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Government, Military and Veterans Affairs Committee
October 16, 2009

[LR126 LR163]

The Committee on Government, Military and Veterans Affairs met at 1:30 a.m. on Friday, October 16, 2009, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR163 and LR126. Senators present: Bill Avery, Chairperson; Robert Giese; and Scott Price. Senators absent: Charlie Janssen; Russ Karpisek; Bob Krist; Rich Pahls; and Kate Sullivan. [LR163]

SENATOR PRICE: Good afternoon, ladies and gentlemen. We're going to reconvene the Government, Military and Veterans Affairs Committee on the various legislative resolutions we've had before us this summer. And to start us off on LR163 is Senator Avery. And I will forgo introductions, as everybody here, hopefully, was here before, and that will speed up things and facilitate things. So, please, Senator Avery. [LR163]

SENATOR AVERY: For the record, I am Bill Avery, spelled B-i-l-l A-v-e-r-y. I represent District 28. I am here to introduce LR163, which is a resolution calling for a study to examine issues under the jurisdiction of the Nebraska Accountability and Disclosure Commission. The commission has a variety of duties. They are responsible for supervising and enforcing the financing of campaigns, including independent committees. They deal with the role of lobbyists, ethics, and the political system. And it's interesting that they've been in existence now for some 30 years, and this is the first time we have undertaken a systematic and comprehensive study of the various laws that come under their purview. This particular interim study was ranked number 1 by the committee in its priority listing. You may remember that we had a vigorous discussion on the floor of the Legislature last session regarding the Campaign Finance Limitation Act and how campaigns are financed. And in the course of that, a number of questions were raised about the role of independent committees in campaigns, and we...it became clear during that debate that we really did need to take a look at all of the laws relating to accountability and disclosure. The...we've had a series of meetings with the legal counsel and me and some various stakeholders. We, so far, have met three times. We

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have an additional meeting planned for later on that will deal with the enforcement authority of the commission. That will take place in late October; we haven't set the date on that yet. It might actually be--I don't know if we're going to...how we're going to that, but I'm going to be traveling in late October, and then we have the special session. So stay tuned on when we'll be doing that next meeting. But in July we brought together a number of people who were interested in these issues. And we discussed the issue of gift limits and electronic filing of lobbyists' reports. There's a great deal of support for electronic filing. I understand that the commission is working on implementing that so that it will be easier for people to file in a more timely manner. Also, we hope that will make it possible for users of the Web site to easily access material and information that's available to the public. There was a great deal of interest expressed also in the gift limits, some interest in raising the limit to \$100; others felt that the limit should only be raised for specific gifts, such as memorial flowers and plaques in honor of elected officials. In August, we reconvened a group of stakeholders again and this time to discuss independent committees and independent expenditures. We generally agreed that independent committees are difficult to regulate because of First Amendment concerns. But we did feel that greater disclosure was in the public interest and could be helpful to candidates, particularly when it comes to providing more disclosure on print material, printed material that's sent out on behalf of or opposing a candidate or issue and providing more disclaimer and disclosure information on broadcast media as well. So that is where the issue stands now; we're still collecting information. This is our second hearing on this; we had one last week in Grand Island. We will be announcing later when the final discussion will take place regarding the conflicts of interest and enforcement process at the Accountability and Disclosure Commission. We invite broad participation in these meetings and hope that there will be a lively discussion today. I will stop with that and entertain any questions. [LR163]

SENATOR PRICE: Thank you, Senator Avery. Any questions? Seeing none, Senator Avery, thank you very much. [LR163]

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SENATOR AVERY: Thank you. [LR163]

SENATOR PRICE: How many people do we have to testify on this LR today? Seeing no testifiers... [LR163]

SENATOR AVERY: Close it down. [LR163]

SENATOR PRICE: ...we'll close it down, and we're going to move it on to LR126, which is also going to be submitted by Senator Avery. And we'll give him a moment to pick up his... [LR163]

SENATOR AVERY: I will just say that we routinely include in our interim studies a broad category that allows for any particular issue that relates to the jurisdiction authority of this committee to be subject to discussion and/or interim study. So the floor is open now for anyone who would like to raise an issue that comes under the jurisdiction of this committee. [LR163]

MICHAEL NOLAN: Is there a sign-in sheet, Senator? [LR163]

SENATOR AVERY: There are sign-in sheets over by the door. [LR163]

MICHAEL NOLAN: Okay. [LR163]

SENATOR AVERY: You can fill that out after your testimony if you want. [LR163]

MICHAEL NOLAN: That would be great. [LR163]

SENATOR AVERY: No controversy surrounding your department. [LR163]

SENATOR AVERY: Okay, state and spell your name for the record. [LR163]

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MICHAEL NOLAN: (Exhibit 1) Senator Avery and members of the committee, my name is Michael Nolan, N-o-l-a-n. I live at 1302 Galeta, Unit A, in Norfolk, Nebraska. I know you see me down here quite a bit, and some people may think and have asked me: Are you living in Lincoln? And I say: No, I'm sleeping in Lincoln; I still live in Norfolk. I'm here on my own. I think you know that I'm employed by the League of Nebraska Municipalities. The League of Nebraska Municipalities does not have any position on this issue. I have taken a half day of vacation to communicate this to you. And I reiterate: I'm here on my own. My purpose in being here is simply to communicate to you what I consider an inadvertence that occurred in the statute the last time that the Legislature may have dealt with the whole issue of multiple office holders. In this situation in the community of Norfolk, there's an individual who's an elected official on the city council, and he also recently ran as a candidate and was elected to the Northeast Community College Board of Governors. My view of that is that that was an inadvertence based on what else the Legislature has historically done on this issue. I've given you what I think is a way to correct it in this handout here, which has some highlights on it. I've also made some other possible legislative solutions that you may want to look at. I also need to tell you that I did have conversations with Senator Flood, who is my senator, that I was interested in this issue. I don't know whether Senator Flood is aware that I was coming to this interim study hearing today. But he is aware that I've had some interest in this issue. I've also communicated my interest in this issue to Dennis Baack. I don't know whether Dennis Baack and his association have any interest in this issue or not. I am merely here just to point it out to you. I'm not trying to make this into a larger thing than it is. I did have conversations with Senator Greg Adams about it. I wasn't really sure how this was to be referenced. And the reason that I'm here is because I think he communicated to Senator Avery that I had talked to him, and I know that Christy had called a few weeks ago to inform me about this, and I didn't get back to her until recently. So that gives you a lot of background on why I'm here. I guess I would tell you that I don't have any major things I can point to that have created conflicts over this. I know that under the parliamentary system that's in Europe it's...they

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have some strange configurations of how people represent different districts and where's it's possible for somebody, for example, in Ireland to live in an entirely different county and run for an office in another county. I don't know how you sort through that. That doesn't seem to be what our civic culture has aligned with here in Nebraska. And it seems like to me that we--that, given the fact that we've made some very explicit provisions in the statute as it exists, that it makes sense that we just add community colleges to that. As far as the incumbent that would be affected by this, I'm certainly not suggesting that you do something that disrupts that person's immediate representative interests. But it seems like to me that prospectively you ought to be able to correct it in a way that you can accommodate the larger issue of whether it's appropriate for one individual representing two elected bodies--governing bodies--in the same community and have some way of resolving that. I will tell you, in the 28 years that I was the city administrator of Norfolk--and I finished that position on the 1st of May a year ago--our working relationship with the community colleges was pretty good. They did have occasionally an employee that we had some sibling quarrels with, who thought his position was to essentially solve every community need for funding by being a personal emissary--I guess on college time--and come and lobby for the city budget to be the solution. And occasionally some of that was based on some projects that the college wanted city assistance on. We did assist on a couple of them. And, quite frankly, the most recent one was the \$1 million contribution that the elected officials--the mayor and city council--made to help defray some of the cost of the nursing facility that Senator Flood is sponsoring. And that was a unanimous decision for our elected governing body, and they were very, very pleased to participate. We've had some other situations where we've contributed before. It raises the issue, though, in a situation where you have an elected official serving on two bodies as to who it is that he's representing in those situations that...where there's budgetary impact. And I suggest to you that, you know, that despite the fact that the frequency of those situations as far as their complexity may not recur very often, sometimes when they do happen the severity of them or the complication of them can be somewhat complicated. So this is just a small thing. It isn't something...it isn't a sword I'm trying to fall on here. But I think that it's

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important that you understand this inadvertence did occur when the statute was looked at the last time. And just as a citizen of Norfolk and Madison County, as a citizen of Nebraska it would seem like to me that it would be prudent for the Legislature to correct it. I'd answer any questions if you have any. [LR163]

SENATOR AVERY: Thank you, Mr. Nolan. I see you have proposed a possible solution to how you would make the transition, wherein you have a person holding two positions. [LR126]

MICHAEL NOLAN: Right. Yes. I mean I...there are probably some other ways to do it, too, Senator. I'm certainly not dogmatic about how you do it. [LR126]

SENATOR AVERY: Yeah, well, what you're proposing here is that when it's time for re-election that the person would have to choose one or the other. [LR126]

MICHAEL NOLAN: Right. [LR126]

SENATOR AVERY: Why not a provision that would require them to resign one or the other immediately when the law takes effect? And they could choose. [LR126]

MICHAEL NOLAN: It would be okay for me if that happened, too. I think, you know, I'd feel more comfortable being a little more explicit on one idea if maybe I was a member of the Legislature, but I'm not. So I'm trying to be as flexible as I can in saying that anything that I think that corrects it is...serves the public interest. [LR126]

SENATOR GIESE: And the term on the board or the terms... [LR126]

MICHAEL NOLAN: Opposite electoral cycles. My understanding is that the individual is...his city council position is coming up for election this next time. But it would be two years after that election, which would be next November, that the election for this

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position would occur, for the community college position. [LR126]

SENATOR AVERY: Any other questions from the committee? [LR126]

MICHAEL NOLAN: Thank you so much, Senator. I appreciate it. [LR126]

SENATOR AVERY: Thank you, Mr. Nolan. [LR126]

MICHAEL NOLAN: I'm sorry for my attire. My IT guy and I are going pheasant hunting, so I pretty much had to get ready for that event too. [LR126]

SENATOR PRICE: Priorities are in place; I can see that. [LR126]

MICHAEL NOLAN: Yeah, that's right. Thank you very much. [LR126]

SENATOR AVERY: (Laugh) All right, thank you. Anyone else wish to testify under LR126: An Interim Study to Examine Issues under the Jurisdiction of this committee. Seeing none, I declare this hearing over. Thank you for coming, and now I guess I have time to make it to the Education executive committee session. [LR126]