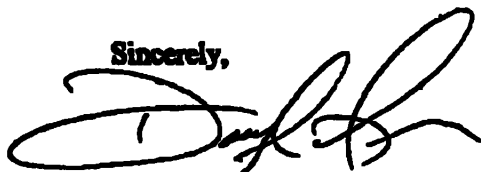
Please find enclosed the final report closing out the Friends of Jon Bruning candidate committee as of December 31, 2007. Mr. Bruning publicly withdrew from the Nebraska Senate race and ended his candidacy on November 21, 2007.

In accordance with 2 U.S.C. 435(d)(1), the committee will no longer receive any contributions or make any disbursements that would otherwise qualify it as a political committee. The committee has no outstanding debts or obligations.

The committee has no residual funds or non-cash assets remaining. Funds designated by contributors for the Primary election were transferred to an exploratory committee for a future election and funds designated for the General election were either refunded to the contributor, or, if the contributor requested in writing, redesignated to the exploratory committee for a future election. No non-cash assets have been converted to personal use.

In sum, please consider the Friends of Jon Bruning Committee closed as of December 31, 2007.

Sincerely,



Mr. Douglas Ayer
Treasurer
Friends of Jon Bruning

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SECRETARY OF THE SENATE
FEB 1 2008
08 FEB -4 AM 11:32

Paid for by Friends of Jon Bruning. • Doug Ayer, Treasurer
Friends of Jon Bruning is required by federal law to report the name, address, occupation and employer of each individual who contributes over \$200 per election cycle. Contributions are not tax deductible as charitable donations for federal income tax purposes. Contributions from corporations, foreign nationals (non green-card holders), labor unions and federal government contractors are prohibited.

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**FEC
FORM 3**

**REPORT OF RECEIPTS
AND DISBURSEMENTS**

For An Authorized Committee

RECEIVED
SECRETARY OF THE SENATE
JUN FEB -4 AM 11:32

Office Use Only

1. NAME OF COMMITTEE (In full) USE FEC MAILING LABEL OR TYPE OR PRINT ☐ Example: If typing, type over the lines

Friends of Jon Bruning

ADDRESS (number and street)

PO Box 84814



Check if different than previously reported. (ACC)

Lincoln

NE

88501

2. FEC IDENTIFICATION NUMBER

CITY

STATE

ZIP CODE

STATE DISTRICT

C00433193

3. IS THIS REPORT



NEW (N)

OR



AMENDED (A)

NE

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:



April 15 Quarterly Report (Q1)



July 15 Quarterly Report (Q2)



October 15 Quarterly Report (Q3)



January 31 Year-End Report (YE)



Termination Report (TER)

(b) 12-Day PRE-Election Report for the:



Primary (12P)



General (12G)



Runoff (12R)



Convention (12C)



Special (12S)

Election on



In the State of



(c) 30-Day POST-Election Report for the:



General (30G)



Runoff (30R)



Special (30S)

Election on



In the State of



5. Covering Period

10

01

2007

through

12

31

2007

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Signature of Treasurer

Date

01

27

2008

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. 437g.

Office
Use
Only

FEC FORM 3
(Revised 02/2003)

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SUMMARY PAGE
of Receipts and Disbursements

FEC Form 3 (Revised 02/2003)

Page 2

Write or Type Committee Name

Friends of Jon Bruning

Report Covering the Period:

From:

MM DD YYYY
10 01 2007

To:

MM DD YYYY
12 31 2007

| | COLUMN A This Period | COLUMN B Election Cycle-to-Date |
|--|-------------------------|------------------------------------|
| 6. Net Contributions (other than loans) | | |
| (a) Total Contributions (other than loans) (from Line 11(a))..... | 56716.90 | 1001608.88 |
| (b) Total Contribution Refunds (from Line 20(c))..... | 22800.00 | 23200.00 |
| (c) Net Contributions (other than loans) (subtract Line 6(b) from Line 6(a))..... | 33916.90 | 978408.88 |
| 7. Net Operating Expenditures | | |
| (a) Total Operating Expenditures (from Line 17)..... | 144128.77 | 316033.80 |
| (b) Total Offsets to Operating Expenditures (from Line 14)..... | 0.00 | 0.00 |
| (c) Net Operating Expenditures (subtract Line 7(b) from Line 7(a))..... | 144128.77 | 316033.80 |
| 8. Cash on Hand at Close of Reporting Period (from Line 27)..... | 0.00 | |
| 9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)..... | 0.00 | |
| 10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)..... | 0.00 | |

For further information contact:

Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800-424-9530
Local 202-694-1100

FESAN016

13044331804

28020053837

DETAILED SUMMARY PAGE of Receipts

FEC Form 3 (Revised 12/2003)

Page 3

Write or Type Committee Name
Friends of Jan Bruning

Report Covering the Period:

From:

MM DD YYYY
10 01 2007

To:

MM DD YYYY
12 31 2007

I. RECEIPTS

COLUMN A
Total This Period

COLUMN B
Election Cycle-to-Date

11. CONTRIBUTIONS (other than loans) FROM:

- (a) Individuals/Persons Other Than Political Committees
- (i) Itemized (use Schedule A).....
- (ii) Unitemized.....
- (iii) TOTAL of contributions from Individuals..... ➤
- (b) Political Party Committees.....
- (c) Other Political Committees (such as PACS).....
- (d) The Candidate.....
- (e) TOTAL CONTRIBUTIONS (other than loans) (add Lines 11(a)(iii), (b), (c), and (d))

| | |
|----------|------------|
| 50640.00 | 908278.49 |
| 4081.87 | 72785.36 |
| 54721.87 | 981063.85 |
| 495.03 | 495.03 |
| 1500.00 | 10850.00 |
| 0.00 | 9200.00 |
| 56716.90 | 1001608.88 |

12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES.....

| | |
|------|------|
| 0.00 | 0.00 |
|------|------|

13. LOANS

- (a) Made or Guaranteed by the Candidate.....
- (b) All Other Loans.....
- (c) TOTAL LOANS (add Lines 13(a) and (b)).....

| | |
|------|------|
| 0.00 | 0.00 |
| 0.00 | 0.00 |
| 0.00 | 0.00 |

14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.).....

| | |
|------|------|
| 0.00 | 0.00 |
|------|------|

15. OTHER RECEIPTS (Dividends, Interest, etc.).....

| | |
|---------|----------|
| 6049.33 | 15876.41 |
|---------|----------|

16. TOTAL RECEIPTS (add Lines 11(e), 12, 13(c), 14, and 15) (Carry Total to Line 24, page 4)..... ➤

| | |
|----------|------------|
| 62768.23 | 1017485.29 |
|----------|------------|

13044331805

28020033338

DETAILED SUMMARY PAGE
of Disbursements

FEC Form 3 (Revised 02/2003)

Page 4

II. DISBURSEMENTS

COLUMN A
Total This Period

COLUMN B
Election Cycle-to-Date

17. OPERATING EXPENDITURES.....

144128.77

316033.80

18. TRANSFERS TO OTHER
AUTHORIZED COMMITTEES.....

0.00

0.00

19. LOAN REPAYMENTS:

(a) Of Loans Made or Guaranteed
by the Candidate.....

0.00

0.00

(b) Of all Other Loans.....

0.00

0.00

(c) TOTAL LOAN REPAYMENTS
(add Lines 19(a) and (b)).....

0.00

0.00

20. REFUNDS OF CONTRIBUTIONS TO:

(a) Individuals/Persons Other
Than Political Committees.....

21800.00

22200.00

(b) Political Party Committees.....

0.00

0.00

(c) Other Political Committees
(such as PACs).....

1000.00

1000.00

(d) TOTAL CONTRIBUTION REFUNDS
(add Lines 20(a), (b), and (c)).....

22800.00

23200.00

21. OTHER DISBURSEMENTS.....

678251.49

678251.49

22. TOTAL DISBURSEMENTS
(add Lines 17, 18, 19(c), 20(d), and 21) ▶

845180.26

1017485.29

III. CASH SUMMARY

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD.....

782414.03

24. TOTAL RECEIPTS THIS PERIOD (from Line 15, pages).....

62766.23

25. SUBTOTAL (add Line 23 and Line 24).....

845180.26

26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22).....

845180.26

27. CASH ON HAND AT CLOSE OF REPORTING PERIOD
(subtract Line 26 from Line 25).....

0.00

FEBAN018

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**SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS**

Use separate schedule(s)
for each category of the
Detailed Summary Page

FOR LINE NUMBER:
(check only one)

PAGE 75/80

☐ 17 ☐ 18 ☐ 19a ☐ 19b
☐ 20a ☐ 20b ☐ 20c ☒ 21

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NAME OF COMMITTEE (in Full)

Friends of Jon Bruning

Full Name (Last, First, Middle Initial)
Jon Bruning Exploratory Committee

Mailing Address PO Box 84614

City Lincoln State NE Zip Code 68501-

Purpose of Disbursement
TRANSFER TO AUTHORIZED COMMITTEE

Candidate Name

Category/
Type

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

2008

☒ Primary ☐ General
☐ Other (specify) ▼

State:

District:

Transaction ID: 80125.E863
Date of Disbursement

12 / 31 / 2007

Amount of Each Disbursement this Period

677251.49

☐ Refund or Disposal of Excess
Contributions Required Under
11 C.F.R. 400.53

Full Name (Last, First, Middle Initial)
Friends of Erik Paulsen

Mailing Address PO Box 44369

City Eden Prairie State MN Zip Code 55344-1369

Purpose of Disbursement
CONTRIBUTION

Candidate Name

Category/
Type

Office Sought:

☐ House
☐ Senate
☐ President

Disbursement For:

2008

☒ Primary ☐ General
☐ Other (specify) ▼

State:

District:

Transaction ID: 0121200847E741
Date of Disbursement

12 / 26 / 2007

Amount of Each Disbursement this Period

1000.00

☐ Refund or Disposal of Excess
Contributions Required Under
11 C.F.R. 400.53

Contribution

SUBTOTAL of Disbursements This Page (optional) ▶

678251.49

TOTAL This Period (last page this line number only) ▶

678251.49

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FEC Schedule B (Form 3) (Revised 02/2003)

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EXHIBIT B

By Jon H. Lee

The Caucus

The Politics and Government Blog of The Times

NOVEMBER 5, 2010, 2:27 PM

Nebraska Attorney General Looking at Senate

By DEBBIE BECKER

The 2012 election cycle is up and running.

Jon Bruning, Nebraska's Republican attorney general, announced on Friday that he was exploring a 2012 run for the Senate seat now held by Ben Nelson, a two-term Democrat.

Mr. Bruning, who won an uncontested third term as attorney general this week, teased the pronouncement on Twitter on Thursday: "Isn't it time we rein in Federal Spending and take America back?"

His announcement comes one day after Dave Heineman, Nebraska's popular Republican governor, said he would rather stay in his current position than make a bid for the Senate.

Mr. Nelson, a former governor who was elected to the Senate in 2008, is viewed as one of the most moderate Democrats in the chamber. But given Nebraska's conservative lean — and Mr. Nelson's vote for Democratic initiatives like the health care overhaul — his seat is viewed by Republicans as a prime pick-up opportunity. In general, Democrats have to defend more than twice as many seats as Republicans do in the Senate in two years.

While some Washington chatter has emerged suggesting that Mr. Nelson could be a leading contender to switch parties, the positioning from Mr. Bruning — and other Republicans likely to also explore a Senate bid — underscores how unlikely it would be for Mr. Nelson to suddenly bolt to the G.O.P. Nebraska Republicans would like nothing more than to knock Mr. Nelson out in a primary fight.

Mr. Bruning, 41, has long been seen as a politician with an eye on higher office. He started a campaign for Nebraska's other Senate seat a few years ago, but eventually deferred to Mike Johanns, a former Republican governor and agriculture secretary who cruised to victory in 2008.

Whether Mr. Bruning would have the field to himself this time around remains to be seen. Nebraska's three House members are all Republicans, and Don Stenberg, a former Republican attorney general, has run for the Senate unsuccessfully before. Several business leaders also may consider jumping into the race.

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EXHIBIT C

Published Nov 6, 2010

Published Saturday November 6, 2010

Senate interest for Bruning, Stenberg

By Paul Hannig

WORLD-HERALD BUREAU

LINCOLN — Nebraska Attorney General Jon Bruning jumped Friday to the front of a line of GOP candidates expected to run for the U.S. Senate in 2012.

Another potential candidate, Don Stenberg, said he would decide later, while a third, U.S. Rep. Jeff Fortenberry, said he is happy with his current job.

The developments came one day after Gov. Dave Heineman, Nebraska's leading Republican, announced he would forgo a possible race to unseat U.S. Sen. Ben Nelson, the state's leading Democrat.

Bruning, whom observers had expected to run if Heineman didn't, announced Friday morning that he had formed an exploratory committee to solicit input from Nebraskans and raise campaign funds.

He said, however, that he could not envision a scenario in which he would not be a candidate.

"I want to run, and I'm ready to run," the 41-year-old said. "Nebraska needs to replace Ben Nelson."

Bruning's announcement, coming three days after he won a third term as attorney general by a landslide, brought immediate reaction from Democrats. They said Bruning had deceived voters this fall by running dozens of re-election ads saying that he loved being attorney general.

"Ambition is one thing — but it's just not honest to tell the voters how much you love your job, only to start running for another one 72 hours after the election," State Sen. Steve Lathrop of Omaha said in a statement.

Those advertisements — part of a reported \$232,000 in promotion through mid-October for an unopposed race for re-election — stoked chatter about Bruning's ambition. The ads focused on his opposition to the federal health care law that the Democrat-controlled Congress passed as well as his office's participation in a multi-state lawsuit challenging the law's constitutionality.

Over the past three days, both Bruning and Heineman have condemned Nelson's decision to provide the deciding 60th vote to pass the health law pushed by President Barack Obama.

Bruning said Friday that while he feels that Nelson is a good guy, his votes in recent years have not reflected the wishes of Nebraskans.

"His decision to go with the health care bill was catastrophic," Bruning said, adding that the law will "bankrupt the country."

A Nelson spokesman gave the same reaction Friday to Bruning's announcement as he did to Heineman's opting out of the race Thursday.

"Nebraskans want a break from politics," said Jake Thompson of Nelson's office, calling it too soon after Tuesday's election to discuss 2012.

Nelson's popularity has taken a blow over the health care vote, though the 69-year-old former governor has been taking steps to raise money for a re-election bid.

"I hope he runs. I think he's done a great job and Nebraska needs him," said Vince Powers, a Lincoln attorney and a Democratic national committeeman.

Bruning, who represented the Grains area in the Legislature before becoming attorney general in 2002, has been viewed as a star in the Republican Party.

He raised over \$1 million in 2007 to challenge then-U.S. Sen. Chuck Hagel. But Bruning, who now lives in Lincoln, said he was persuaded to drop out of the race by then-President George W. Bush and others after Mike Johanns, Bush's secretary of agriculture, decided to run.

Johanns won that race, and now Republicans are eyeing Nebraska's last federal office held by a Democrat — Nelson's Senate seat.

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Bruning said Friday that he still has more than \$600,000 in federal campaign funds from his previous run and that he has hired four campaign workers. As the current president of the National Association of Attorneys General, Bruning has a national platform from which to raise more money.

Stenberg, when asked about Bruning's decision, said he plans to first get the State Treasurer's Office in order and then decide whether he will mount his fourth campaign for the Senate.

"If I become convinced that I'm the best Republican leader in Nebraska to go to Washington to help take our country back, then I will run," Stenberg said.

Fottensberry, in a statement Friday, said he was just re-elected to the House and is "very pleased" to serve there.

A handful of others have been mentioned as possible GOP candidates. State Sen. Deb Fischer of Valentine said Friday that she has been urged to consider running.

Bruning made it clear Friday that his quick announcement was not meant to scare off potential candidates. He expects a handful of Republicans to join the race.

"I'm ready for a scrum," he said.

Contact the writer:

402-473-9584, paul.hammel@owh.com

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EXHIBIT D

Home / News / Local News / Govt-and-politics

Bruning says he's actively exploring a Senate campaign

- Story
- Discussion
- Image (3)

Bruning says he's actively exploring a Senate campaign

By DON WALTON / Lincoln Journal Star JournalStar.com | Posted: Friday, November 5, 2010 5:40 pm | (81) Comments

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Nebraska Nebraska Attorney General Jon Bruning announced on Nov. 5, 2010, that he is looking into running for the Senate in 2010 (ROBERT BECKER / Lincoln Journal Star)

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Count Jon Bruning in.

Bruning, Nebraska's attorney general since 2003, announced Friday that he has formed an exploratory committee to consider a 2012 Senate bid.

But that's formality.

Here's fact: Bruning has started raising money for a Senate campaign, formed a four-person campaign staff and is ready to roll.

"I can't imagine any conditions under which I would not run," he acknowledged at a Friday morning news conference in the Capitol Rotunda.

"I want to run. I'm ready to run."

Bruning is the first Republican to step forward since Gov. Dave Heineman said Thursday he will not be a candidate for the Senate seat now held by Democratic Sen. Ben Nelson.

Others are expected to follow.

Among potential candidates on a long list of GOP prospects, State Treasurer-elect Don Stenberg appears the most certain to join the race.

Bruning, 41, a former state senator, was re-elected to a third term as attorney general on Tuesday without opposition.

Although he believes Nelson is "a fine human being," Bruning said, "I don't believe his votes have been reflective of our state."

In particular, Bruning took aim at Nelson's vote for health care reform legislation and his role in negotiating amendments to the bill that resulted in "the embarrassment of the Cornhusker Kickback."

That amendment provided federal funding for all of Nebraska's additional costs resulting from expansion of Medicaid.

Nelson said his purpose was to lay the groundwork for full funding of the new federal mandate for all states.

Bruning said he would provide a vote in the Senate for less government and less federal spending.

"On Tuesday, the American people took a giant step toward taking our country back," he said, "but much work remains in order to fix what's broken in Washington.

"Our deficit continues to grow to record levels and government spending remains unchecked," he said.

Bruning's announcement drew immediate fire from a trio of Democratic state senators from Omaha.

"It's disappointing that Jon won't stop running for office long enough to even let the votes he counted from Tuesday's election," said Sen. Heath Mello.

Said Sen. Jeremy Nordquist: "It's frankly dishonest for Jon Bruning to run hundreds of thousands of dollars worth of TV ads about how much he loves being attorney general and suddenly pivot to the next campaign before the last election is even certified."

In a brief statement, Sen. Steve Lathrop echoed those comments.

Bruning mounted a Senate campaign in 2007 when he was prepared to challenge Republican Sen. Clank Hagel's re-election.

Hagel ultimately did not seek re-election and Bruning subsequently bowed out of the 2008 Senate race to clear the field for Mike Johanns when he resigned as U.S. secretary of agriculture to seek the Senate seat.

Bruning said he deferred at the time to the wishes of President George W. Bush.

That's not going to happen again, he said.

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"I'm not asking permission. I'm not asking for a blessing."

Bruning said the health care reform law represents "a gross overreach of federal power that comes with a price tag that is simply unsustainable."

And, he said, he believes the law is unconstitutional.

The attorney general said he would welcome "a spirited primary" contest for the Republican nomination.

Reach Don Walton at 402-473-7248 or at dwalton@journalstar.com.

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EXHIBIT E

[Back to Article](#)

Ben Nelson '12 Challenger Emerges in Nebraska

By Tricia Miller

Roll Call Staff

Nov. 5, 2010, 2:37 p.m.

Nebraska Attorney General Jon Bruning (R) announced on Friday that he is considering a 2012 challenge to Sen. Ben Nelson (D).

"I can't imagine any conditions under which I would not run," Bruning said in a morning press conference, according to the Lincoln Journal Star.

Bruning's announcement is the latest sign of a bid in the quickly developing Senate race as Republicans start to think about knocking off enough Democrats to win control of the Senate in the next cycle.

Nebraska Gov. Dave Heineman (R), who was widely expected to oppose Nelson and was polling well against the incumbent Democrat, announced this week he would not run for Senate.

Nelson told Roll Call in an interview this week that he would remain a Democrat, not switch to the GOP as some had speculated thanks to his conservative voting record.

Bruning, 41, would present a considerable challenge to Nelson, 68, a former Nebraska governor who was first elected to the Senate in 2000 and is unpopular in the Cornhusker State. A former state senator, Bruning was first elected attorney general in 2002 and was unopposed in 2006 and 2010. He was elected president of the National Association of Attorneys General in 2009.

In 2008 he planned a run to replace Sen. Chuck Hagel (R), raising money through an exploratory committee, but dropped out after a few months when former Gov. Mike Johanns (R) ran instead. Johanns won the race and is now serving in Washington, D.C. The Omaha World-Herald reported that Bruning raised \$1 million for the short-lived 2008 bid and that he told the press he has \$800,000 left from that race in a federal account.

Bruning Campaign Manager Andrew Nordwall, who oversaw his attorney general race and transitioned to the Senate campaign this week, said his boss doesn't expect to ease the race to another Republican this time. He said the campaign hasn't started its polling yet.

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EXHIBIT F

Treasurer-elect Don Stenberg ponders Senate race

- Story
- Discussion

Treasurer-elect Don Stenberg ponders Senate race

By the Lincoln Journal Star JournalStar.com | Posted: Monday, November 8, 2010 2:23 pm | (34)

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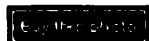
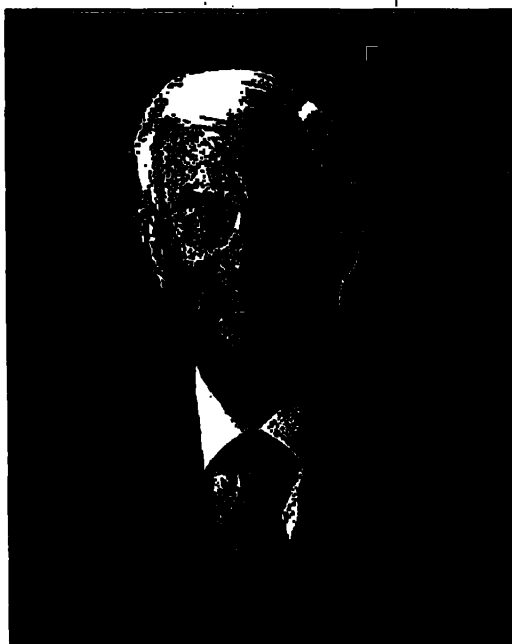
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Don Stenberg, 2010 candidate for State Treasurer (courtesy image)

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- Related: Gov. Dave Heineman empowered by big win
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State Treasurer-elect Don Stenberg said he'll decide later whether to enter the 2012 Senate race.

"We need a new direction in America," he said in a written statement. "To do that, we need to replace Sen. Ben Nelson in 2012.

"If I become convinced that I am the best Republican leader in Nebraska to go to Washington to help take our country back, then I will run."

Attorney General Jon Bruning announced last week he will seek the Republican nomination for the Senate seat. His announcement followed Republican Gov. Dave Heineman's decision not to enter the race.

Stenberg, a Republican, was defeated by Nelson, a Democrat, for the Senate seat in 2000.

Nelson has indicated he plans to seek re-election.

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EXHIBIT G

Published Nov 9, 2010

Published Tuesday November 9, 2010

GOP poll finds Nelson vulnerable, viable

By **Robyn Traver**

WORLD-HERALD STAFF WRITER



AP

Sen. Ben Nelson, D-Neb.

A statewide poll commissioned by the Nebraska Republican Party offers good and bad news for U.S. Sen. Ben Nelson, D-Neb.

The bad news for Nelson: The senator could find himself the underdog if he decides to run in 2012, according to the poll.

The good: His approval ratings appear to be trending up.

The survey shows Nelson trailing Republican Attorney General Jon Bruning by 15 percentage points in a head-to-head hypothetical match up.

But the GOP poll also found Nelson's favorable rating at 50 percent — with an unfavorable rating of 43 percent.

His approval rating — in a GOP survey that looked at likely voters and, as such, emphasized Republicans — appears to have increased since January, when an Omaha World-Herald Poll of registered voters found that 42 percent approved of the Democrat shortly after he cast the deciding vote in favor of President Barack Obama's health-care law.

Nelson, who is considered politically wounded because of that vote, says he is leaning toward a run for re-election, but he has made no formal declarations.

Nelson indicated Tuesday that he was pleased with the poll showing half of Nebraskans, including some Republicans, approved of his job performance.

"Even after they spent millions of dollars in attack ads against health care, their own partisan polling shows Senator Nelson with strong approval ratings," said Jake Thompson, a Nelson spokesman.

Thompson said Nelson would wait to make a final decision about his political future nearer the 2012 election.

Nelson's perceived vulnerability is sparking considerable interest among GOP officeholders. So far, only Bruning has declared his candidacy. Other potential contenders include State Treasurer-elect Don Stenberg, U.S. Rep. Jeff Fortenberry of Lincoln and Speaker of the Legislature Mike Flood, though Flood told the Norfolk Daily News he has no interest in the Senate.

The GOP poll was taken Nov. 2-3. It surveyed 499 "likely" voters, with a margin of error of plus or minus 4.4 percentage points.

The majority of voters included were Republicans, at 56 percent. Only 31 percent were Democrat, while 10 percent identified themselves as independent.

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Republicans in Nebraska constitute about 48 percent of registered voters, while 33 percent are Democrats. Registered independents are 19 percent.

Jordan McGrain, executive director of the state GOP, said the heavy concentration of Republican voters in the survey reflects the fact that, generally speaking, Republicans vote at higher rates than Democrats.

In 2008, about 52 percent of those who cast ballots in Nebraska's general election were Republicans, he said. That same year, Democrats represented 38 percent of those who voted. In 2006 the GOP portion was 56 percent, McGrain said, while Democrats was 34 percent.

McGrain also said the state party included Bruning in its poll because he was the only Republican contender considered a likely candidate at the time.

Contact the writer:
444-1309, robyn.tysver@owh.com

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EXHIBIT H

Osborn to chair Bruning's Senate campaign

- Story
- Discussion

Osborn to chair Bruning's Senate campaign

By MARGERY A. BECK / The Associated Press JournalStar.com | Posted: Saturday, November 13, 2010 2:01 pm | (3) Comments

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Shane Osborn (JOURNAL STAR file photo) 2/24/2005 pg 1B Navy pilot Shane Osborn (from left) talks with Allen Beerman (CORRECTION NOTE: Correct name is Allen Beermann) and Gov. Dave Heineman before the Lincoln Rotary lunch Wednesday at The Cornhusker.

Nebraska's outgoing state treasurer, who had been considered a possible GOP candidate to challenge U.S. Sen. Ben Nelson in 2012, has instead agreed to chair fellow Republican Jon Bruning's campaign for the Senate seat.

Bruning was just re-elected Nebraska's attorney general.

Treasurer Shane Osborn had been mentioned by those watching Nebraska politics as a possible challenger to Nelson -- the lone Democrat in the state's congressional delegation -- after the Republican favorite, Gov. Dave Heineman, said he wouldn't run.

But Osborn, a divorced, full-time father of three who opted not to seek re-election as state treasurer, said he's not interested in such a weighty campaign.

"Maybe someday I'll look at that kind of run, but for now I'm just focused on taking care of my three kids," he said.

Osborn said Bruning asked him Thursday to chair his Senate campaign and he accepted. The attorney general has the "right priorities and conservative values" to defeat Nelson in two years, Osborn said.

"My plan is to help him in any way I can," he said.

Osborn, who was raised in Norfolk, became a national celebrity in 2001 when a Navy surveillance plane he was piloting over the South China Sea collided with a Chinese fighter plane. He successfully landed his crippled plane on a Chinese island, but he and his 23 crew members spent 11 days in captivity before being released. Osborn was later awarded the Distinguished Flying Cross.

He left the Navy in 2005 and was elected state treasurer in 2006.

Osborn's 2009 divorce became public when his estranged wife claimed he abused her. Osborn denied the allegations, and law enforcement officials said their investigation found no evidence of abuse. A court later awarded Osborn sole custody of the couple's three children.

Bruning announced Nov. 5 -- three days after his re-election and a day after Heineman said he wouldn't pursue a Senate run -- that he had launched an exploratory committee to seek the U.S. Senate seat. He acknowledged the step is a precursor to a formal announcement that he will challenge Nelson in 2012.

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EXHIBIT I

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BRUNING

For Senate 2012 Exploratory Committee

In the News

- Bruning 'Ready' to run for Senate
- The Fix: Nelson in danger
- RollCall: Ben Nelson '12 challenger emerges in Nebraska
- New York Times: Nebraska Attorney General looking at Senate

Friends,

Senator Ben Nelson just voted to continue the practice of earmarks. In an article by the Journal Star, Nelson is quoted as saying: "Simply getting rid of earmarks won't change one dime's worth of spending"

I disagree with Senator Nelson on this issue and would have voted along with Senator Mike Johanns to place a ban on earmarks. Ben Nelson is wrong. If we would have banned earmarks in 2010 alone, it would have saved taxpayers over 15.9 Billion dollars. We need to stop this out of control spending and stop mortgaging our children's future.



Please help me defeat Ben Nelson in 2012 by making a contribution today. Together we can take back this country and bring true Nebraska values to Washington. Thanks,

Team Bruning

Jon

Join us on Facebook, Twitter and YouTube to get up to the minute updates on Jon's campaign.

Jon Bruning



Contact Us

**Bruning for Senate 2012
Exploratory Committee**

P.O. Box 93050

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EXHIBIT J



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Nebraska State Treasurer Shane Osborne to chair our Campaign. <http://bit.ly/c96SbS> #Nebraska
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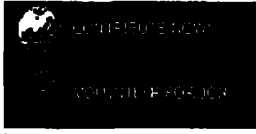


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