

**REPORT OF THE GOVERNMENT, MILITARY AND VETERANS  
AFFAIRS COMMITTEE OF THE NEBRASKA LEGISLATURE**

*Review of the Occupational Regulation of  
Lobbyists*

Prepared in accordance with the Occupational Board Reform Act  
(Neb. Rev. Stat. §§84-933 to 84-948)

*Submitted to the Clerk of the Legislature of the 106th Nebraska Legislature*

Committee Members:

Sen. Tom Brewer, Chair  
Sen. Andrew LaGrone, Vice Chair  
Sen. Carol Blood  
Sen. Matt Hansen  
Sen. Mike Hilgers  
Sen. Megan Hunt  
Sen. Rick Kolowski  
Sen. John Lowe

Committee Staff:

Dick Clark, Committee Legal Counsel  
Julie Condon, Committee Clerk

## SUMMARY

In 1976, the Nebraska Legislature sent Legislative Bill 987, the Nebraska Political Accountability and Disclosure Act (NPADA), to Governor Jim Exon to be signed into law. It was a lengthy bill that created a new Accountability and Disclosure Commission (NADC) and imposed a new, comprehensive state regulatory regime governing campaign finance, lobbying, and personal conflicts of interest on the part of public officials and public employees. The sections of the NPADA regulating lobbyists are currently codified at Neb. Rev. Stat. §§49-1480 through 49-1492. They have been amended frequently: twenty-two bills have revised these sections of law in the forty-four years since enactment of the NPADA.<sup>1</sup>

The Act defines “lobbyists” and requires such persons to register annually, to file quarterly reports, and to file statements of activity following each legislative session. Civil penalties in the form of late filing fees are authorized by the NPADA, however the NADC is granted discretionary authority to waive late filing fees under certain circumstances.<sup>2</sup>

In addition to mandates for registration and reporting, Nebraska law also forbids certain acts by lobbyists, including improper gifts to public officials and their families and staff,<sup>3</sup> the charging of contingent fees, instigation of legislation solely for gaining employment in opposition to said legislation, bribery and threats, and any other practices “which reflect discredit on the practice of lobbying or on the Legislature.”<sup>4</sup> Lobbyists who engage in these prohibited practices are subject to criminal prosecution for a Class III misdemeanor,<sup>5</sup> punishable by up to three months imprisonment, a five hundred dollar fine, or both.<sup>6</sup>

After collecting data on the occupational regulation of Lobbyists and applying the statutory standard of review under the Occupational Board Reform Act (OBRA), it is the finding of this report that the registration scheme imposed on lobbyists by the NPADA is the “least restrictive regulation necessary to protect [...] from undue risk of present, significant, and substantiated harms that clearly threaten or endanger the health, safety, or welfare of the public when competition alone is not sufficient”<sup>7</sup> and should be continued.

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<sup>1</sup> Laws 1977, LB 4 and LB 41; Laws 1981, LB 134; Laws 1979, LB 162; Laws 1982, LB 928; Laws 1983, LB 479; Laws 1988, LB 1174; Laws 1991, LB 220 & LB 232; Laws 1994, LB 872 and LB 1243; Laws 1997, LB 752; Laws 1998, LB 632; Laws 1999, LB 7 & LB 416; Laws 2000, LB 1021; Laws 2001, LB 242; Laws 2005, LB 242; Laws 2007, LB 434; Laws 2012, LB 782; Laws 2013, LB 79; Laws 2014, LB 946.

<sup>2</sup> Neb. Rev. Stat. §49-1488.01.

<sup>3</sup> Neb. Rev. Stat. §19-1490.

<sup>4</sup> Neb. Rev. Stat. §49-1492.

<sup>5</sup> *Ibid.*

<sup>6</sup> Neb. Rev. Stat. §28-106.

<sup>7</sup> Neb. Rev. Stat. §84-946.

## **PROGRAM OPERATIONS DATA**

Lobbyist registration is an undertaking of both the staff at the Nebraska Accountability and Disclosure Commission and the Clerk of the Legislature. Registration fees received by the state treasurer are credited to cash funds at NADC and the Clerk's office pursuant to Neb. Rev. Stat. § 49-1482, with three-fourths of the proceeds going to the NADC. On September 30, 2020, committee staff submitted its OBRA survey request to Mr. Frank Daley, Executive Director of the NADC. The committee received Mr. Daley's response promptly on October 5, 2020.

The Commission's survey response indicated that there were at that time 387 lobbyists registered with the NADC. Annual registration by lobbyists is required. In the last five years, a total of approximately 1,900 lobbyist registrations have been processed, which suggests that the average number of lobbyists registering annually over the reporting period remained relatively stable.

Since this occupational regulation is a registration requirement and not a license, there is no data on denied or revoked licenses. However, NADC did note that on seventy occasions lobbyists had failed to timely file quarterly reports or statements of activities during the five-year reporting period. \$9,400 in total late fees were assessed over the reporting period, for an average late fee of approximately \$134.<sup>8</sup>

NADC is an independent commission comprised of nine members, some of whom are appointed by the Governor and others by the Secretary of State. The Commission held meetings approximately every other month over the course of the five-year reporting period covered by this report.

The Commission also employs eight support staff and had an annual budget of \$780,661 in the 2019–2020 fiscal year. Its most recent operating budget was 52.8 percent of the reported high of \$1,476,826 in fiscal year 2015–2016, and was reduced in four of the five years covered in this report. In addition to administering lobbyist registrations, the NADC utilizes its appropriated resources to conduct other activities including enforcement of Nebraska's campaign finance regulations and documentation of conflicts of interest disclosed by public officials.

*(The Commission's full survey response is attached below as Appendix A.)*

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<sup>8</sup> *N.B.*, this average late filing fee figure does not account for instances in which the NADC exercised its discretion to waive late filing fees.

## **COMPARISON WITH REGULATIONS IN OTHER STATES**

Lobbyist registration and activities reporting are the norm across state governments and also at the federal level. The Lobbying Disclosure Act of 1995<sup>9</sup> and the Honest Leadership and Open Government Act of 2007<sup>10</sup> includes federal lobbyist registration and activities reporting requirements that conceptually resemble Nebraska’s state system. Globally, lobbyist registration is also utilized in Canada, Australia, and many European states, with lobbyist registries first implemented in Germany in 1951, in Georgia by the mid-1990s, and more recently in nations including Lithuania, Poland, Hungary, Macedonia, France, Slovenia, Austria, and others, in a policy trend that continues today.<sup>11</sup>

In NADC’s survey response, Executive Director Daley noted some differences between the regulatory regime in Nebraska under the NPADA and the laws governing professional lobbyists in other states.

*Virtually every state requires those attempting to influence its legislative bodies to register as lobbyists. In Nebraska the registration becomes a requirement prior to commencing activity. Some states follow this practice. Others do not require registration until a certain dollar threshold is reached. Nebraska requires quarterly reporting of receipts and expenditures by category. No detail is required beyond the dollar amounts. A number of states require more frequent and more extensive reporting.<sup>12</sup>*

Nebraska is more restrictive than some other states in requiring registration by uncompensated lobbyists. Nebraska does, however, charge a substantially lower registration fee for uncompensated lobbyists than paid lobbyists.<sup>13</sup> Many states do not include uncompensated persons within the meaning of “lobbyist” for registration purposes, and eleven states exempt even compensated persons from registration requirements if their compensation and/or expense

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<sup>9</sup> Pub.L. 104–65, enacted December 19, 1995.

<sup>10</sup> Pub.L. 110–81, enacted September 14, 2007.

<sup>11</sup> Holman, C., Luneburg, W. “Lobbying and transparency: A comparative analysis of regulatory reform.” *Int Groups Adv* 1, 75–104 (2012). [URL: <https://doi.org/10.1057/iga.2012.4>].

<sup>12</sup> Appendix A: Agency Survey Response.

<sup>13</sup> Uncompensated lobbyists must pay \$15 to register in Nebraska, while compensated lobbyists are required to pay \$200. See Neb. Rev. Stat. §49-1480.01 and 4 Neb. Admin. Code, ch. 6, §003.

reimbursement falls below a certain threshold amount.<sup>14</sup> In Wyoming, that threshold is \$250.<sup>15</sup> Colorado waives the registration fee altogether for “volunteer” lobbyists if they receive no compensation beyond reimbursement of actual expenses.<sup>16</sup>

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<sup>14</sup> These states include Arkansas, Connecticut, Georgia, Hawaii, Indiana, Maryland, Minnesota, Michigan, Texas, Wyoming, and New York. *See* “How States Define Lobbying and Lobbyist.” National Conference of State Legislatures. September 8, 2020. [URL: <https://www.ncsl.org/research/ethics/50-state-chart-lobby-definitions.aspx>]

<sup>15</sup> *Ibid.*

<sup>16</sup> Colo. Rev. Stat. §24-6-303(1.3)(a).

## **REVIEW OF BASIC ASSUMPTIONS UNDERLYING CREATION OF THE OCCUPATIONAL REGULATIONS**

According to the NADC survey response, the basic rationale for requiring lobbyist registration is that “members of the Legislature and members of the public should know the identity of those attempting to affect the Legislature, who they are representing and how much money is being spent in the process.”<sup>17</sup>

The legislative findings motivating enactment of the NPADA assert that it is necessary for “proper operation of democratic government that public officials and employees be independent and impartial, that governmental decisions and policy be made in the proper channels of government structure, and that public office or employment not be used for private gain other than the compensation provided by law[....] the public interest requires that the law provide greater accountability, disclosure, and guidance[.]”<sup>18</sup>

The Act’s registration and activities reporting requirements for lobbyists prompted lengthy discussion during the Miscellaneous Subjects Committee hearing conducted over the lunch hour on February 26, 1976.<sup>19</sup> The transcript of that hearing contains sixty-nine different references to lobbyists and their regulation under the proposed legislation, and hearing testimony was provided by two senators who sponsored the bill and a dozen testifiers who believed their activities would be regulated under the Act.<sup>20</sup> Testifiers agreed that Nebraska was not rife with corruption, but that the proposed legislation, along with a number of proposed amendments, would provide “the safety mechanisms to assure the public that there is accountability[.]”<sup>21</sup>

It is not unreasonable to conclude that corrupt acts by lobbyists and public officials are marginally less likely to occur if more information is disclosed about how lobbyists expend resources to influence legislators. But this is only the most obvious reason for lobbyist registration. Holman and Luneburg summarize the possible benefits of this form of lobbying transparency as follows:

- “preventing corruption of officials and the governmental processes in which they participate (see, for example, Warren and Cordis (2011))

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<sup>17</sup> Appendix A: Agency Survey Response.

<sup>18</sup> Neb. Rev. Stat. §49-1402(3–4).

<sup>19</sup> Appendix C: Committee Statement: Legislative Bill 987. Committee on Miscellaneous Subjects. 84th Nebraska Legislature, Second Session.

<sup>20</sup> Appendix B: Minutes of Hearing: Legislative Bill 987. Committee on Miscellaneous Subjects. 84th Nebraska Legislature. February 26, 1976.

<sup>21</sup> *Ibid.* at 6.

who offer an empirical study suggesting that disclosure can discourage corruption); “

- “preventing the appearance of corruption that might otherwise erode public confidence in the integrity of governmental decision making;”
- “improving the accountability of governmental officials whose actions and the possible reasons for those, once revealed, may mean they are forced to leave office or, at a minimum, change their positions in ways deemed to be more consistent with the public interest as a whole (for instance, Tovar (2011) argues, among other things, that access and disclosure of public information is an important dimension of all accountabilities (vertical, horizontal, social and transversal));”
- “allowing public officials to know who is trying to influence them or others in authority, thereby allowing them to take action to counter influences they deem inappropriate or otherwise oppose; and”
- “‘leveling the playing field’ among groups attempting to influence governmental decision making by permitting responses (that is, counter-lobbying) to counteract the efforts of those who might otherwise be able to achieve their aims more effectively ‘behind closed doors’.”<sup>22</sup>

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<sup>22</sup> Holman and Luneburg, *supra*.

## **OBRA POLICY ANALYSIS**

The Occupational Board Reform Act (“OBRA”) makes several statements of policy which committees are instructed to apply as part of the regular OBRA review process.<sup>23</sup>

***1. Does the occupational regulation protect the fundamental right of an individual to pursue a lawful occupation?***

- a. Analysis: The NPADA does not prohibit any member of the general public from engaging in lobbying work. It does not require personal qualifications, burdensome or otherwise, before a person may engage in this lawful occupation. As a registration requirement and mandated reporting for certain activities, the NPADA merely requires disclosure of a lobbyist’s principal and other information deemed by the Legislature to be important to its members and to members of the public.

***2. Does the occupational regulation use the least restrictive regulation necessary to protect consumers from undue risk of present, significant, and substantiated harms that clearly threaten or endanger the health, safety, or welfare of the public when competition alone is not sufficient and which is consistent with the public interest?***

- a. Analysis: Committees completing their regular review of occupational regulations under OBRA must determine whether an occupational regulation is the least restrictive regulation necessary to mitigate the risk of harms that might otherwise result from the practice of the occupation.<sup>24</sup> If the legislative purpose of the NPADA-mandated registration of lobbyists is to ensure regular disclosure of the identity of lobbyists and their principals to government officials and members of the public, the registration requirement appears to be the least restrictive regulation necessary to uniformly accomplish this end.

***3. Is the occupational regulation enforced only against individuals selling goods or services explicitly included in the governing statutes?***

- a. Analysis: The registration and reporting requirements are only enforced against persons who by their conduct meet the definition of “lobbyist.” However, these requirements are also imposed on persons who are engaged in volunteer work and who are not selling any services.

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<sup>23</sup> See Neb. Rev Stat. §§84-946 and 84-948(7)

<sup>24</sup> Neb. Rev. Stat. §§84-937 and 84-948(4)



***4. Is the occupational regulation construed and applied to increase opportunities, promote competition, and encourage innovation?***

- a. Analysis: Regulatory requirements are generally more burdensome for smaller business operations than big ones, when the burden is measured based on cost per employee.<sup>25</sup> There is no reason to believe that this is not true in the context of lobbying registration and reporting requirements in Nebraska. With that said, the registration and activities reporting forms used for NPADA compliance by lobbyists in Nebraska are not lengthy documents, and smaller operators with fewer clients and more minimal lobbying activities are required to submit fewer filings accordingly. The occupational regulation of lobbyists under the NPADA does not appear to be anti-competitive. While the total number of lobbyists annually registering under the Act has remained stable in recent years, anecdotal evidence observed by the Committee suggests that new lobbyists in Nebraska are regularly able to enter the profession.

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<sup>25</sup> See Crain, Nicole V., Crain, Mark W. “The Impact of Regulatory Costs on Small Firms.” Small Business Administration, Office of Advocacy. September 2010. p. 52.

## **APPENDIX A: AGENCY SURVEY RESPONSE**

### General Information

- Committee of Jurisdiction: Government, Military and Veterans Affairs
- Occupation Regulated: Lobbying
- Occupational Board: Accountability and Disclosure Commission
- Contact: Frank Daley
  
- Purpose: This is not a licensing process, but a registration process. The rationale is that members of the Legislature and members of the public should know the identity of those attempting to affect the Legislature, who they are representing and how much money is being spent in the process.
  
- Regulated Professionals: 387
- Year Created: 1976
- Year Active: 1977
- Sunset Date: None

### Authorization

- Statutory Authorization: Section 49-14,105
- Parent Agency: None

### Memberships

- Number of Members: There are 9 commission members of the NADC including the Secretary of State.
- Who Appoints: 4 appointed by the Governor and 4 by the Secretary of State
- Legislative Approval: Yes
- Qualifications of Members: Of the appointed members, no more than 4 from any one political party and no more than 3 from any one Congressional District.
  
- Per Diem: No
- Expense Reimbursement: Yes
- Term Length: 6 years
- Terms Rotate or Expire at Once: Terms Rotate

### Meetings

- Required FY 2020-2019: 0
- Held FY 2020-2019: 6
  
- Required FY 2019-2018: 0
- Held FY 2019-2018: 6
  
- Required FY 2018-2017: 0
- Held FY 2018-2017: 5
  
- Required FY 2017-2016: 0
- Held FY 2017-2016: 5
  
- Required FY 2016-2015: 0
- Held FY 2016-2015: 6

### Operations

- Support Staff: 8
- Shared or Separate: Separate
- FY 2020-2019 Budget: 780661
- FY 2019-2018 Budget: 1055166
- FY 2018-2017 Budget: 1024427
- FY 2017-2016 Budget: 1255823
- FY 2016-2015 Budget: 1476829
- Other Funding Sources: General Fund and NADC Cash Fund
- Spending Authority: Legislative appropriation

### Other

- Government Certificates Issued: 1900
- Issued Certificate Descriptions: In the last 5 years there have been approximately 1,900 lobbyist registrations. All registrations expire on December 31 of each year.
  
- Government Certificates Revoked: 0
- Revoked Certificate Descriptions: None were revoked. This is a registration process.
- Government Certificates Denied: 0
- Denied Certificate Descriptions: None were denied. This is a registration process.
- Government Certificates Penalties Against: 70

- Penalty Certificate Descriptions: \$9,400 in late fees have been assessed against lobbyists. By operation of law, lobbyists who fail to timely file quarterly reports or statements of activity are assessed a late fee of \$25 per day not to exceed \$750 per filing.
- Explanation of Effectiveness: The rationale behind the registration law is that members of the Legislature and members of the public should know the identity of those attempting to affect the Legislature, who they are representing and how much money is being spent in the process. Every year this information is available on the Nebraska Legislature website.
- Potential Harm: Members of the Legislature and public would have difficulty identifying those attempting to affect the Legislature, those they represent and how much money is being spent in the process.
- Regulation Comparison: Virtually every state requires those attempting to influence its legislative bodies to register as lobbyists. In Nebraska the registration becomes a requirement prior to commencing activity. Some states follow this practice. Others do not require registration until a certain dollar threshold is reached. Nebraska requires quarterly reporting of receipts and expenditures by category. No detail is required beyond the dollar amounts. A number of states require more frequent and more extensive reporting.
- Subject to Regulations of Act (LB407): No.

MINUTES OF HEARING

COMMITTEE ON MISCELLANEOUS SUBJECTS

February 26, 1976

The Committee on Miscellaneous Subjects met on February 26, 1976 at 12:30 p.m. in Room 1019 for the purpose of holding a public hearing on LB 987. Present were Senators Barnett, F. Lewis, Luedtke, Mahoney, Murphy and Nichol. Senators Anderson and Skarda were absent.

The statement of intent on this bill is attached and hereby made a part of these minutes.

SENATOR BARNETT: We will be discussing LB 987 today, we have to go back into session at 2:00 so we will close the hearing at approximately a quarter till two, that is about an hour. I would like to see a show of hands as to how many people would like to testify on the bill and speak.

SENATOR MAHONEY: Mr. Chairman, how many are in favor for and against?

SENATOR BARNETT: That is what I'm going to find out. Now how many are opposed to the bill? One person. We will take enough time to--sir, can I ask you, do you plan a lengthy discussion in opposition or five minutes? Less than five? Well, we will allow you five anyway. We'll do it that way. We might have some questions. We will try to play it--remember the people that are up here to testify in favor of this bill, if you would, for heavens sake, please do not repeat things that have been said. If you can bring us issues, offer amendments that are new to the committee and will help us speed through this hearing. We will try to keep the committee questions down and with that, Senator Luedtke, will you proceed.

LB 987

SENATOR LUEDTKE: Mr. Chairman, members of the Miscellaneous Subjects Committee, I'm Roland Luedtke of the 28th Legislative District, Lincoln. I am presenting in behalf of the Executive Board this bill, LB 987, the proponents reasons and objectives for introducing the bill. LB 987 was drafted by Senator Frank Lewis in an attempt to, at long last, put together a comprehensive act dealing with campaign finance disclosure, reporting, disclosure and reporting of lobbying activities and other conflict of interest provisions to apply to all of those persons elected and appointed by the various subdivisions of the government in the State of Nebraska. For the past

couple of years we have had a piecemeal approach to this type of legislation with lawmaking in this sensitive area, attempting to pass the laws one by one, something which hardly ever works because of the fact that they are so interrelated. I will give credit to Common Cause for stimulating the people of Nebraska to become more alert and more active in their interests in doing something about the problems that we are drawing attention to by this bill, particularly their public concern for putting on the ballot an initiative measure if the Legislature doesn't do something about the problems. This is particularly true with regard to the constant need to improve and fine tune the present laws that we have on political accountability and disclosure. LB 987 is further intended to allow a continuation of open and free communication with those elected and appointed representatives of our government, for we do believe that the salvation of the state is the watchfulness in the citizen, as it says in stone over the north entrance of this magnificent structure. At the same time, we hope not to impose such severe restrictions as to discourage the average citizen of the State of Nebraska from holding public office or contacting his duly elected representatives in the Legislature or in the executive branch of government. I am not going to bore you by taking up the bill section by section because I think we can do that with questions which follow or by proposed amendments and others speaking to the act. However, suffice it to say that the act sets forth on page 2, section 2 thereof, four specific findings in this subject area all of which are positive and necessary for a proper understanding of this legislation. It gives a background as to why we are here, why we propose to do something about it. At the outset, I would also like to state that Nebraska, with its Unicameral Legislature and its open committee system hearing, having open hearings on almost every bill, is undoubtedly the most open and deliberative body in the nation. Our Legislature has been nationally recognized in the book that sometimes government says is the most accountable legislature in this body of all 50 state legislatures, when the study was conducted two or three years ago. This rating was made, I point out to you, prior to our recent improvement of our open meetings laws and the rule of the Legislature opening up every vote in the executive session to the press for reporting in the media. This was not in it when we were made number one in accountability. So this adds to our accountability, as far as I'm concerned. Lobbying laws have been on the books in Nebraska for 35 to 40 years depending upon how you interpret or define lobbying, and were even recognized by Common Cause, in fact Nebraska itself was recognized by Common Cause as one of eight states having adequate lobbying laws when they first came out with their book on a survey

of lobbying laws back in 1972. That does not mean to say that we cannot improve our lobbying laws or our disclosure methods or itemizations under lobbying laws. Further, regarding lobbying laws, you will note that LB 987 pretty much incorporates Senator Cavanaugh's LB 261 which was heard by this committee with the one exception of the exclusion--the elimination of the line "for hire," which is the definition section. Other than that, it pretty much places into LB 987 the Cavanaugh approach to change the lobbying laws. Nebraska has had a conflict of interest law since the late 60's, although it is admitted that it should well apply to more than just state officials and members of the Legislature and their staff. We know that the possibility of corruption seeps into every level of government, namely also down to the county and municipal government levels. These guardians of the taxpayer's dollars must also disclose and account for their stewardship as do those of us on the state level. Nebraska went through the last election with a new campaign reporting law, which for all practical purposes, worked satisfactorily. LB 987 adds the important requirement, however, that a single bank account, a concept promoted by Senator Ralph Kelly for the past couple of years, be included in this particular reporting law. This was included this year in his LB 182 which was reported out of the Government Committee and is on the floor of the Legislature. We did not change the dollar limits in the reporting law and I understand that there will be amendments to attempt to do that here today. I must advise the committee that sections 107 to 131, establishing the Nebraska Accountability and Disclosure Commission will probably be unconstitutional for the reason that a legislator, namely the Speaker of the Legislature, was placed on that Commission. Moreover, in talking over this matter with several concerned citizens since LB 987 has been introduced, we have come to the conclusion, at least speaking for myself, that an 11 member commission might be too large and too unwieldy and so we might have too many constitutional officers, so it would be best to center on a couple of constitutional officers and then set a way of appointing or having appointed by executive appointment, the other members of the commission. Thereby, we do subscribe to the commission form of administering this type of an act. The type of an amendment, I understand will be offered by Common Cause and perhaps by others, the same type of an amendment which would include the Governor and the Secretary of State which would include the other persons on an eight or nine member--depending upon what you would want to have, an eight or nine member commission be appointed upon the nominations or submission of lists by the political parties and by the Legislature. This will be forthcoming in the amendments. I

want to make note for the record that I personally would approve this type of a change in the make-up of the Commission. You should also note that we have not included in this particular bill 987, a limitation on contributions. The reason being that when this was being drafted, the United States Supreme Court did not, as yet, come out with its opinion which it has subsequently done regarding the constitutionality of such laws and, of course, the fact that the Common Cause petition which is being circulated at this time, part of it would be unconstitutional because of that law. We did not even get into it. Furthermore, it is the feeling of the drafters of this bill that we do not need, certainly short of the Governor's office, the amounts of money that are being expended do not require the severe restrictions which have been suggested. By that I mean to say that we do not spend that much money, if you take the other constitutional officers' races and certainly down to the local levels of government, we do not have any problems. I don't believe that I ever remember any problem with legislative candidates spending too much money. In conclusion, Mr. Chairman, I say to my colleagues in the Legislature that the danger of being complacent or doing nothing at this stage and at this time, will simply mean that it will be done to us and for us by the people in the spirit of post-Wagergate over-reaction which is certainly followed in many states of this country and it will be done in a method so as to overkill totally unnecessary legislation in the eyes, I think, of most of the citizens of Nebraska, but this is the way that it will be done. On the other hand, I think that we should be careful not to resort to the Alaskan ritual of giving away our possessions to prove our worthiness which can go too far. Pretty soon, you will have given away all of your rights to representative government. Therefore, we feel that it is a common sense approach to clearly establish needs to improve and update all of our laws on political accountability and disclosure, conflict of interest, financial contributions and the like. We feel that LB 987 is Nebraska's answer, a middle of the road approach, if you will, which would be acceptable to our citizenry and without further resort to the initiative law--making efforts now in the wake. If there are any questions, I would be glad to answer them.

SENATOR MURPHY: You say that there is no restriction on contributions?

SENATOR LUEDTKE: Not in this act.

SENATOR MURPHY: Didn't I read in there about a \$100 restriction?



SENATOR LUEDTKE: I'm talking about amount of contributions.

SENATOR MURPHY: Yes, wasn't there a restriction, nothing over \$100 from outside the state?

SENATOR LUEDTKE: Now I'm talking about what you spend. I'm talking about the contributions of what you would be able to spend as a candidate.

SENATOR MURPHY: You are not talking about contributions, you are talking about expenditures. A limit on expenditures, not contributions.

SENATOR LUEDTKE: Yes, that is right. That is what I meant. I mis-spoke. You are correct. But I'm talking about the provision which is in the Common Cause initiative approach which is quite common to many of these comprehensive acts which would put a restriction on that which you can spend as a candidate.

SENATOR MURPHY: Is there an amendment in there to provide funds to supplement this hideous salary we're deriving so that you can comply with all of the reports?

SENATOR LUEDTKE: Well, I would very much like to--I would honor that kind of an amendment.

SENATOR MURPHY: It is going to take a full-time secretary to keep up the reports.

SENATOR LUEDTKE: Any other questions?

SENATOR MAHONEY: Maybe I could hold it back, you don't have anything to do with these Common Cause amendments, do you?

SENATOR LUEDTKE: There will be some submitted, I don't. . .

SENATOR MAHONEY: They are not in your. . .

SENATOR LUEDTKE: No, they will be submitted by Mr. Hoagland, I believe.

SENATOR MAHONEY: In your bill then, Senator--I may just quickly ask you one then, in your conflict of interest, you set up a basis as to a legislator being able to serve in the Legislature and have his outside employment, continue his outside employment?

**SENATOR LUEDTKE:** Well, the conflict of interest section in that regard is no different than it is now, Senator.

**SENATOR NICHOL:** Senator Frank Lewis, are you going to testify?

**SENATOR F. LEWIS:** Yes, Mr. Chairman. As the co-drafter, Senator Luedtke has done a very excellent job in touching on the technical points of the bill we wish to address. I wish to make just a very few comments to the committee in terms of the issue itself. I think that the bill we have placed before you has done two things. First of all, as you understand it, it really recodifies and puts into one act all of those related issues to political accountability, something we have never had before, we always piecemeal section by section. Secondly, I think that it adds to the volatility to the Legislature to look at the issues and to make a judgment to negotiate with this committee and on the floor of the Legislature and come out with an appropriate piece of legislation, a process that is not incumbent in an initiative effort. I believe that in the terms of accountability and in terms of accountability of reasonable cost to the taxpayers of this state, this bill that we have presented is a bill that provides the safety mechanisms to assure the public that there is accountability, and as an aside to that, I would say that in my service in this Legislature, I have never seen a violation, an ethic violation or certainly a violation in an attempt to deceive or cheat the public. But to provide that accountability to the public, I think that we have provided a necessary mechanism. We have provided it in the framework of what we have and we have also provided it at a reasonable cost to the taxpayer. There may be some that would want to criticize and say that this particular bill doesn't go far enough and there will also be some that say that this particular bill is an encroachment. I suggest to you that after many long and hard hours of work, particularly by Senator Luedtke, he has done a very excellent job with the bill and by others, that we bring to you, I think, a bill that is reasonable, prudent and it addresses itself to the issue of accountability. I would ask that we do accept the technical amendments to the bill and that we be very careful in any change in regard to this particular bill. Again, Senator Luedtke has done a very excellent job of providing the technical information, so I would forego any comments on those.

**SENATOR NICHOL:** Any questions of Senator Lewis? If not, thank you. May I ask you again, how many of you wanted to testify in favor of his, hold up your hands. Thank you. I'm going to suggest that--let me please suggest again that you

have sympathy for those that want to testify after you do to keep it brief because we must go back to the assembly at 2:00 so we will start now and we will try and keep our questions down to a minimum too.

SENATOR MAHONEY: Wouldn't you rather have those who are for the bill without the amendments testify first?

SENATOR LUEDTKE: It doesn't make any difference.

SENATOR MAHONEY: I just thought that you would get those first and have the amendment people second.

SENATOR NICHOL: We will start and see how it goes.

PETER HOAGLAND: Perhaps I could say just a few things about some amendments that we have to suggest and the other gentlemen could comment on those as well, Senator.

SENATOR MAHONEY: That is fine, but I mean that there are some people who may want to testify without amendments and I thought that they ought to have the opportunity.

PETER HOAGLAND: Gentlemen, my name is Peter Hoagland, I'm here on behalf of Common Cause of Nebraska. I'm the Coordinator of the Coalition for Open Government, but I am testifying today in my capacity as a State Coordinator of Common Cause. I would wish initially to thank the Executive Committee of this body and Senators Luedtke and Lewis for the extraordinary work they have done, and I think their commendable foresight and understanding of the need in this state for this kind of legislation. We're 100 per cent behind this effort and were delighted that this kind of a bill has been introduced and were delighted to be here today and offer our comments on it. I might say, by the way of an initial remark, the the Coalition for Open Government, which is passing the Sunshine Initiative petition, currently consists of 16 organizations, we have a couple of new member groups. We have a base membership of 4,000 citizens in the State of Nebraska. Five of those organizations are unable to send representatives to the hearing today. We have about ten groups that do have representatives and we have distributed letters to you gentlemen already from those five groups.

(See Exhibit "A")

Now I have another letter from the Urban League of Nebraska who is also represented by Mr. Ron McGruder who will be testifying later.

(See Exhibit "B")

Now gentlemen, what I would like to do, particularly in view of the limited time that we have here, is to dispense with the rehtoric and just make this a nuts and bolts presentation regarding the 12 amendments that we would suggest.

(See Exhibit "C")

By saying that I am dispensing with the rhetoric, I don't mean to say that we don't have a lot to say in terms of generalities about the need for this kind of legislation that we deeply believe in, because we do, and we have adopted a great deal of what Senator Luedtke had said. I think that it is important to use our time to discuss these specific amendments and I believe that each of you senators have a copy of them at your table right now. First gentlemen, one of the things that we would strongly urge upon this particular committee is to change the effective date of the bill, as we have indicated in proposed amendment number one. Section 132 currently provides that this bill shall not be operative until July of next year. We think that that is far too long to wait for this kind of legislation. What we propose instead is that the bill go into effect three months after the close of the legislative session as most bills do. Then the Commission can be selected virtually immediately, but that the conflict of interests and lobby disclosure portions do not go into effect until the first of January and that the campaign finance disclosure not go into effect until July of 1977. So the first election that would be affected by this would be the primary and general elections of 1978. It is going to take a long time for the Commission to get its members selected, to get a staff selected and to get the records of rules and regulations promulgated under the statute. For that reason, we simply need that time. Again, we would be extremely disappointed if the Legislature were to pass a bill that didn't go into effect for a year and a half. Secondly, Senator Luedtke made passing reference to our proposed amendment number two which changes the composition of the Commission. We do, ourselves, have reservations about the kind of Commission that we propose under the second amendment. I think that I should point out just briefly what the Commission consists of. First, the Governor and the Secretary of State are permanent members of the Commission, the remaining six so-called appointed members are chosen three by the Governor and three by the Secretary of State. The Governor's appointments are taken from two lists of three or more submitted by the Legislature and one from at-large. The Secretary of State's appointments are taken from lists submitted by the Republican and Democratic State Chairmen and one at-large. Each of those appointed members would then

go through the confirmation and ratification procedures that are set out in these proposed sections here. The Legislature would be required to hold open hearings regarding the qualifications of each of the appointed members and each person would be required to file a conflict of interest statement within ten days of his nomination. We think that those provisions are very important so that the personal finances, to a limited extent, of the nominees would be made public and people could come and testify at the open hearing if they have an objection. There are some other minor provisions in the second amendment that I don't think are worth dwelling on at this time. We, in our organization, have strong reservations about the notion of making the Governor and Secretary of State permanent members of the Commission. First of all, they simply will not be able to attend the meetings. The Commissions in the 30 other states that have Commission will meet two, three, four days at a time, promulgating rules and regulations, holding hearings regarding misconduct. It is just clear that the Governor and the Secretary of State are not going to be able to attend those meetings. In addition to that, it will put them in a very difficult position of a member of their own ticket, for instance, is having a hearing regarding them. In any event, let me move on to the next amendment. Amendment number three, we are encouraging the committee to increase the staff to include not just a general counsel, but also-- excuse me, to include not just an executive director, but also a general counsel, a chief CPA auditor, and two auditor investigators. I would respectfully suggest that the way the bill is written now, the staff simply isn't going to be able to even come close to doing the amount of work that the Commission is going to have to do, particularly in the initial stages of getting the rules and regulations up off the ground and running.

SENATOR LEWIS: May I interrupt here for just a moment. I hope that this is going to be that kind of session.

SENATOR BARNETT: Senator Lewis, I don't care how we do it as a committee, and I hope that the people understand back there that we are going into session at 2:00. Now if they would like to relinquish their time to this gentleman here, that is what it is going to get into and I'm not going to stop it if anybody doesn't object, because we have to let him be questioned by the committee. He is suggesting some pretty powerful changes. If there is no great exchange from the people, I'm going to go ahead and let you do this.

SENATOR LEWIS: This is just very quick. Now there are 30 Commissions in other states and on staff, are they staffed at the level that you recommend?

PETER HOAGLAND: We know definitely that the Kansas Commission is. We know that the California, Oregon and Washington Commissions are, yes, Senator.

SENATOR LEWIS: When we are talking California, we are talking a little different, a larger state.

PETER HOAGLAND: But Kansas is not.

SENATOR LEWIS: Secondly, do you have any experience in term of the rate of incidence? I can appreciate the staff concern in terms of establishment of rules and regulations, but once beyond that particular stage, I sometimes get a little concerned--we have a number of agencies that have that kind of an issue before them now, they have got 17 to 18 people sucking their thumbs at the taxpayer's expense.

PETER HOAGLAND: Senator, it has been our experience in other states that these Commissions have had very few disciplinary problems to deal with. Their energies are almost exclusively directed towards helping people comply, providing them forms, providing them manuals on how to comply, reminding them of their filing days. It is really very rare that there will actually be a disciplinary proceeding. The reason that we suggest these two auditor investigators is so that they have men that can travel across the state to examine the candidate's records at his headquarters, if that is necessary. Gentlemen, I think that I will not attempt to discuss each of these 12 amendments. Let me just talk about the three or four, in addition to the ones that we have talked about, that we think are most important.

SENATOR BARNETT: Is this one that you consider important?

PETER HOAGLAND: Oh definitely--commission staff. Yes, we consider all of these important.

SENATOR BARNETT: I'd like you to refer to one line on the proposed bill 987. It says "and such other staff as are necessary to carry out its duties pursuant to this act." Now what would be the difference between that and what--all you have done is just spell out different people, rather than that.

**PETER HOAGLAND:** Well Senator, we just want to create these five positions so that it is clear that the Commission has the authority to hire people to occupy these positions.

**SENATOR BARNETT:** They would not have under this.

**PETER HOAGLAND:** Well, I think that if the Legislature expresses its intent to have these five positions created, well we are going to be stronger.

**SENATOR BARNETT:** Thank you.

**PETER HOAGLAND:** Now gentlemen, let me go to proposed amendment four which is an amendment that we offer not necessarily from an ideological position, but really from pure workability grounds. On amendment four, it deals with the definition of a lobbyist and the definition of a lobbyist agent. Now, we're quite concerned that the way the bill is written now, it is going to cover way more people than this committee would intend it, or the Executive Committee would intend it to cover. For instance, the way that lobbyists and lobbyist agents are defined now, if I were to telephone Senator Moylan, my senator up in Omaha some evening, one telephone conversation about one bill, I would have to register and file a report. The way that this thing is written now, if I were to come down here one day and testify and talk to some senators in the fall and go back to Omaha and have nothing more to do with the bill, I would have to register and file all the requisite reports. Now, we feel that the only really meaningful way to distinguish between the lobbyists that we want to register and the lobbyists that we should exempt, the man that owns the corner grocery store and wants to make one trip down to Lincoln and the man that owns a hardware store, is to put some sort of dollar amount. Now in the Sunshine initiative, we propose a thousand dollars. A lobbyist would have to spend a thousand dollars or more to have to register. The lobbyist agent would have to be compensated or reimbursed a thousand dollars or more in order to register. We think that some figure of that sort is essential. The way that this is written now, we are going to have thousands of registration reports from people who really shouldn't have to register. It is going to mean a lot of paperwork for them, it is going to overwhelm the Commission, it is really--it really just doesn't make sense. It may even raise constitutional questions about putting unreasonable impediments between someone seeking to contact his elected representative.

**SENATOR LEWIS:** I hate to stop again, but these are serious amendments and I think that they may need some comment. Do

we have a definition in terms of what we mean by expenditure for lobbying?

**PETER HOAGLAND:** Senator we don't--we have an expenditure definition in the bill, I don't believe that we have one specifically for lobbying. That is the kind of question that the Commission would have to answer in its rules and regulations.

**SENATOR LEWIS:** I'm not sure that I'm prepared to let the Commission answer that question. I think that it is a policy question.

**PETER HOAGLAND:** I think we have to take a look at the definition of expenditure to see why--that really is subsumed by the definition of lobbying, in other words. In order to figure out what an expenditure for lobbying is, look up lobbying, that will answer that question for you. We are proposing a different definition of lobbying than is concluded--than is included in the bill. Gentlemen, one more comment about amendment four. The definition of lobbyists and lobbyist agents that are in the bill really fuzz and cloud the distinction that we had set out in the Sunshine initiative whereby a lobbyist is the principal--the guy that spends the money to have his will affect the Legislature, whether it is Common Cause or whether it is a professional association or a trade association. Then we define the lobbyist agent as the fellow that receives the money or is reimbursed. All right, now these definitions we took straight out of a bill that passed the Michigan Legislature last year. I think that it defines the problem very clearly, have the principal the lobbyist, have the man that he hires to do his work for him be the lobbyist agent. On the definition that has been used in 987 here, unfortunately, fuzzes that distinction and I think that it is very beneficial to reintroduce. Amendment number four is more of a technical kind of thing. We hope that you will really seriously think about adopting that. First to make the distinction clear, and secondly put the thousand dollars or \$750, some sort of a limit to exclude the small people that really ought to be able to come down to Lincoln on one or two occasions and lobby. Amendment five, we have changed the definition of lobbying there to include executive branch lobbying. Currently, there are 12 states in the country that require people that lobby before the executive branch--officials, agencies who can work their way, can work their way to special interests and in a much more effective way oftentimes than coming down to the Legislature, we require them to register as well, in that particular definition. We feel that it is quite important to



adopt that concept of requiring executive branch people to lobby. Let me skip over--on number six, it is an amendment which we consider very important. It beefs up the basic disclosure requirements and integrates those requirements more comfortably with section 81 of the bill. As section 84 is currently written, we don't feel that it requires enough disclosure from the lobbyists, it really doesn't require much more than the current statute does. We would urge the committee to take a good hard look at amendment six and think about that. All right now, number seven reinstates two prohibitions that we have in the initiative we would urge that this committee strongly consider prohibiting a legislator from lobbying for two years after he leaves the Legislature and prohibiting a former public official from appearing back before the board he was an official on for at least one year, back before a board that he was an official on dealing on an issue that he dealt with for at least three years. Now, if you gentlemen feel that the absolute prohibition of lobbying for two years after one leaves the Legislature is too strong, why then we would urge you to consider our proposed amendment number eight, which is an alternative to that provision.

SENATOR BARNETT: Where are you at?

PETER HOAGLAND: I just finished talking about seven and now I've started talking about eight. I'm sorry that I am talking so fast, but we have got a lot of ground to cover.

SENATOR BARNETT: Go ahead.

PETER HOAGLAND: Okay, now what number eight requires is this, in lieu of saying a senator flat out can't lobby for two years after he gets out, eight requires that in his registration form as a lobbyist agent, he signs an affidavit saying that I haven't made any deals with anybody during my legislative term to become a lobbyist. In other words, he simply has to say that I haven't concluded any agreements to become a lobbyist while I'm in the Legislature. Now, obviously that is not necessary for 99 per cent of the people in the Nebraska Legislature.

SENATOR BARNETT: I'm glad you said that.

PETER HOAGLAND: But if people know that they have to sign such an affidavit before they can register, it might have a little deterrent effect and again, it will demonstrate to the public, in effect, that these things are not going on. That is one of the most important principles of the lobbying disclosure bill. I don't think that the lobbyists in this state have anything to

hide. If they don't have anything to hide, why don't they concur with this bill because this will demonstrate once and for all that they don't have anything to hide if they comply with all of these provisions.

SENATOR BARNETT: That might be the answer. They might have to hire an attorney just to comply with it.

PETER HOAGLAND: Now Senator, that is an important issue and let me address it. The Commission in 987 has numerous responsibilities that the current filing officer, the Clerk of the Legislature, doesn't have. The Commission has got to promulgate manuals. It has got to promulgate forms for these fellows to fill out. It has got to give them legal assistance and legal advice as to how to comply with these things. I think that if you take a good hard look at the current statutes in these areas, you will see that there is just as much paperwork required. Senator Murphy, in response to what you said earlier, the current Corrupt Practices Act requires one pre-election filing, and one post-election filing. 987 requires two pre-election filings and one post-election filing for candidates. The number of filings aren't that much different. Yet, if you would ask the Secretary of State, how do I follow this law, he is going to send you what he sent us. He is going to send to you a copy of the Corrupt Practices Act and let you figure it out for yourself. All right, then you have to go through this or your lawyer has to go through the statute. Now, we have got explicit provisions in the Commission to require it to publish manuals and procedures to help you comply with the act.

SENATOR MURPHY: Don't help me anymore, you have helped me too much already.

SENATOR BARNETT: Let me respond, that makes it in direct conflict in what you said putting it into effect immediately after practice, because it wouldn't be ready for the next election anyway. The manuals and things--unless they are already printed.

PETER HOAGLAND: Senator, all that we are putting into effect is the Commission portion so that the Commissioners get selected, they can choose their staff and they can start working this stuff out.

SENATOR BARNETT: Not the whole act?

PETER HOAGLAND: No, sir.

SENATOR BARNETT: That is one of these amendments that you first talked about.

PETER HOAGLAND: That is right.

SENATOR BARNETT: It doesn't put the whole act into effect.

PETER HOAGLAND: That is right. Absolutely not.

SENATOR BARNETT: That is good, that makes me feel better.

PETER HOAGLAND: We have got the act going into effect in a staggered fasion.

SENATOR BARNETT: We are going to hang 25 people this coming November.

SENATOR MURPHY: Mr. Chairman, do we have a fiscal note on this bill by chance?

SENATOR BARNETT: Why don't you go ahead while I look this over.

PETER HOAGLAND: Senator Murphy, we require. . .

SENATOR BARNETT: Senator Mahoney, excuse me Mr. Hoagland.

SENATOR MAHONEY: I was interested in your page six and page eight, you are going to have somebody sign an affidavit while they were in the Legislature that they were not tainted and decided then suddenly to become a lobbyist. How would you prevent, and I think that you ought to also have it written in here, that somebody from--who has been lobbying for years, say LeRoy Barry, George Wruck, they are down here all of the time. These are regular lobbyist. I want them prevented from being senators because then they figure the way to get here where really the action is, to become a senator. How about the shoe on the other foot? I don't want--John Sullivan to cover over here, after learning all the tricks of the trade in the rotunda and then run for the Legislature and pass his bill. I don't want Jim Preston who has had many years at giving us research information and teaching us how, and then he says to himself, I'm not getting anywhere here, the thing to do is become one of those 49. I want your amendment also to say that if you have been in the training ground as a successful lobbyist, then you shall refrain from running for legislative office for four years, eight years, twelve years.

PETER HOAGLAND: Senator, we have sufficient protections already in the bill for that.

SENATOR MAHONEY: How?

PETER HOAGLAND: If Mr. Preston becomes a senator, he will have to disclose in his conflicts of interest statement. . .

SENATOR MAHONEY: No, no, no. . .

PETER HOAGLAND: Wait a minute, let me finish.

SENATOR MAHONEY: He can say that he is worth a hundred thousand dollars and all of that, he has got the built-in experience that he is coming into the Legislature with all of that knowledge and he has been able to set himself where he is at, sure he will have it out in public. Mr. Preston is going to be a very lethal weapon as a part of that body.

PETER HOAGLAND: First of all, under the conflict of interest disclosure state, he wouldn't have to set out his total assets. All he has to do is put down the source of his income of more than a thousand a year---not how much money that he owns.

SENATOR BARNETT: Senator Mahoney, what you are saying is that he could have been in the rotunda making deals to pass legislation when he gets elected.

SENATOR MAHONEY: I'm saying in a nicer way that his experience is so great that when he comes in the body that he has got all of the tricks of the trade, he has already learned down in the primary and secondary grades and he has finally come to college, has become one of the 49 who now. . . then he is able to be able to apply his wares and probably does a very effective job. Not only an effective job, he only has to get the magic number of 24 more of his cohorts and they will really show you how to run the Legislature.

PETER HOAGLAND: Senator, we have protections in the bill against that. They are this. First of all, if he becomes elected, as a candidate, he will have to file a conflict of interest statement which he will have to disclose the sources, not the amounts, the sources of all income over a thousand dollars a year. If his--the people in his constituency knowing that, knowing what the sources of his income are, knowing that he has become a lobbyist, they had been a lobbyist, if they choose to elect him, fine. They may do that, it is their prerogative.

SENATOR MAHONEY: Mr. Hoagland, why should I be prevented, after I have been here 10, 12, 18 years, and I will probably not decide to go out in this type of life, why should I then have my constitutional rights taken away from me, saying that for two years, you must go off to a monastery and cleanse yourself?

PETER HOAGLAND: Senator, all we are saying is that for two years, you cannot be compensated more than a thousand dollars to lobby for other interests, for two years after you are out of the Legislature. The reason for that is to prevent the significant temptation that must exist for a lame duck senator to accept employment before he leaves the Legislature.

SENATOR MAHONEY: Mr. Hoagland, you become a lame duck on November 7th, when the people turn you out. Sometimes you don't choose to get out but. . .

PETER HOAGLAND: Well, as soon as someone decides not to file for reelection and the filing day passes, then they are a lame duck, isn't that right Senator?

SENATOR MAHONEY: Then you are saying that you could only make a thousand dollars and that he should also be a vegetarian and he should be a member of a certain religious cult and therefore, unless he meets all of these requirements, he can't dare step into the rotunda and try and make himself a living.

PETER HOAGLAND: Senator, we think that there is a reasonable basis for that type of legislation and we are also presenting this alternative to require that man, as a part of his registration form as a lobbyist agent, to sign an affidavit saying that no such deals have been made. That certainly. . .

SENATOR BARNETT: I could go right into lobbying November 8th as long as I sign that? That is no problem, everyone could sign it anyway, so you don't have to worry about it.

SENATOR MAHONEY: You ought to go back to the old days in which you would have to sign before you could become a University professor that you were not a Communist, never been a Communist, have never sat next to a Communist and had never listened to a Communist speak, that is the same thing.

SENATOR BARNETT: Senator Mahoney, I might agree with what you're saying. . .

SENATOR MAHONEY: I'm not willing to sign things.

PETER HOAGLAND: I'm just going to talk about one final amendment because it is 1:20 and there are lots of people here that want to talk. It is proposed amendment number 11. This again is an amendment of a technical nature. The way the conflicts of interest section reads right now, this is in the section that defines who has got to file conflict of interest statements. Right now, the subsection seven provides a member of any board or commission created by state statute has got to file. That would have got to include all 1,240 school boards and I doubt that that is the intent of this body. We would instead suggest this amendatory language to make it clear that we are talking about state level boards, or county level boards and only state or county level boards that have some regulatory powers, license a business, regulate a business, or determine a rate. We don't want advisory boards and we don't want volunteer boards, we just want boards for that kind of power, right? I think that it is important to clarify that subsection seven, or you gentlemen may be passing something with a breadth wider than what you would like. If there are no more questions, I'll . . .

SENATOR BARNETT: Any questions of Mr. Hoagland? Thank you, sir.

JIM PRESTON: Mr. Chairman, members of the committee, my name is Jim Preston, I thought it rather appropriate that I get up here before I get abused further.

SENATOR LUEDTKE: Could I ask him a question before he gets really--are you really thinking of doing that?

JIM PRESON: No, not now.

SENATOR LUEDTKE: He lives in my district, that is the reason I asked.

JIM PRESTON: He is at the corner and I'm afraid that I would never get around it if I tried to take him on. I'm the Managing Director of the Nebraska Motor Carriers Association, which is a statewide trade association representing the bus and truck industry. I'm sure that there are some of you and some of others that might raise their eyebrows relative to the appearance of myself or any other lobbyist concerning themselves with LB 987. However, in no way, shape or form do I apologize for representing the interests of highway transportation in expressing support of this bill LB 987. Our industry probably is affected by as many laws that are on the books in this state as any industry and I believe that it could be said that almost any

piece of legislation is going to affect us in some capacity. Therefore, certainly any laws that affect our ability to express ourselves openly, freely and I hope honestly, always to this Legislature are a definite concern to us. We believe that it is important that we not be burdened unnecessarily in our lobbying procedures, by unnecessary procedures that are placed upon us, but we certainly, and I want to emphasize this, that we are not in any way opposed to proper accountability. We want to be sure that we are treated like anyone else, whether they be another business group, organized labor or any other group that represents multitudes of people. I submit to you that anyone that endeavors to influence you individually or collectively in behalf of anyone else, or any group, should come under the same set of laws and the same set of requirements. This legislation, in my opinion, speaks to that question. As a matter of fact, Mr. Chairman and members of the committee, our organization has been involved in attempts to properly, honestly and sincerely represent the interests of the highway transportation industry since the 1930's. Quite frankly, I resent somewhat the gall of the people who are certainly "Johnny come latelys" who are all of a sudden coming in and contending that Nebraska has horrible laws, everything has got to be changed and strengthened, and altered and improved, and in my opinion, insulting your intelligence and questioning the credibility of a lot of us that have been around for a long time and then suggesting that they are so pure that they should be exempt. That doesn't alter the fact, however, as far as I am concerned, that this legislation addresses itself to some issues that need to be addressed. I can assure you that I do not want my testimony to be construed as suggesting that you should pass a weak law. I don't think that this is a weak law. I believe that it is a fair law. As changes become necessary and evident in the future, they can be made, and I am sure that the bill will be improved as we watch its workings in the future. This bill calls for the establishment of a responsible commission. It speaks to the question of accountability of political candidates in their fund raising and their campaigning for elective offices. It does continue to set forth a reasonable level in Nebraska that will make public the size of campaign contributions. It does specify guidelines for conflicts of interests, it does set forth clearly, language that can be better understood and detailed guidelines necessary for persons to make their viewpoints known to the Legislature, when doing so in behalf of other parties. It doesn't affect the voluntary individual coming before the Legislature and expressing his personal convictions. With those thoughts in mind, Mr. Chairman and members of the Miscellaneous Subjects Committee, I whole heartedly urge this

committee to report this bill to the floor of the Legislature basically as it was written and put into law by the proper procedure for any legislation which is through the legislative channels. If there are any questions gentlemen, I would certainly try to answer them.

SENATOR BARNETT: No questions? Thank you.

MARGARET SUTHERLAND: I am Margaret Sutherland, speaking for the League of Women Voters of Nebraska.

(See Exhibit "D")

SENATOR BARNETT: Margaret, I have got one question. Are we to understand that this sheet--is this Lincoln or is this for the state?

MARGARET SUTHERLAND: This is the state.

SENATOR BARNETT: You also voted to support the other, which one do you prefer?

MARGARET SUTHERLAND: We would rather, you know, it is not on the ballot yet, there is a procedure to go through before the initiative becomes part of the ballot. It has not yet been filed. So if you can get this through, and I think that it is a very good bill. We worked for several hours yesterday trying to figure out specifics and other than the Commission, there are no specifics that we would recommend to change it. If this goes through, there is no need to file the petition and put it on the ballot.

SENATOR BARNETT: Then you withdraw your support of the other.

MARGARET SUTHERLAND: Yes, and we joined the Coalition--we joined with that reservation clearly stated.

SENATOR BARNETT: Thank you, Margaret. Mr. Sullivan?

JOHN SULLIVAN: Mr. Chairman and members of the committee, my name is John Sullivan, I'm manager of the Nebraska New Car Dealers Association. We appear in support of this legislation. We think that it has been comprehensively drafted and basically very good. We also now have the experience of the Supreme Court test at the Federal level which will alter somewhat some of the provisions of this law, but we urge its support. I would urge that the enacting date stay as is. I suggest the Chairman of this committee, said it well, there is a great



deal of interpretation and a great many problems to be worked out, not only by those that must comply, but by the Commission that would be established that would give us assistance. I would also suggest that I wonder if we are not stampeding a little bit, because I am not aware of, and I think that I have been close both in the executive branch of government and working with the Legislature now in both capacities, to an experience and an extremely high degree of efficiency and good government and notwithstanding the arguments and discussions that are part of good government. Any suggestions to the contrary in Nebraska are just outright nonsense and we don't have to apply the same rules and procedures that are being applied in New Jersey that we do here. It is an entirely different environment. I would like to point to a question on page 52, perhaps Senator Luedtke, is it all right if I ask a question? In that section 91, it says that no lobbyist or agent can give a gift to a member of the Legislature or executive, period. It is followed by a penalty section. We're having a--as we do every year, a legislative conference and convention and so on. As part of that, very often, the speaker will be given a stipend or an honorarium and in some cases, perhaps a pen and pencil set for helping contribute to our workshop. Is that kind of a thing considered to be a gift, and I don't think that we have to go into it.

SENATOR BARNETT: What section is that?

JOHN SULLIVAN: Section 91, page 52.

SENATOR LUEDTKE: 91, you are referring to 91?

JOHN SULLIVAN: Yes, the thing that I wanted to point out was that I think that I can read, and I am fairly competent, but this is going to take some work to be in compliance with. By golly, since I have been over there, I have been as busy as a one legged man in a kicking contest. This is going to be a tremendous workload, but I think it is needed and it's good. Thank you, Mr. Chairman.

SENATOR BARNETT: Thank you, Mr. Sullivan.

MIKE MUSCHEITES: Mr. Chairman, members of the committee, my name is Mike Muscheites, Regional Manager of the Mid-American Lumber Association. I'm appearing in support of LB 987, as a lobbyist agent representing some 350 independent building material businessmen in Nebraska and with many other duties other than legislative. The sections in this bill covering all of the activity are very welcome. We welcome

the guidelines set forth in the bill and the creation of a Commission to interpret these guidelines. We feel that this puts all of us on a more equal footing and we would like to have better access to information about our fellow lobbyists. We have a Political Action Committee as a legitimate vehicle for these small independent businessmen to work for representatives of government that they feel will promote a favorable climate in Nebraska for small business. We believe that the sections of the bill covering these activities of such committees to be fair and adequate. We urge the committee to look favorable on 987 as a proper way for Nebraskans to deal through the legislative process with Nebraska political accountability.

SENATOR BARNETT: Thanks, Mike. Any questions? Next please.

GEORGE WRUCK: Mr. Chairman, members of the committee, I'm George Wruck. For a great number of years, I have been registered as lobbying for the Retail Merchants of Greater Omaha. I think that this is good accountability, the draft--it is something that completes what we need for conditions here in Nebraska. There is a very reasonable approach, reasonable provisions and I think a very practical approach to our conditions here. I favor this as being in the interest of good government which we have been interested in our state for a long time. I favor this particular bill. Thank you.

SENATOR BARNETT: Thank you, George. Any questions? Anybody else?

LLOYD HERBENER: I'm Lloyd Herbener, the Executive Director of the Nebraska Republican Party and we appear here in support of LB 987 in its language that continues to strengthen the existing law. We do have some amendments to offer in regards to the lobbying provisions of the proposed bill.

(See Exhibit "E")

We, like some others that have testified, are concerned about the definition of lobbying and lobbyists and would like to suggest to you that you do not place in the act any dollar limit to define who is a lobbyist and who is not. Because the dollar limit being proposed, in our opinion, is simply to exempt certain groups who wish to influence the Legislature but don't wish to have to report. Now, if we are concerned, and we are concerned about the individual who would like to come here and express his personal views, we would submit to you an amendment which reads under section 34, paragraph 3, a new letter "G" which would read as follows. "Any individual

who does not represent any person as defined by this act other than himself." Now we will allow the individual to come down and express his opinion, call his senator and talk to him about a bill so long as he represents only himself. We think that this is a much sounder amendment than the one that was previously suggested. We also found some confusion over the question of whether the principal of the lobbyist is himself a lobbyist. We would suggest an amendment under section 34, paragraph 3, a new letter "H" which would read as follows: "Any person who authorizes or gives compensation to, or reimburses another to lobby in his behalf would be a principal." Then there would not be the confusion that might exist if we're correct in our interpretation, in the Republican Party in Nebraska, we will have, as a principal, would have to register as a lobbyist individually and appear before you. We think that is inconsistent with what you are attempting to do in the bill. We also find in section 81, paragraph 5, we feel that the requirement there is really rather meaningless information and encourages generalities that have no disclosure effect. It is impossible for anyone to declare the matters on which he is expected to lobby and it is equally impossible to tell somebody ahead of time what position that they are going to take. We think that the first sentence of section 81, paragraph 3, adequately identifies the nature of the interest of the principle and that section 81, paragraph 5 ought to be deleted. We also are concerned in section 84 with the establishment of the one interim report between regular sessions of the Legislature. As we interpret that, it would mean that special sessions are not accounted for and I think that we all agree that a report following a special session would be in the spirit of the act as well. So we suggest that there should be a deletion made in section 89, line 18, page 51 of the word "regular." So it simply reads, "between sessions of the Legislature." In section 84, there is no requirement that a lobbyist and his principal report the fees charged by the lobbyist for his services for the amount received or expended. This leaves an unrealistic picture of what it actually costs to influence that piece of legislation. We suggest an amendment to read as follows in new section 84, one, letter "E", "lobbyist fees for services." Also in section 84, paragraph 3, ought to be clarified to define what a position is. Is it when the bill is first introduced? Is it when it has been amended, it is when it is on General File, Select File, Final Reading, at what point do you say that the position is taken on a bill. It is unclear because that can change from time to time. Now, reasonable disclosure of fees received and the amounts expended, and the lobbyist principals for whom he acts is the legitimate aim of the section of LB 987. We feel that the amendments that

we proposed with the existing language that is in 987 accomplishes those goals which are set forth. We would like to just briefly comment on one other section of the bill. I appreciate what Mr. Preston had to say about resenting certain types of implications and innuendos. We very carefully researched the business of campaign expenditures and campaign contributions and this whole area. We find that there cannot be made a case, in our judgment at this point, for any discernible problems. There is just simply not any evidence which indicates a problem-- isolated incidents, yes. You can pick those out, but we think that a problem has to consist of some kind of on-going difficulty before you begin to legislate. We don't find that present and we would suggest to you that there are two extreme inconsistencies in the act that we would like to see remedied by having them removed. One, the disclosures that are called for, we feel are an invasion of privacy. We think that if a candidate is running for office and he honestly reports what he receives above the limits that you have set and who gave it to him and what he has expended, that he has complied with the spirit of being a free citizen in a free society. We think that it is legitimate. We are in agreement. But to disclose his debt structure as to whether it is by dollar amount or whether it is simply but cut-off amounts such as everything over a thousand dollars, and involve the people who have extended him credit or to require him to give the sources of his income from whatever source those might be, and then to include his immediate family under certain sections of conflict of interests, is simply going to drive people out of politics. They are simply going to respect their privacy more than they respect having to disclose their private lives. We think the disclosure of what he receives and expends is satisfactory and should be followed. We also object very strongly to the proposition that is set forth in section 9, paragraph 2, letters A through D which allow some people in Nebraska, simply because they live in a population area that is not very dense, not to have to report. Now if anything is violative of the political rights of the citizen is to place obligations or harassments in his way to tend to make him think that he shouldn't participate. We think that if you eliminate this kind of disclosure from the act, and require the kind of contribution accuracy of reporting and the kind of expenditure accuracy reporting, you have accomplished precisely all that can be accomplished or should be accomplished. We would suggest that to you. We also would like to say in closing that we hope that the committee, and we are sure that you will do this, will very carefully review all of the expenditure requirements in this act to make sure that they comply with the present Federal law as expressed in the Supreme Court decision in the case of Buckley versus (inaudible).

SENATOR BARNETT: Thank you very much, Lloyd. We have time for about two more witnesses, if you make it short and then I'm going to allow the gentleman in opposition.

REVEREND CARLSON: I'm Reverend Carlson, Lutheran Caucus, and I simply want to say that we are in favor of this action very much with the amendments that have been added. I just want to add one caution, you had better act unless you make the mistake that North Dakota did and if you want to look up the records, you will find out. It is pretty rough and Kearney took care of it. That is all.

SENATOR BARNETT: I don't quite understand that. I think that you and I had gone over that this morning. Is this a threat?

REVEREND CARLSON: Take it as a--I simply say this because. . .

SENATOR BARNETT: Could you be more explicit so that we know what you are talking about?

REVEREND CARLSON: Up there about ten years ago, the Senate or the group up there had quite a chance to make some--to do what you are doing and they didn't. A Ford dealer up there decided that he had some friends and they decided to do it. They took time for about 14 initiatives and passed 12. Every time they didn't like something, they would pass it over the Senate so there was no sense in going down to Bismarck.

SENATOR LEWIS: How did that work out for the people? I do have some concern about the people.

REVEREND CARLSON: How did that concern the people? Well, sometimes it was good, but usually not so good. It was an oligarchy that wasn't intended, and we don't want that kind of oligarchy down here.

SENATOR LEWIS: Nothing like a little spite.

REVEREND CARLSON: Are there any questions?

SENATOR BARNETT: No questions? Thank you.

TOM STEVENSON: Mr. Chairman, members of the committee, I'm Tom Stevenson, a carpenter from Seward. The reason that I got involved in this, I am a member of Common Cause and partly to atone for having voted for Nixon two times--it had been my fate that things were pretty nearly right the way that they were ever since the New Deal phase before World War II. Well, I

have seen--from a couple of testimonies here, I got the impression that I was perhaps a member of a subversive group. However, I would like to submit that even though Nebraska has an exceptionally good record as far as being free of governmental corruption, I think that a good deal of this is due to the fact that the state is relatively poor. If you look at the states, the process of getting rich is going along rather rapidly right now, particularly in my community. If you will look at your own--you will see the human tendencies to help themselves little by little are present everywhere and you can--those of you from small towns, look at your city government, you can see what your council does. Maybe by your farsighted action, and--concerning reformed legislation now, you may be forestalling the unhappy experiences well publicized in Illinois and in Maryland and maybe at the beginning, it is easier to prevent such things than to try and clean them up later. Thank you.

SENATOR BARNETT: Okay, that will end the testimony in favor of the proposal, which is 987. How much time? Okay, and you are the other one that gets to give one minute. Then the gentleman opposing, we did allow him five minutes and we have got to be out of here at 2:00.

WILLIAM BRANDT: Mr. Chairman, members of the committee, my name is William Brandt, and I represent the Nebraska Bankers Association which is a voluntary membership of all 449 banks in Nebraska. We feel that--we appear here in support of LB 987 and we have reviewed the bill and feel that it fairly revises the law respective to registered lobbyists. It also appears to handle the matter of conflict of interests and political campaigns. While we do not feel that there are not any great abuses under existing statutes, we think that LB 987 will go a long ways to clarify those areas that are ambiguous. We have reviewed the various reporting forms. We find that there is bonafide disagreement as to exactly what is now required. We think that this will be helped by the new law. While we disagree with no part of the disclosure requirements of 987, we would particularly call your attention to the positive fact that it would require disclosure by all parties seeking to influence actions of the Legislature, not just those working for hire. If any disclosure bill was to be impartial and give a true indication of efforts being made to influence legislation, certainly the so-called volunteer lobbyist must be required to report their activities and expenditures along with those who are hired for this purpose. We see no reason that the reporting requirements in 987 will pose any great burden and would welcome a full disclosure by other parties communicating with the Legislature.

SENATOR BARNETT: Thank you, Mr. Brandt. Gentlemen, is there anyone else what wants to oppose the bill, or have they convinced you? You are on the other side now? We do have a couple more minutes if someone wants to come up since that gentleman has relinquished his time. I would go sign him up as a member of your organization.

ARNOLD RUHNKE: Mr. Chairman, members of the committee, I'm Arnold Ruhnke, Executive Director of the Nebraska Association of County Officials. Our official policy making body is in support of 987. Due to the shortness of time, I do have several--I have read the bill and I have several questions. I think that I will wait and submit them in the way of a letter unless you feel that you have the necessary time now.

SENATOR BARNETT: I have got one question of you, Arnold. I've got to find out, maybe you could pay attention to me, Pete--which one of these sections eliminates county people from now on, just state it, which amendment was it?

ARNOLD RUHNKE: The one that lets Class I and Class II county officials out from under the provisions of the bill?

SENATOR BARNETT: With their amendment, it eliminates all county officials.

PETER HOAGLAND: We have an amendment which. . .

SENATOR BARNETT: Which one is it?

PETER HOAGLAND: Number 11.

SENATOR BARNETT: Number 11. It says "a member of any board or commission of the state or any county."

ARNOLD RUHNKE: Where are you at?

SENATOR BARNETT: This is an amendment. I'm wondering if it would include any of your people--county officials?

PETER HOAGLAND: It makes it clear that cities and school boards are not included. . . cities and school boards.

SENATOR BARNETT: City councils are not?

PETER HOAGLAND: They are not included in the present. . .

SENATOR BARNETT: And the county school boards would be eliminated also.

SENATOR LUEDTKE: They aren't anyway. They were not anyway.

SENATOR BARNETT: Okay, I didn't know if you had seen this amendment.

ARNOLD RUHNKE: I knew that Class I and Class II counties were exempted.

SENATOR BARNETT: Thank you. Anybody else wishing to testify in favor or oppose 987? Do you wish to waive your closing? This will end the hearing. I found out that the fiscal note, I can read the last sentence and it will tell you everything. "These responsibilities will undoubtedly have a fiscal impact. It is impossible to place a specific cost on them at this time."

  
Gary L. Anderson, Chairman

  
Nancy Rowch, Committee Clerk



COMMITTEE STATEMENT

MISCELLANEOUS SUBJECTS COMMITTEE

LB 987 - Introduced by Executive Board

Public Hearing on 26 February 1976

INTENT - LB 987 is a comprehensive act setting up disclosure and accountability procedures concerning campaign finance, lobbying activities, and conflicts of interest. A Nebraska Political Accountability and Disclosure Commission is established to administrate and facilitate the various provisions contained in the act. Sections 1 through 44 set forth the definitions to be used throughout the act.

Sections 45 through 80 establish requirements for the financing of political campaigns. Candidates for public office must form candidate committees with a designated treasurer to authorize all contributions and expenditures through an official depository. Provisions are also included for committees supporting ballot question and for political party committees. All committees must file statements of organization and periodic campaign statements with the Commission as well as with the appropriate election commissioner or county clerk. In general, the campaign statements list the total expenditures and receipts with itemization and identification of contributions exceeding \$100. Similar information must also be provided concerning fund raising events, with identification on contributions exceeding \$25. Certain limits are also placed on contributions: contributions not made exclusively by the giver shall be so identified, separate reports are required for business, labor, trade and professional contributions (with an exception for political education funds), a \$50 limit is placed on cash contributions, and various other prohibitions are made against contributions which are anonymous, misidentified, or insufficiently identified. A separate provision is included for those wishing to make independent expenditures advocating a candidate or ballot question.

Sections 81 through 93 address disclosure and reporting requirements for lobbying activities. Lobbyists must register each regular session with the Clerk of the Legislature to supply the Clerk with information concerning the nature of their lobbying activities and must supply detailed financial statements monthly while the Legislature is in session and once during the interim. Lobbyists must also submit a statement of legislation acted upon during each regular

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session of the Legislature and maintain adequate financial records to substantiate figures supplied in their official reports. Organizations formed primarily for lobbying purposes must submit a list to the Clerk of all individuals supporting the organization, and those not formed primarily for this purpose shall file the names of the officers and directors of such organization. Prohibitions are also placed against certain lobbying actions including giving gifts to executive or legislative officials, making false or misleading statements to such officials, and offering fees, future employment, or other financial incentives for certain legislative or administrative actions.

Sections 94 through 106 concern conflict of interest provisions for insuring the independence and impartiality of public officials. Officials must file statements of financial interest with the Commission which designate business associations as well as information concerning business relationships, real property and certain credit situations amounting to \$1,000 or more, or gifts received from individuals and businesses exceeding \$100. Any person who has questions concerning a possible conflict of interest may apply to the Commission for an advisory opinion.

Sections 107 to 131 establish the Nebraska Political Accountability and Disclosure Commission. The Commission is composed of 8 members, including the Governor and Secretary of State, with three other members appointed by the Governor and three by the Secretary of State. All Commission members are confirmed by the Legislature. The Commission can appoint an Executive Director and staff and make investigations and audits of campaign statements and other prescribed disclosures and reports. The Commission may also conduct preliminary investigations concerning any violations and may commence civil or criminal prosecution, with the Attorney General and appropriate county attorney.

SUPPORTING TESTIMONY - Senators Roland Luedtke and Frank Lewis, on behalf of the Executive Board, explained the intent of LB 987 to provide a comprehensive act, promoting openness, honesty and fairness in Nebraska government. They noted that LB 987 was patterned after a citizen's initiative under the leadership of the Coalition for Open Government, but they also indicated that several changes and adaptations had been made in it. The following persons also expressed

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support for LB 987: Mike Muscheites of the Mid-America Lumbermens Association, John L. Sullivan of the Nebraska New Car Dealers Association, Margaret Sutherland, representing the League of Women Voters of Nebraska, Delbert Stromer of the Little Blue NRD, Peter Hoagland and Normal Turrill of Nebraska Common Cause, Gordon Simmons of the Nebraska Lutheran Legislative Caucus, Tom Stevenson, citizen from Seward, Al Fagerstrom of the Sierra Club, William Brandt of the Nebraska Bankers Association, George T. Wruck of the Retail Merchants Association of Omaha, Lloyd W. Herbener of the Nebraska Republican Party, Arnold Ruhnke of the Nebraska County Officials Organization and Jim Preston of the Nebraska Motor Carriers Association.

**OPPOSITION TESTIMONY - None**

**COMMITTEE AMENDMENTS** - Committee amendments were adopted to make the effective dates of the act to July 1, 1976 for establishment of the Commission and 1 July 1977 for the remainder of the act. The Commission membership and appointment procedures were also amended. The Governor and Secretary of State would automatically be members of the Commission and each of them would appoint three other members, with confirmation of all of the members by the Legislature. The Legislature would submit two lists to the Governor for two of the members while a third member would be selected by the Governor from the citizenry at-large. The Secretary of State would select one member each from lists submitted by the Republican and Democratic parties and one member from the citizenry at-large. Other provisions are designed to include impartiality and balance in the selection process, to provide for the organization of the Commission and for a \$50 per diem for actual and necessary expenses. Amendments are included to insure that definitions for lobbying and lobbyist do not include those individuals who only wish to represent themselves. An amendment was also approved to clarify the list of those who are required to file a statement of financial interests.

**COMMITTEE ACTION** - Senator F. Lewis made a motion, seconded by Senator Skarda, to advance LB 987 to General File. Voting aye: Senators Anderson, Barnett, F. Lewis, Mahoney, Luedtke, Nichol and Skarda. Not voting: Senator Murphy.

12.3.76  
Date

  
Gary E. Anderson, Chairman