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Government, Military and Veterans Affairs Committee
March 22, 2017

[LB153 LB581 LB663 LB664 LB665]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, March 22, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB581, LB153, LB664, LB663, and LB665. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; Joni Craighead; Mike Hilgers; John Lowe; and Justin Wayne. Senators absent: None.

SENATOR MURANTE: Welcome to the Government, Military and Veterans Affairs committee. My name is John Murante. I'm the State Senator for District 49, which includes Gretna and northwest Sarpy County, and I'm the Chairman of this committee. We are here today for the purposes of conducting some public hearings. We'll be taking those bills up in the order in which they appear on the agenda on the outside of this room. I've received a couple of questions regarding testimony and we will break from tradition in a couple of ways. First, we'll be taking Senator McDonnell's bill first followed by a grouping of two of Senator Kuehn's bills, and then another grouping of two of Senator Kuehn's bills. If you wish to testify on one of the bills and wish to have that statement apply to all of the bills so that you don't have to testify five times, just indicate that in your opening, fill out five sheets and we will record it for you so you don't have to say the same thing five times. So I've gotten that question a couple of times and we're happy to accommodate that. If you do testify, we ask that you fill out one of these green sheets which are located on either side of the room. If you do not wish to testify but you do wish to state your support or opposition for any of the matters before us, we ask that you fill out one of these sign-in sheets that are also located on either side of the room. If you do testify, we ask that you begin by stating and spelling your name for the record. The order of business is our introducer will be given an opportunity to open, then we'll listen to proponent testimony, followed by opponent testimony, then neutral testimony, and the introducer will be given an opportunity to close. We ask that you listen very carefully to try not to be repetitive. In the Government Committee we do use the light system. Each testifier is allotted four minutes to speak. When the yellow light comes on, you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, we ask that you conclude your remarks and we will open the committee up to any questions that they may have of you. At this time I would like to encourage everyone to turn off or silence any cell phones or other electronic devices. You will note that the Government Committee is equipped for technological use so you may see members referencing iPads, laptops or iPhones. I can assure you they are just researching the matters before us. If you have a prepared statement, an exhibit, or anything you'd like distributed to the committee, we ask that you provide 12 copies to our page. If you don't have 12 copies, don't worry about it. Just provide the page with what you have and we will make copies for you. And our page for the day is Joe Gruber. Joe is from Omaha and has a new haircut. (Laughter) All right. And to the introduction of members, on the far right is State Senator John Lowe. Senator Lowe represents Kearney. To his left is Senator Tom Briese. Senator

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Briese is from Albion. To his left is Senator Mike Hilgers. Senator Hilgers represents Lincoln. To his left is State Senator Tom Brewer. Senator Brewer is from Gordon and is the Vice Chairman of this committee. On my immediate right is Andrew La Grone. Mr. La Grone is the Government Committee's legal counsel. To my immediate left is Senator Justin Wayne. Senator Wayne is from Omaha and I do anticipate him being here shortly. To his left, State Senator Joni Craighead. Senator Craighead is also from Omaha. To her left, Senator Carol Blood. Senator Blood represents Bellevue, and on the far left is Sherry Shaffer. Sherry is the Government Committee's clerk. And with the formalities having been dispensed with, Senator McDonnell, welcome, I believe for the first time, to your committee on Government, Military and Veterans Affairs.

SENATOR McDONNELL: (Exhibit 1) It is, yes. Thank you, Senator Murante and all the members of the committee. My name is Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l, representing District 5, south Omaha. I'm introducing LB581 which would require all lobbyists to disclose to their clients when there is a direct economic or legislative conflict between interests of the principals. The intent behind my introducing LB581 is to put the decision making back with the principals. It gives them information to allow them to make an informed decision on whether this is in their best interest. This does not restrict the lobbyist in any way, but does allow more transparency and protects the interest of the clients. The process is straightforward with the disclosure statement being presented to the principal and being filed electronically with the Clerk of the Legislature. The principal is able to decide whether or not there is too great a conflict on a specific issue, either economically or legislatively. Should the principal decide this is a conflict, the principal is able to terminate the agreement with the lobbyist which then the lobbyist must file electronically with the Clerk of the Legislature within ten business days after the disclosure statement has been signed. The lobbyist must also electronically file a statement of change with the Clerk of the Legislature within 30 business days. Should the principal decide there was no conflict, then the requirements for filing are not necessary. I do have an amendment to enter as an exhibit. This changes the receiving entity from the Nebraska Accountability and Disclosure Commission to the Clerk of the Legislature and to update from paper filings to electronic filings. This amendment makes simple changes to update the language to stay current with the other required filings for the lobbyist and principals. I would like to state that there are many lobbyists and lobbying firms that already provide some type of conflict of interest disclosure statements to their clients. I have spoken with several of them and want to continue to discuss and work with them to craft the language that creates more transparency without creating an unnecessary burden for the lobbyist. My intention is to provide a bit more protection for the principals and their interests and to create more transparency between the lobbyists and their principals. Also I'd like to thank, and I believe all the members of the committee did receive letters from Radcliffe and Associates and Peetz and Company, for their assistance helping me prepare for today's hearing. Are there any questions I can answer? [LB581]

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SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Craighead. [LB581]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Thank you for introducing this, Senator McDonnell. What prompted this...promoted the introduction of this bill? [LB581]

SENATOR McDONNELL: Had some discussions with some people that had some miscommunications with different...a lobbying firm. They came to me and they said, is there a way to have more transparency. Going back to 1992, Senator Sandy Scofield had also introduced something similar, so we took some of the language from there. But it was just in conversations with different people that thought if we could create more transparency, that would be helpful to the whole process. [LB581]

SENATOR MURANTE: Thank you, Senator Craighead. Senator Blood. [LB581]

SENATOR BLOOD: Thank you, Senator Murante. Senator McDonald, can you...McDonnell, I think I put a D on that, I'm sorry. [LB581]

SENATOR McDONNELL: Close enough. [LB581]

SENATOR BLOOD: Can you...no, it's not. Building on what Senator Craighead had just said, can you give a couple of examples, without using names, of why this is important or things you've seen that have created the foundation that you think this legislation should be crafted on? [LB581]

SENATOR McDONNELL: Well, one example would be that I've tried to, when people discussing this was, for example, let's say I'm lobbying for the cattle industry and I have a...the Vegan group comes to me and they said, we think you do a good job lobbying, we'd like you to lobby for us on our issues. And if at that point I'd tell them, yes, that's fine, but I lobby for the cattle industry, do you have a problem with that? And they say, no, we don't. Then okay, that's as much as we need. There was a conversation where the information was given, but if there's a certain point where I take them on as a client and there's X number of months go by, five, six months later, then all of a sudden the Vegan people came to me and said, why didn't you tell us that you were representing the cattle industry. At that point, that's what we're trying to work off of. We're trying to work on that there should be that conversation between the lobbyist and their clients and also there should be that transparency to let everybody know, here, this is who I represent and this is why. If both parties have no problem with that, that's fine, but also both parties should have that discussion. [LB581]

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SENATOR BLOOD: So you're trying to create a paper trail so that verification can be available to the public and to those interested and you'd license as a lobbyist. [LB581]

SENATOR McDONNELL: Yes. And I believe most lobby firms do this. I mean, you talk about maybe 95-plus percent do this and the ones that I've been working with have said they have those kind of agreements currently with their clients. Again, this is just to try to strengthen it and improve it, bring more transparency to the process. [LB581]

SENATOR BLOOD: Thank you. [LB581]

SENATOR MURANTE: Are there any additional questions? Seeing none, thank you for your opening. [LB581]

SENATOR McDONNELL: Thank you. [LB581]

SENATOR MURANTE: Appreciate it. And we will proceed to proponent testimony. Mr. Geis, welcome back. [LB581]

GAVIN GEIS: Chairman Murante, members of the committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s, and I am representing Common Cause Nebraska. We're testifying in support of this bill. It strikes us that without this measure, there is no guarantee whatsoever to principals that these conversations are happening. So for principal sake alone and the amount of money being spent on lobbying, it seems like a commonsense step forward to make sure that all parties feel like they're represented fairly with lobbyists instead of being played against each other for profit or just because someone forgot to say something. And it's not a small industry. In 2015, \$15 million was spent on lobbying in Nebraska. That's not an insubstantial amount of money that's spent on lobbyists. We lobby, so I'm not against lobbying, but there's a lot of lobbyists out there that a lot of organizations that hire lobbyists to think there aren't conflicts that are happening, especially amongst the largest firms in our state who make upwards of a million dollars, it happens. So certifying, making sure, creating that paper trail with those conversations happened and everybody was okay with it, I can't see whose benefit that isn't for. I don't see who that works against it. Verifies that the lobbyist is taking all the steps to represent the clients and for the principals it shows that there is care, that this a responsible area of government representation. In short, it seems like a commonsense move. Thank you. [LB581]

SENATOR MURANTE: All right. Thank you for your testimony. Are there any questions? Senator Hilgers. [LB581]

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SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Geis. Good to see you again. I have a couple of questions and I appreciate Senator McDonnell bringing this because I'm an attorney and in my business conflict of interest are a big no-no. [LB581]

GAVIN GEIS: Of course. [LB581]

SENATOR HILGERS: But one of the things that we don't have, and your...the reason I ask the question is partly because you question about I don't see who this benefits to not do? [LB581]

GAVIN GEIS: Right. [LB581]

SENATOR HILGERS: But I would flip the question and say, what justification do we have to enter into people's contractual relationships and sort of impose various standards that they have to have? So, can you speak to that and in particular can you speak in light...or compare this regime the additional value, but also compare it against the imposition in contractual rights with the fact that lobbying contracts should be a matter of public record because my understanding is, they ought to be disclosed. [LB581]

GAVIN GEIS: Right. Okay, so first off, you're an attorney...I'm also an attorney, not practicing like you, but I've been there, I've done these things, been to law school unfortunately. And there...I mean we know there are rules that are governing us when it comes to conflicts of interest. If we don't disclose these things, if you didn't disclose it and you went on ahead and represent your clients, you might be in a little bit of trouble. There is no system, there is no structure over lobbyists like there is in the bar. So this is an area of representation in a similar way to attorney representation that they're coming into the Legislature, they're representing the client's interest, but there is no requirement like with attorneys to disclose and protect those conflicts. And I don't think for principals and lobbyists there's any reason we should cast aside as less than the legal system. The legal system is its own thing, but representation in the legislative branch, I think, is just as important and it's just as important to protect. Does that...? [LB581]

SENATOR HILGERS: No, I think that's very helpful. I guess one question I've got to the extent a lobbyist is a lawyer, I don't know the answer to this question. Maybe you do. Does the ethical conflict restrictions that would apply to Senator Wayne and myself apply in that instance to their clients? [LB581]

GAVIN GEIS: I would imagine that would depend upon the relationship that's established if it's an attorney-client relationship. I don't know if that extends across all business associations of an attorney working at... [LB581]

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SENATOR HILGERS: I don't know the answer. [LB581]

GAVIN GEIS: I don't either, I'm sorry. [LB581]

SENATOR HILGERS: The last question I have is just on the damages section. And in Nebraska the policy typically is that attorney fees are very rarely given. Can you speak to your thoughts as to the necessity of having an attorneys fees provision in here? [LB581]

GAVIN GEIS: I don't know if that's the most important part of this bill. I think that, if there's wiggle room, that seems like wiggle room to work to make this happen, attorneys fees seem not super important in my mind. It's more important that this is out there and there's a structure in place, the damage is not as much. [LB581]

SENATOR HILGERS: Thank you very much. [LB581]

GAVIN GEIS: Thank you. [LB581]

SENATOR MURANTE: All right. Thank you, Senator Hilgers. Senator Wayne. [LB581]

SENATOR WAYNE: Can you...what other industries...well, I don't think our attorneys conflicts of interest is in state statute. [LB581]

GAVIN GEIS: Right. [LB581]

SENATOR WAYNE: It's governing body. [LB581]

GAVIN GEIS: Exactly, yeah. [LB581]

SENATOR WAYNE: Where else in statute do we have conflicts of interest that governs other industries? [LB581]

GAVIN GEIS: Well, you all have conflicts of interest, so there is...I mean, there is that. [LB581]

SENATOR WAYNE: That's a public figure, that's different. [LB581]

GAVIN GEIS: Right. And I would argue that... [LB581]

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SENATOR WAYNE: In private relationships. Where else is that conflict in statute? [LB581]

GAVIN GEIS: I would argue that if there was not a bar system that's been established throughout the history of American judicial systems, we would be doing that through statute. Attorneys have just managed to keep that individual in private, but were that system not in place, I would see no reason we couldn't argue that it should be in statute as well. [LB581]

SENATOR WAYNE: Well, it's in courtrooms. So it's the governing body of the court system. It isn't the bar association that governs that. [LB581]

GAVIN GEIS: But beyond that, I'm not sure. [LB581]

SENATOR WAYNE: So, I guess this is going back to Senator Hilgers question is, I guess I would like to know, I guess for future research if that's what you want to say, what other industries out there do we regulate conflicts of interest as our statute? [LB581]

GAVIN GEIS: I can certainly look into that for you. [LB581]

SENATOR WAYNE: Thank you. [LB581]

SENATOR MURANTE: All right. Seeing no additional questions, thank you for your testimony. [LB581]

GAVIN GEIS: Thank you. [LB581]

SENATOR MURANTE: Still on proponent testimony. Is there opposition testimony? Is there neutral testimony? Welcome. [LB581]

DAVE McBRIDE: Good afternoon, Senator Murante and members of the committee. My name is Dave McBride, D-a-v-e M-c-B-r-i-d-e. I'm appearing on behalf of McBride and Associates, my company. Certainly have no quarrel with the bill at all. I've discussed a concern about a technicality with the wording with Senator McDonnell's office that I want the committee to be aware of and then would like to work with Senator McDonnell's office and the committee to see if this could be addressed. Our circumstance is a little bit different than the circumstances that are typically described in this bill. We are an association management company. There are a handful of us in the state. We contract with multiple trade and professional associations to provide their office, their professional staff services in a broad range meaning an event

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management, membership administration, financial administration, communications, and government relations. So one of our responsibilities with four of our current clients is government relations and in that capacity, myself and one other person from our firm, as the executive directors of the various organizations that we represent are registered as lobbyists. The issue for us, for me, simply has to do, I think, with the way I would interpret this bill impacting us in that given the provisions in the bill dealing with termination of a lobbying relationship, it's problematic for us. We don't have a lobbying contract with our clients. We have a contract for a whole range of management services that includes government relations. So we don't separate out a lobbying contract and with our four current clients, we are not the primary or the principal lobbyists either. But under the...and with the way this bill is written, potentially we would be in a position and the organizations we represent would be in a position that if we had a conflict of interest, the entire contract would have to be terminated and the association could lose their entire staff and their office and everything else. And I don't think that's the intent of the bill. The provisions having to do with reimbursing fees is a little bit challenging for us, too, again because there is not a lobbying contract, there is not a set lobbying fee in our case. So it's a bit of an unusual circumstance, I admit. As I said, there are probably...there are only a handful of association management companies like mine that would probably be impacted similarly, but I would like the committee to be aware of that and if there is a way that in cooperation with you and Senator McDonnell's office we could adjust the wording in this to alleviate the concerns I'm addressing here, I would appreciate that. So be glad to clarify that or answer any questions. [LB581]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Senator Hilgers. [LB581]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. McBride for being here. Are you an...I can't remember, are you an attorney? [LB581]

DAVE McBRIDE: No, sir. [LB581]

SENATOR HILGERS: Okay. Well, I'll ask that question anyway, but I don't...but Senator Wayne and I will probably talk about this afterwards. In the law the conflict of interest means something...it's defined pretty...in some detail and it relates to what...you can have a conflict with a current client, you represent someone adverse as a current client and you can also have a conflict as a...with a former client if that former client's representation overlaps with the current representation and you were able to get some confidential information that could be used against client, so it's very particular. So when Senator Wayne and I as attorneys think about what conflicts are, we generally have an idea of what that means. Is there in the lobbying world a sense of, sort of the unified sense of what a conflict of interest might be? [LB581]

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DAVE McBRIDE: I don't know if I can give a good answer to that on behalf of the lobbying world. I guess my own, my own answer is that I think it probably would be pretty clear-cut in our...in my mind and, incidentally, our contracts as I referenced even though they're much broader than just the lobbying contract, do include a conflict of interest provision and termination provisions and so conflict of interest not just in political matters, but in other aspects of association operations are an issue that we're conscious of all the time. And it probably is fairly easy in my mind to distinguish if we get into an area that where what you're doing on behalf of one client could jeopardize or impact a different one, but is there a clear-cut answer, no, probably not. [LB581]

SENATOR HILGERS: Okay. Thank you. [LB581]

SENATOR MURANTE: Thank you, Senator Hilgers. And seeing no additional questions, thank you for your testimony. [LB581]

DAVE McBRIDE: Thank you. [LB581]

SENATOR MURANTE: Mr. Daley, welcome back. [LB581]

FRANK DALEY: Thank you very much, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I'm the executive director of the Nebraska Accountability and Disclosure Commission. I'm here in a neutral capacity. This bill is essentially a pure public policy bill changing the public policy, and the commission traditionally does not take positions on that. There were a couple of points that I wanted to bring to your attention. One has been addressed by Senator McDonnell's amendment and that is it seems like the more logical place for filing would be the Clerk of the Legislature's Office because that's where lobbyists and principals file all of their other reports. If these were filed with the commission, we'd have to set up a separate tracking, and so forth, system and that doesn't seem to be, perhaps, the best practice. The second thing I want to point out, the bill uses the term "conflict of interest" as it applies to the relationship between the principal and the lobbyist. Currently in the Accountability and Disclosure Act the term "conflict of interest" is used in an entirely different way. And so it seems to me that a better way to deal with the concept in Senator McDonnell's bill would be to use a different term, differing interests which are incompatible, or something like that just so that the same term in a single body of law is not used in different ways. If I can, maybe I'll try and address Senator Hilgers' question. That's the situation with lawyers and do the conflicts of interest apply if it's a lawyer and that sort of thing. It's my understanding that a lot of lobbying firms, or a number of lobbying firms, or lobbyists that also happen to be lawyers, will often bend over backwards to ensure that the client understands that they are not being provided with legal services, or some of the lobbying firms

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are very, very clear that they're not holding themselves out as law firms. And I think the purpose of that is to take steps to clearly step out of the conflict of interest provisions that are applicable to lawyers engaged in the practice of law. Also Senator Wayne's question about conflicts of interest as to how else does the Legislature legislate conflicts of interest. Something that may be useful, a useful concept. The court system inherently and under the Constitution get to regulate the people that appear before them as officers of the court. That is, they can determine who is admitted to the bar, they can determine what a conflict of interest is, they can make determinations on disciplines and things of that nature. This is not uniformly accepted but there a line of cases in different parts of the United States that essentially say the Legislature as a co-equal branch gets to make the same determinations as to who appears before it in a representative capacity. I don't think Nebraska has ever taken a position on that, but I throw that out there for whatever it's worth. So thanks for the opportunity to testify today. [LB581]

SENATOR MURANTE: And thank you for your testimony. Are there any questions? Senator Hilgers. [LB581]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Daley, and I appreciate...that was exactly the question I was going to ask you. Where a conflict of interest is used in the Accountability and Disclosure Act, is that in relation to...for our officeholders, is that...? [LB581]

FRANK DALEY: It always relates to a public official or a public employee making an official decision or taking an official action. So this is a little bit different. [LB581]

SENATOR HILGERS: No, and I understand...that's, no, and that's a good point. Do you have a term in mind that might be helpful here that isn't already in use in the Accountability and Disclosure Act? [LB581]

FRANK DALEY: Different interests which are incompatible. [LB581]

SENATOR HILGERS: Okay. I'm going to write that down. Thank you. [LB581]

FRANK DALEY: No one ever writes down what I say. (Laughter) [LB581]

SENATOR MURANTE: All right. Are there any additional questions? Seeing none, thank you for your testimony. [LB581]

FRANK DALEY: Thank you. [LB581]

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SENATOR MURANTE: (Exhibit 2) Additional neutral testimony? Seeing none, I do have a letter in the neutral from Peetz and Company. Senator McDonnell, you're recognized to close. [LB581]

SENATOR McDONNELL: Unless there's questions, I'll waive. [LB581]

SENATOR MURANTE: All right. Senator Wayne has, what I'm sure is a riveting question. [LB581]

SENATOR WAYNE: How was your first experience in the Government Committee? (Laughter) [LB581]

SENATOR McDONNELL: This is by far the best...I don't want to leave. That's why I will take questions all day. Please don't have me go back to Appropriations. (Laughter) [LB581]

SENATOR MURANTE: I can't help but notice that two Appropriations Committee people are here right now, so. All right. I will let Senator Stinner know. (Laughter) Thank you, Senator McDonnell. [LB581]

SENATOR McDONNELL: Thank you. [LB581]

SENATOR MURANTE: And that closes the public hearing on LB581. We'll proceed to the next item on the agenda, which is the joint hearing of LB153 and LB664. Senator Kuehn is going to open on these two bills. If you wish to testify on one or the other but you don't wish to testify on both, please start your testimony by letting us know that and the record will so reflect it. But as I said previously, if you wish to testify on any of the four remaining bills and just wish to speak once and have that message apply to all four bills, we're happy to accommodate that. Just fill out four green sheets, turn them in, and we'll take care of that for you. So, Senator Kuehn, welcome back to your Committee on Government, Military and Veterans Affairs. [LB581]

SENATOR KUEHN: (Exhibit 1) Thank you, Chairman Murante. Members of the Government, Military and Veterans Affairs Committee, I am John Kuehn, J-o-h-n K-u-e-h-n, and I represent District 38 in the south-central part of Nebraska. I'm here today, I will be opening today on the first two of four bills that address the issue of activities and transparency regarding lobbying, lobbying contracts, and the use of taxpayer funding for lobbyists. So just kind of preface where I'm coming from with all four of these bills, I do believe Nebraska's unique Unicameral system creates a method of government that is open and transparent and accessible. And we often refer to the voters of Nebraska as our second house. And maintaining that openness and that clear line

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of transparency and accountability between voters and the policy process is very important. That said, I think we also have to be aware, especially in a term limited environment, of the emergence of a third house and that is the role of special interests and how they influence the public process, especially when we're talking about public funds, taxpayer dollars, and our roles as public officials should we enter into the lobbying profession. So the first of the two bills, LB153 and LB664...I'll start with LB153, commonly referred to as a revolving door bill. The purpose in my intent in LB153 is to restore the distance between those who are trusted to make laws and those who are paid to influence the policymaking process and to ensure the public trust that there are not quid pro quo arrangements between individuals when serving in a capacity, in either an elected capacity or as staff in a policymaking role, and potential future employment or influence trading after the leaving of office or the job. LB153 as introduced would prevent elected stakeholders from taking a job as a paid lobbyist for a period of two years after leaving office. It would also restrict staff from taking a job as a paid lobbyist for one year following their termination of work unless they are a staff person purely in a clerical role. The public offices, so we know we're not just addressing legislators, the offices that would be impacted in LB153 include the Office of the Governor, Lieutenant Governor, Attorney General, State Treasurer, Secretary of State, Auditor of Public Accounts, members of the Legislature, members of the Public Service Commission, member of the State Board of Education, member of the Board of Regents of the University of Nebraska, and policymaking employees in those offices. I do want to be clear and up-front that this is not directed at any particular individual or institution, nor am I making any accusation or allegations of inappropriate behaviors. Rather, it's about the perception and the role of public trust and public confidence in what we do in our role both as public employees as well as elected officials. My own experience has indicated that this is a concern among voters. This type of restriction and time period is commonly referred to as a cooling off period and it's often referred to as stopping the revolving door. Because in some areas we see individuals moving, especially staff members in particular, from a policymaking position where they develop relationships and insider influence and they move out into a paid position and back and forth. That commonly is seen a lot at the federal level. LB153, as far as the time periods and individuals affected, mirrors the federal statutes which were passed in 2007. So if you are a federal elected official or you go to work in a U.S. Senator or U.S. Congressman's office, you're going to have the same one-year restriction and that cooling off period. Interestingly enough, at the federal level there have been federal revolving door statutes or cooling off periods required since 1872. So this has been an issue that's been addressed at the federal level for quite some time. Additionally, I provided for you a handout which gives the requirements of the 34 other states, other than Nebraska, which have enacted some degree of cooling off period. So Nebraska has none. We are clearly in the minority of states that have not imposed some sort of restriction or cooling off period. And I think when we pride ourself on transparency and openness of our Unicameral system, I do believe we are failing the public when it comes to this regard. Interestingly enough, this is the second time I've introduced this bill and this is not the first time this bill has been introduced over a period of years. Curt Bromm entered...introduced

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this bill. In 2008 Senator Avery introduced LB870, which was heard before this very committee nine years ago. A interesting fun fact, if you go back and read the transcripts, four members of that committee who asked questions of Senator Avery during that bill went on to lobby after their time. So it's always interesting to look at history as a guide and help us understand some of those issues. I do believe that we should be open in the policymaking process and avoid the appearance of undue influence. And so that is why I'm bringing LB153. Would you like me to take questions on LB153, or go ahead and open on LB664? [LB153 LB664]

SENATOR MURANTE: Yeah, do LB664. [LB153 LB664]

SENATOR KUEHN: (Exhibits 2 and 3) Okay. So LB664, you noticed, is relatively short in terms of its legal language. What it does is LB664 would prohibit political subdivisions from using revenue from taxes or fees to employ a lobbyist. And this is an interesting one when it comes to transparency and accountability. I'm hoping taxpayers actually understand how their tax dollars are being used. And we'll talk about some other issues associated that with...in another bill. I've got a couple of handouts that I think are interesting just for the committee to consider. One is an issue associated with trying to identify the local political subdivisions just in my legislative district. So District 38, which includes Holdrege, Minden, Superior, Blue Hill, Sutton, seven rural counties, six full rural counties and southwestern Buffalo County. It's hard to identify exactly where those dollars are but as nearly as we can identify there's somewhere around \$300,000 in local political subdivisions who are paying fees, membership dues that are going towards some sort of lobbying activity on the part of those political subdivisions. This has kind of become, to a degree, an institutionalized profit center which creates a government feedback loop where we have governments hiring lobbyists to advocate on the behalf of especially Appropriations from another government. And so we may have taxpayers paying for lobbying efforts which may not necessarily be in their best interest or in their own personal fiscal belief. We have elected representatives. We have city councils, we have boards, we have superintendents who we all communicate with and deal with and who can advocate on behalf of their constituents in a representative manner. You'll note in the fiscal note there's 38 registered lobbyists this year that are registered to represent local government entities, so there's almost one registered lobbyist to represent a local government for every member of the body. When you break out just in my district, there's roughly about, for a family of four, you're looking at probably about a \$28 to \$30 annual surtax on your family just to fund activities associated with lobbying by local governments in my district. And I think it's an interesting exercise to first try to find out the transparency of those dollars and, second, understand what they're doing. Another is a very interesting handout which I want to provide which shows public schools. The issue of public schools utilizing tax dollars for lobbying is an interesting one. If you look at the 17 school districts that have hired private lobbyists, over the past five-year period they've spent over \$2.2 million in lobbying fees. That's \$2.2 million which is not spent towards educating students. So I think understanding the volume of dollars that are present there is important. Different states

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have approached the utilization of public dollars for employing lobbyists in different ways. Ten states have explicit statutory prohibitions against state funds being used for lobbying. A number of other states handle it via executive order and address it. Some others address it in the process of their chamber rules, so rules within their house of representatives, within their senate in the legislative branch. Interestingly enough, Hawaii and New Hampshire both require a full segregation of all state funds from even grantees who might be utilizing the services of a lobbyist or to ensure that no public funds are utilized, so they have some very strict accounting guidelines on organizations that may receive state funds. So with that, I am open and welcome any questions that the committee may have on either bill. [LB664]

SENATOR MURANTE: All right. Senator Blood. [LB664]

SENATOR BLOOD: Thank you, Senator Murante. Thank you for your testimony and presenting these two bills. I actually have a question on each of the bills. [LB153 LB664]

SENATOR KUEHN: Okay. Great. [LB153 LB664]

SENATOR BLOOD: So LB153 you referred to a clerical employee. [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR BLOOD: Would you call a administrative assistant clerical? [LB153 LB664]

SENATOR KUEHN: Correct. Yeah. And one of the challenges, and we...this is an issue which we talked about in language last year, we went with policymaking staff trying to define. Certainly we don't want to restrict state employees such as an administrative assistant who aren't necessarily involved directly with the policymaking process, drafting legislation, developing stakeholder relationships. That would be different from, say, a committee counsel or a legislative aide who are actively involved in developing those relationships and developing policy. [LB153 LB664]

SENATOR BLOOD: But wouldn't you say that in many cases, for instance in our offices,... [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

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SENATOR BLOOD: ...the AA is the one person who probably meets and greets more of the lobbyists than anybody in the office, has a tendency to build personal relationships with them, often calling them by first name I've noticed. Do you not feel that that is as competitive as if an LA had a relationship with a lobbyist or you and I had a relationship? You know what I'm saying? [LB153 LB664]

SENATOR KUEHN: Right. I, Senator Blood, I have no problem with including all employees in the position. The thing to remember is that this includes legislative employees but it also extends into the executive branch. [LB153 LB664]

SENATOR BLOOD: Right. [LB153 LB664]

SENATOR KUEHN: So what we were wanting to make sure was that if you were talking about, for example, an individual who may be working in one of the constitutional offices, let's say an administrative assistant in the Auditor of Public Accounts Office or someone who's involved in tabulation of election returns in the Secretary of State's Office. They would be far more clerical than they would be policy, and so they wouldn't be swept up in this prohibition as opposed to someone who had more of a policymaking or...type of role. So I don't disagree with you at all. It was compromise language to address some of the concerns that were expressed by staff. [LB153 LB664]

SENATOR BLOOD: Do you think it could be beneficial to perhaps maybe build on that and give better clarification in the bill? [LB153 LB664]

SENATOR KUEHN: Yeah, and it becomes a question of how...yeah, absolutely, how extensive you get in the definition in terms of the prohibition. Yeah. [LB153 LB664]

SENATOR BLOOD: And then the question I have, and thank you for that, on LB664 I know you referred to other states. And in my research a lot of the states that I think you might be referring to when you talk about political subdivisions that have those limitations, they refer specifically to state agencies. [LB153 LB664]

SENATOR KUEHN: Correct. Correct. [LB153 LB664]

SENATOR BLOOD: So I want to clarify that not necessarily... [LB153 LB664]

SENATOR KUEHN: Right. [LB153 LB664]

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SENATOR BLOOD: ...municipalities but state, which is certainly, especially in a one-house system, part of our job is to regulate what's going on within state agencies. [LB153 LB664]

SENATOR KUEHN: Right. [LB153 LB664]

SENATOR BLOOD: But...I'm trying to figure out how to phrase this. Don't you think that might be considered a bit of overreach when we're telling nonstate entities...because we hear this all...what's funny and the hardest thing about being in the Legislature for me is that depending on where you sit on the fence, one day it's like, well, that's government overreach, and then the next day it's like, well, that's not government overreach because we make all the rules, which of course I agree with to a certain degree. So isn't this a little bit of a government overreach, trying to tell municipalities and other public entities that although we set policy for as far as state statute so they can create their ordinances and their policies, not to mention taking away an important tool, although I would like to see not so many lobby. And I agree with you, by the way. I think term limits have given more power to lobbyists and special interest groups, and that's concerning. And I think anybody listening to this should consider that, if there's ever an opportunity to tweak that a little bit. But I know that when you look especially at some of your smaller communities that don't have a lot of people on board, they can't afford to stand around for a day and talk to 49 senators. And they would rather pay somebody who's willing to mill around in that little shark tank and wait and talk to us and come to our offices, because it's very time consuming. So I guess the question that I go back to--that was a really long explanation but I think out loud and you know that about me--... [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR BLOOD: ...is that isn't this a little bit of an overreach when we're trying to tell other entities how to run their part of the government, because they certainly get to tell us when they vote? But I'm more worried that it's a little bit too much of a reach. [LB153 LB664]

SENATOR KUEHN: Senator Blood, I can be as long-winded as you are, so for the sake of everyone here I will... [LB153 LB664]

SENATOR BLOOD: I know I was being really long-winded. I apologize for that. [LB153 LB664]

SENATOR KUEHN: ...I will attempt to keep it brief. (Laughter) [LB153 LB664]

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SENATOR BLOOD: I try not to do that. Sometimes I have to think it through, you know?
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SENATOR KUEHN: No, it's great, which is why we have great conversations. So I do...I understand the issue associated with where does the state and where's that boundary between state policy directing what happens in a local municipality. First, this is how those local municipalities interact with us so we're regulating ourselves and the nature of that interaction with us as much as we are local political subdivisions. Again, local public...local political subdivisions are created by the Legislature and the authorities granted to them are...there's one philosophy versus another as to whether they have explicit authority of all things not granted to them or whether they only get that which is granted to them, so the authority to...offered to political subdivisions ultimately, so like an NRD, is created by the Legislature. So it is fully within our right and our responsibility to determine how they function. I think the vast and wide variety of political subdivisions is what complicates the situation. So when you think about a city or a county with an elected board, we tend to think, you know, we got volunteer board members serving on a school board. It makes sense that that school would want to hire a lobbyist. And I think there's a legitimate argument to be made there. But they also have superintendents and they also are the elected officials who know the needs of that district probably better than someone who is paid. It gets a lot more complicated when you start looking at political subdivisions and quasi-governmental agencies that don't necessarily have the same level. So whether that be an economic development or a private partner, public-private board created by a municipality like an entertainment district where things get a little bit more complicated as to where that line between advocating in a transparent and open manner is. So for me, I'm of the belief that taxpayers are already...have elected representatives to represent them and they have, in most cases, staff and individuals, whether that's a city administrator or superintendent, who can represent their interests to members of the Legislature and ensuring that tax dollars are used as intended or, as we'll talk about later on today, used in the most transparent way possible where at least voters and taxpayers have an opportunity to know how those tax dollars are being spent is important. [LB153 LB664]

SENATOR BLOOD: However,... [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR BLOOD: And you're right, that was long-winded. (Laughter) Sorry. Even playing field. So we know better...and again I don't question in many cases this is a waste of taxpayer dollars, but I think there's middle ground. And so it's our job to question their decisions whether they should lobby or not, is what you're saying. [LB153 LB664]

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SENATOR KUEHN: I don't think that the question should be whether or not they lobby. I think whether or not they should use tax dollars to hire a private lobbyist. So the... [LB153 LB664]

SENATOR BLOOD: How else would you pay for that? [LB153 LB664]

SENATOR KUEHN: The activity of lobbying, so, you know, a superintendent, there are school districts who don't engage in a lobbying contract. They organize. They have their superintendents reach out. We've all gotten letters from them in the past couple of weeks. There is an organization of communities in south-central Nebraska in my area who have worked together and their mayors and their city administrators engage in the activity of they created their own ad hoc legislative committee and are communicating and doing that lobbying activity. So it's not a question of whether or not they have the ability to freely communicate and express what's in the best interest of their communities to us. It's how it's paid for and who actually is doing that activity. And elected representatives, whether that's a mayor or a county supervisor, have a direct line of accountability to the voters. That's not necessarily as transparent and obvious when you have a contractual relationship between the political subdivision and a paid advocate. [LB153 LB664]

SENATOR BLOOD: And it's our job to police that, is what you're saying. [LB153 LB664]

SENATOR KUEHN: I do. I think our job is to look at all of the potential influences that influence what we do in the Legislature. [LB153 LB664]

SENATOR BLOOD: Thank you. [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR MURANTE: Senator Hilgers. [LB153 LB664]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Kuehn. Two questions for you, one on each bill. The first is for the states...well, you may not know this, but for the states that have enacted these cooling off periods,... [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR HILGERS: Do you know if the individuals who were impacted by this ultimately just cool off and then go lobby, or do you see a reduction in officeholders lobbying at all? In other

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words, do they take the year or two and they say, okay, I'm going to go back and do something else or...? [LB153 LB664]

SENATOR KUEHN: I haven't seen specific data or numbers. If that information is out there, I have not seen it specifically. I will say that there are movements in a number of states that are looking at extending that time period. If you talk about federal executive order, it's gone up to five years and there's discussion about six years. Florida, for example, has looked at internal rules within their house that would extend that period to five or six years. So in a number of the states which have enacted a cooling off period of one or two years, the current discussion now revolves primarily around extending those periods as opposed to revoking them. So that leads me to believe that there is a concern that people are waiting that two years and still potentially engaging. And you know, there's always build a better mousetrap and you'll have new ways to have a better mouse or a more clever mouse. So I think that looking for loopholes and potential ways to get around the intent of the cooling off period has become an issue in some states with some bodies. [LB153 LB664]

SENATOR HILGERS: Do you think that...so you referenced the perception problem, which I agree with. Do you think it's more the perception that officeholders may be using inside information or their relationships to ultimately profit from or do you think...or and/or I should say, do you think that it's the fact that we just audit, say as a society, this is public service, period? If you do it, you give up the opportunity to enter into this private service and we just want to avoid that perception, or both? [LB153 LB664]

SENATOR KUEHN: Yeah. I think there's certainly a philosophical issue associated with that and I tend to begin at the philosophical, which is it is important that we not treat our time in public service or public employment as a potential for later leveraging those relationships for profit, because it is public service. So certainly I have the philosophical. There is, I think, an issue with the perception and I don't know if you ever encountered it. I certainly did when I was...initially announced my candidacy for office and I was meeting with community groups, and you get that question: Why in the world would you ever want to do this? And I actually had people who assumed, oh, you know, at your point in your career, you're suspending your career to go do this and, you know, on the other side you'll get a fat lobbying contract and you're set for life. And I think that even the perception of that can be problematic for the integrity of the process. And we...whether we believe that that influence happens or not or whether it does in practicality, there are voters who believe that that may potentially happen and I think that that just casts a level of doubt on the entire process. And we can eliminate it simply by putting a cooling off period in and then it removes the doubt. [LB153 LB664]

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SENATOR HILGERS: My last question on the other bill that you had, LB664, are you aware of any data that might show any correlation or causation or connection between entities that can spend on lobbying and then the spending increases of those entities? [LB153 LB664]

SENATOR KUEHN: I have not. There's some interesting stuff out there on the federal level. There have been a couple of business schools which have taken a look at...in fact, there's one very interesting. I believe it's a Harvard Business Review article which actually claims that significant growth in certain sectors of the federal economy have been directly correlated to lobbying influence at the federal level. So while I'm unaware of any research at the state level, there continues to be a growing body of academic research that's looking at the influence of these kinds of relationships on economic development. I think it would be an interesting graduate program or Ph.D. dissertation (inaudible). [LB153 LB664]

SENATOR HILGERS: Do you have a copy? Do you have (inaudible)? [LB153 LB664]

SENATOR KUEHN: Yeah, I'll pull up that Harvard Business Review article for you and have you take a look at it. [LB153 LB664]

SENATOR HILGERS: It's interesting. [LB153 LB664]

SENATOR KUEHN: It's an interesting concept all the way around. [LB153 LB664]

SENATOR HILGERS: Okay. Thank you. [LB153 LB664]

SENATOR MURANTE: Thank you, Senator Hilgers. Senator Briese. [LB153 LB664]

SENATOR BRIESE: Thank you, Chairman Murante. And thank you for being here, Senator Kuehn. Relative to LB153, you have it designed for a one- or a two-year period, depending on who we're talking about here. [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR BRIESE: According to your handout here, virtually every other state has a uniform time period. [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

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SENATOR BRIESE: Can you explain your thinking on why we have two different lengths of time? [LB153 LB664]

SENATOR KUEHN: Yeah. My thinking was it directly mirrors the federal policy that was adopted in 2007. So at the federal level, staff have that one-year issue. I think part of the staff issue--and I know that's probably the piece of this bill I hear more about than I do the actual senator part--I think that one thing we have to look at in Nebraska is the very important and pivotal role that our staff play in the policymaking process and I think that happens in two ways. One, because we're nonpartisan, because we are fairly blessed with having lots of staff compared to our colleagues in other bodies in other states, and because each of us gets a public hearing for every bill that we introduce and our staff are involved in that process, I think our staff have an extra layer of expertise than maybe staff that are part of a caucus pool hanging out in the Kansas House of Representatives. So I do think that we are in a unique situation in the fact that we have a lot of talent and we also expect a lot in terms of productivity from our staff here, particularly on the legislative side of things. So I think that that's an important consideration to keep in mind. And while it's certainly not a concept that I'm absolutely married to, and I think the public doesn't necessarily think about staff, I simply drafted it because it is a reflection of the federal policy. [LB153 LB664]

SENATOR BRIESE: Okay. Very good. In looking at the chart, it's fair to say that roughly 11 other states would impact, for example, our LA positions or... [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR BRIESE: ...similarly situated folks. [LB153 LB664]

SENATOR KUEHN: Yeah. Yep. And some, there are also some that aren't necessarily statutory. Some chambers and some caucuses enforce cooling off periods or nondisclosure of clauses and things for employment by the caucus or by the chamber. So the individual, just as our employees have an employee handbook under which they work, different legislatures, and particularly legislative staff across the country, has different employment arrangements and different requirements that may not necessarily be statutory. So that table is from the National Council of State Legislatures, NCSL, and they're looking at statutory requirements, not necessarily rules within a chamber. [LB153 LB664]

SENATOR BRIESE: Okay. And relative to LB664, do you know how many other states would impose similar restrictions on spending by political subdivisions? [LB153 LB664]

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SENATOR KUEHN: Actually, to my research, there are no other states that currently ban it outright. There are a number of states that are looking at it. There have been a number of states that have had some rather high-profile issues associated with political subdivision lobbying and they continue to look at it. But despite being introduced in many places across the country, it faces an uphill battle. There's a lot of political subdivisions lobbying against it. [LB153 LB664]

SENATOR BRIESE: Sure. Okay. Thank you. [LB153 LB664]

SENATOR KUEHN: Is it irony? [LB153 LB664]

SENATOR MURANTE: Senator Briese. Senator Wayne. [LB153 LB664]

SENATOR WAYNE: Thank you. I was originally in support of not using public funds to...for lobbying, but then I realized the Capitol public access, I can't even access OPS's Web site. It's blocked. (Laughter) So I'm really confused by that. But now I think they have to have somebody come down here and talk to me about it. [LB153 LB664]

SENATOR KUEHN: It's your March Madness issue there. [LB153 LB664]

SENATOR WAYNE: What does OPS have to do...? Anyway, March Madness. So the reason I was asking this, like right now there's about 30 bills that OPS is monitoring, Omaha Public Schools. [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR WAYNE: Although you don't want it to be used for a lobbyist, somebody is going to have to still monitor those bills. [LB153 LB664]

SENATOR KUEHN: Correct. [LB153 LB664]

SENATOR WAYNE: Those public funds will still be used in some capacity to monitor those bills, correct? [LB153 LB664]

SENATOR KUEHN: Correct. [LB153 LB664]

SENATOR WAYNE: We just don't want the word "lobbyist" attached to it? [LB153 LB664]

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SENATOR KUEHN: No, I think the question is the accountability of how those are being used. So an employee, let's say it's a superintendent or a government relations director for an organization, is ultimately accountable to the board of that public body. So there's an accountability piece. And certainly the value of political subdivisions to be able to monitor and understand legislation is valuable and important. The question becomes one of leveling the playing field and it becomes a question of ensuring that all parts of political subdivisions have the opportunity for representation. So you used Omaha Public Schools for example and I'm just using it because you brought it up, not for any other particular purpose, but OPS probably has the same 30 bills that it's monitoring that maybe Minden Public Schools in my district, from where I graduated, may have an interest in. Minden Public Schools doesn't have the ability or the finances to afford a contract lobbyist who's here, you know, in the Rotunda every day developing those relationships, actively lobbying, doing what needs to be done; OPS does. Who's at a disadvantage and what is in the best public interest? So I think there's a fundamental issue of leveling the playing field. That certainly was some of the discussion early on in not using what now we know is an inability of school districts to not use state equalization aid dollars for the act of lobbying in 2009. What schools did is they just switched the source and the funds, so now they take it out of property tax funds as opposed to equalization aid if they wish to employ a lobbyist. So I think that we've seen some innovative use of very effective lobbying strategies and I don't think there is any...lobbying itself is not a bad activity. It's communicating and expressing information to elected representatives. I think we've seen a number of great school organizations. I think we've seen a number of local municipality organizations who have come together and they're very effective at working with senators to represent the issues of their constituents. Becomes a question of equity among the different political subdivisions and transparency. [LB153 LB664]

SENATOR WAYNE: So let's walk down that line. Minden could, in this case, Minden could hire a lobbyist and they could probably move their mill levy up, whereas that's their local choice not to move their mill levy up to hire a lobbyist. [LB153 LB664]

SENATOR KUEHN: So herein you get to what I think is the interesting treadmill, is let's say I, as a property taxpayer in Minden Public Schools' District, don't believe there is a need to move up the mill levy or that I advocate a particular policy decision, whether that is, you know, I as a voter don't think that we should have a specific change in an equalization formula or a contribution based on local effort. If my tax dollars are being used to hire a lobbyist to make that change, I'm being asked to pay for or subsidize through my tax dollars advocacy for a position I don't hold. So I think that the use of taxpayer dollars for that kind of advocacy without a direct line of communication creates a significant potential, what term was used earlier, conflict or conflict of interest in which taxpayers are compelled to pay for potentially lobbying for interests or beliefs that they don't hold. [LB153 LB664]

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SENATOR WAYNE: But that would be handled at the local level, in your scenario, at the school board. So just a couple more questions. And maybe because I'm not a lobbyist, what is the definition of lobbyist? And the reason I ask that is because if I hire...let's take Omaha Public Schools. [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR WAYNE: We turn...we use that internally. And so now if somebody is down here testifying 20 times, we're still using the funds. The funds itself are still going to be used to deal with what goes on down here. We just won't be hiring an outside person. But at what point does that person have to register themselves as a lobbyist? [LB153 LB664]

SENATOR KUEHN: That's an issue for NADC and I know there's a specific legal definition of lobbyist. There's also, for example, executive directors of certain organizations are not required to register and, you know, certainly I think that's another substantive discussion that's worth having. It wouldn't be included in this particular piece of legislation, but if you wish to define or address the definition of who is a lobbyist and who is and who isn't required to register as a lobbyist, I think that's a great question for Mr. Daley. And I think that, too, is a substantive policy discussion, whether or not registration of a lobbyist confers the idea of a contract paid for lobbying services. [LB153 LB664]

SENATOR WAYNE: So along your scenario of not using...hiring a lobbyist, we have--and I'm sticking with school boards because that's what I know--volunteer school board, particularly OPS, oversees a \$800 million budget, who put in 20-30 hours a week, if you're president sometimes 40 to 50 hours a week, while you're still working your regular job. And you expect them to come down here and communicate with senators about positions in OPS or you expect staff to. And I'm pretty sure...I guess on the flip side of this argument, I'm in favor of this concept, so I want to put that on record, but the flip side of that is if we had an Omaha Public School employee down here every day talking to the legislators, I'm pretty sure that will come back and bite them just as much as having a lobbyist down here. [LB153 LB664]

SENATOR KUEHN: Here's the fundamental question I'm going to counter back on purely philosophical grounds. Have we gotten to such a point in our Unicameral open access system where elected representatives, whether that be a school board member in a political subdivision or a city council person, doesn't have the same ability to influence the process as someone who is in the Rotunda 24 hours a day? I would argue on a philosophical point that if you have to have someone standing behind the glass for the entire 90 days of the session to have your voice heard, that's a problem with us. And I think that's one that we, as senators, need to have a really serious look about...at ourselves and how we're making the policy process and we're not as open as we

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think we are. Certainly when I have a call or a contact from a school board member or a city council member or a county supervisor in my district, I take the call. I listen to them. They're representing their constituents and their needs. And I think the assumption that you have to have someone here 24 hours a day, 7 days a week during session to have your voices heard, that's not a problem with the lobby. That's not a problem with the system. That's a problem with us. And I think if we're there we need to have a real serious look at ourselves. [LB153 LB664]

SENATOR WAYNE: So what's...this will be my last question. So what...let's take a real scenario that happened this year. [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR WAYNE: We were on the floor talking mandatory minimums. A bill...an amendment came on the floor that completely changed the dynamics. If that were an Education bill, how do you expect your local school board to know what's going on that day when they're working their regular job if they didn't have somebody down here listening? [LB153 LB664]

SENATOR KUEHN: Same thing that I expect in terms of that bill, which is I expect all of the senators who vote on that bill to make sure that they are fully informed before they cast their ballot and press their button. So if you don't have the information to be able to fully understand: one, you have the opportunity to not vote; you have the opportunity to ask the body to not consider it; second, that's exactly and precisely why we have three rounds of voting in this body. We have the ability to work with it on General File. We have the ability on Select File. It's also why we have a required 24-hour period between Select File and layover before it goes to Final Reading and why we cannot amend bills on Final Reading without returning them to Select File and having that 24-hour layover period. Your...the situation in which you describe is very real and it's appropriate, but we have safeguards in place to ensure that that is there. And that also falls on the responsibility of the senator to know what we're voting on, whether it's an amendment introduced on the fly or a complex bill which comes to the floor which maybe we haven't read all 90 pages of it but we're taking the word from somebody is that's a good thing. That again lies in the responsibility of the senator, not on the lobbyist or not on the particular represented interest. [LB153 LB664]

SENATOR WAYNE: Thank you. [LB153 LB664]

SENATOR MURANTE: Thank you, Senator Wayne. Senator Blood. [LB153 LB664]

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SENATOR BLOOD: Thank you, Chairman Murante. Thank you to the attorneys for making sure we had all the definitions as well. Two quick questions: Since we're talking about our philosophies and giving opinions, what I thought was really interesting in my research is that the vast majority of the states that participated in this type of legislation stopped at the state agency level. [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR BLOOD: Why do you think it needs to go further than the state agency level? [LB153 LB664]

SENATOR KUEHN: I, one, I just...I didn't want to include state agencies and political subdivisions both in this. And I decided to pick four bills that you guys had to hear on this issue instead of the eight. Actually, there's a dozen that I had and one I moved into Rules Committee. So I got a lots, Senator Blood. If you're going to be here next year, just sit down and we'll have a great discussion on more of these. So it's not that I'm picking one over the other. One of the things that I found in my time here is, in many cases, is also kind of a pyramid effect that happens with local political subdivisions. And I see it specifically, for example, I'm going to use as a very specific example, with water interests. So in my area of the state, water is a really big deal. [LB153 LB664]

SENATOR BLOOD: Uh-huh. [LB153 LB664]

SENATOR KUEHN: I have surface water users, I have groundwater users, and NRDs, and they coalesce into a wide variety of organizations, each hiring their own representative lobbyist to lobby the effort. So one of the challenges I think is interesting is you have a water bill in front of consideration on the floor and it feels like you have 349 of the 350 registered lobbyists coming at you all on that issue. And it can often be difficult to discern and I've put together some constructs that show how some of these organizations and some of these municipalities and political subdivisions associate, coalesce, and they're joining groups and they're paying membership dues with taxpayer money and then those groups are reorganizing into different coalitions. And you get a pyramid effect of coalitions, all of which are using some degree of taxpayer dollars to lobby. And at the end of the day, you're not quite sure who's paying for what and it's difficult for taxpayers to know exactly where their dollars went or what they were advocating for. So I decided to put out the political subdivision one first simply because it would require a statutory change first, and second because it was the one that seemed to me, in my experience, to present the greatest complication. So it was the bigger marble to address first. [LB153 LB664]

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SENATOR BLOOD: So you would be happy if it were just state agencies to start with because you'd be going down that path? [LB153 LB664]

SENATOR KUEHN: Absolutely. In fact, I think there's...as far as I would--I'm hard-pressed and I was thinking about this earlier today--I'm hard-pressed to know of any code agencies that hire lobbyists. We certainly have some noncode agencies, so the University of Nebraska is officially a state agency, Tourism Commission, Game and Parks that are noncode which do that. And I don't necessarily think that that is outside of this issue so...at all. [LB153 LB664]

SENATOR BLOOD: And then the second question I have, and again just kind of thinking out loud, you know, the Governor talks about generating jobs and making sure that people have a place to go to work. How many people are we going to put out of work if you stop the lobbying? And I know it's taxpayer dollars and I got an issue with that. But you're going to put a lot of people out of work. And other issue I have is what happened before lobbying when especially smaller communities or other entities couldn't come to the Capitol? Wasn't it always the people who had the most money who had the loudest voice? Isn't that one of the reasons lobbying came in is to kind of even that playing field? [LB153 LB664]

SENATOR KUEHN: First, I just want to be clear, I have no problem and I don't want there to be a disparaging idea or pejorative connotation associated with lobbying or lobbyists. They perform a function. It's all about the free market. You want to pay for your freedom of expression, you want to pay to have your role communicated, you should have the right to do so with private dollars. I think that the question becomes when we're using public dollars, and that is really the distinction for me. I think private entities, private companies, you should be able to use your private dollars and engage in private speech all that you want to. When we start talking about public dollars, that is where I start to have concerns about making sure that there's full accountability and those...you don't have the...you have the option to purchase a good or service whether or not you believe the ethics of that company. You don't have the option to say, I don't like what--I'm picking on my home community so I'm sorry, Mayor Griess--I don't have the option to say whether or not I want to pay sales taxes when I go buy groceries or when I go to buy...I call them supplies--I'm a farm kid--but when I go to buy my things at the grocery store in Minden, I don't have the option as to whether or not I can opt out of my property taxes or a portion of my property taxes if I don't like what Minden public schools is doing with regard to their public policy position. It's a distinct difference than an elective choice that you make with your private dollars. [LB153 LB664]

SENATOR BLOOD: And on the second part of that question, my concern, and again maybe there's not an answer today, is what happened before lobbying? And did it initially--probably not now because it's kind of on steroids now--create an even playing field where whether you be a

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small community or a big community, a poor person, a rich person, that everybody had the same voice when a lobbyist stepped in? And that's the thing that I'm most concerned about. And again, I don't disagree that taxpayer dollars shouldn't be spent wisely, but lots of times with these bills there's got to be some kind of middle ground and what is that middle ground? And my biggest concern is, do you revert back to, hey, we got the most money so we got the strongest voice? And that's the part that I worry about. [LB153 LB664]

SENATOR KUEHN: And I think that was the full intent behind our Unicameral system and our system of open committee hearings... [LB153 LB664]

SENATOR BLOOD: Absolutely. [LB153 LB664]

SENATOR KUEHN: ...and our system was to try to level that playing field. Time, distance changes that and so I don't philosophically disagree with you at all. [LB153 LB664]

SENATOR BLOOD: Thank you. [LB153 LB664]

SENATOR KUEHN: And as far as what happened before lobbying, I think, Mr. Radcliffe was in the room. Do you want to talk about the way, way back (laughter) or how that...so maybe he can. [LB153 LB664]

SENATOR MURANTE: He can talk about his conversations with George Norris on the subject. (Laughter) [LB153 LB664]

SENATOR KUEHN: Yes, maybe he can fill us in on what it was like to play 18 holes with George Norris and give us...(laughter) so in good spirit and all in good intentions. No, I...and again, I want to reiterate that I respect the value that those individuals who are representing interests bring to the table in terms of information and ability for us as senators to have access to membership of organizations. It's a question of ensuring that we have accountability and transparency of that influence. [LB153 LB664]

SENATOR MURANTE: All right. Any final questions? Seeing none, thank you for your opening. [LB153 LB664]

SENATOR KUEHN: Thank you. [LB153 LB664]

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SENATOR MURANTE: Appreciate it. And we will proceed to proponent testimony. Welcome back. [LB153 LB664]

JACK GOULD: (Exhibit 4) Senator Murante, members of the committee, my name is Jack Gould, that's J-a-c-k G-o-u-l-d. I'm here representing Common Cause Nebraska. I first want to make a point that I am not a lawyer so I think there's some protection in that. (Laughter) I want to make sure. We have a long history involved with the revolving door and I think there's some things that need to be just stated from the outset. First of all, you're elected by your constituents, who expect you to serve the interests of the public. The knowledge that you gain and the insights that you have are valuable entities and they are, again, a part of a public trust that has been given to you. To leave this body and to sell that knowledge and insight and friendships is a violation of the public trust. You are not...I don't know of anyone who has ever run for office announcing to the fact that after eight years I will become a lobbyist. Somehow I don't think you'd get elected. But that happens too frequently and it's something that I think everyone should be concerned about. One other point that needs to be made is the fact that you, once you're a private citizen again, would not be stopped to come back here and testify on legislation. You could discuss anything that is of great concern to you. The real point is you couldn't accept money for it. In other words, you wouldn't be a paid lobbyist but you could still lobby as a private citizen. I passed out a handout and I, rather than go into a lot of details, I have put this article in the Omaha World-Herald as an Op-Ed and it did run I think two weeks ago, three weeks ago. It's...it has two parts to it. One is an argument about the revolving door. The other is a chart which shows...and may need some explanation, but it does show the numbers of senators that have become lobbyists and then it also separates that from the fact the number of senators that have become revolving doors, in other words, ones who became lobbyists immediately after leaving office. And as I said, I can explain some of that if you choose to ask questions about it. The other part of that Op-Ed is really about what I think was probably the most grievous example of revolving door experiences here at the Legislature. And I would like to just talk about that. Hopefully, the red light doesn't come on. Back in 2005 Senator Brashear was the Speaker of the Legislature. He was a lawyer under contract to Cox Cable. He had filed a conflict of interest statement, but he also brought the broadband prohibition bill which was of some help to Cox Cable. When the bill was brought forward, Senator Bromm, who was the former Speaker who had just stepped down, was immediately hired by Nebraska Telecommunications and Nebraska Cable. He earned in his first year \$116,000 as a lobbyist. He was getting \$12,000, you might remember, as a senator. As he brought that, lobbied on that bill, it eventually passed and it was a bill that really hurt a lot of rural people. Broadband could have brought high-speed service to a lot of people at a much lower price, but in reality the bill protected cable companies and telephone companies who have benefited greatly from not having to compete with broadband. I think the prohibition is still in place and it still hurts rural people. I think at this point, are there any questions regarding the chart? I see my time is running out here and I'd be glad to answer if it's not clear as to what all is meant there. [LB153 LB664]

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SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? I do not see any. So do you want your support registered for both bills or just LB153? [LB153 LB664]

JACK GOULD: Okay. Can I say something about the other bill? [LB153 LB664]

SENATOR MURANTE: Yes. Go ahead. [LB153 LB664]

JACK GOULD: I'm good. I'll just answer a couple of questions about the taxing. Several years ago, I believe 2011, we worked with Senator Avery bringing a bill calling for the prohibition of using tax dollars for school lobbying. It was very restrictive. The bill never got out of committee. But Senator Avery worked with Senator Adams and in the funding formula they adopted the fact that you could not use state funding for hiring lobbyists. What happened was everybody just juggled the books. I mean (laugh) property tax dollars became the way to hire lobbyists. There were 17 school districts I think in 2011; there are still 17 school districts that hire lobbyists. And I think to Senator Wayne's point and also to Senator Blood's point, there's a fairness question here. I mean you have 17 school districts that have the funds to hire a professional lobbying entity and you've got 240-some school districts, that would be Bs, Cs, and Ds, who can't afford to hire a lobbyist. They have trouble hiring teachers. And so when you think of the fact that you have major lobbying firms--and the top three lobbying firms all represent school districts, okay--they're down here every day, as you pointed out, and they're looking out for the interests of Omaha Public Schools, who spends the most on lobbying but they also have the most children. But what about those other 240 districts? If they don't have the dollars...and the formula gets changed so darn often the superintendents have no idea what they're getting, the public has no idea. I mean Raymond Central School District got \$148,000, Class C-I district, last year, \$148,000. As a farm owner, I paid \$80,000 for my farm. So the question is, you know, where is the fairness? My school district can't hire a lobbyist and I wouldn't want them to because my property taxes would probably go up. But in the end, money going to education should be fairly distributed based on need, not necessarily on the wealth of the property or on the wealth of the school district who can lobby down here to get more dollars. There are a lot of little kids out there who get hurt and I think there should be a much fairer way of dealing in that than hiring private lobbying firms. Thank you. [LB153 LB664]

SENATOR BREWER: All right. Thank you. Additional questions? Yes,... [LB153 LB664]

JACK GOULD: Yes, sir. [LB153 LB664]

SENATOR BREWER: ...Senator Wayne. [LB153 LB664]

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SENATOR WAYNE: So in the scenario, sorry. [LB153 LB664]

SENATOR BREWER: No, you're up. [LB153 LB664]

SENATOR WAYNE: So in the scenario that you just said, Omaha Public Schools would have to contact 18 senators. Oh, I'm sorry, yeah, roughly about 15 senators, 14 senators that touch around OPS. I mean that's completely different than some of the other smaller school districts who have to contact one senator. [LB153 LB664]

JACK GOULD: I would consider that an advantage because you have that many senators voting for the distribution of funds. The school district that may have one or maybe half of one is at a disadvantage. Even if they convince that one senator, you know, it's not going to make a big difference if you've got, what did you say, 14? [LB153 LB664]

SENATOR WAYNE: I think around there, around that area. [LB153 LB664]

JACK GOULD: If you have 14 senators that you can go to, to try to get the money amount changed, you have a better chance once you convince them than if you have one senator from Cherry County trying to get something for his little school districts. [LB153 LB664]

SENATOR WAYNE: But you would agree that that school board member in OPS, who's a volunteer just like in Cherry County, it's a lot easier for that school board member to contact one senator versus the 14 different ones. [LB153 LB664]

JACK GOULD: Well, I think that's probably true. But if the whole school board gets together, they can contact all of them and put a lot of pressure on the body. [LB153 LB664]

SENATOR WAYNE: But school board sizes really aren't the difference there, because even in some of your school boards you got six people who are on a school board and OPS only has nine. So that's not...I mean the school board size isn't going to change the number of people and the multiple conversations you have to have. And you're asking a voluntary board to do that. And when you speak of the smaller school districts not hiring a lobbyist,... [LB153 LB664]

JACK GOULD: Right. [LB153 LB664]

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SENATOR WAYNE: ...their costs per pupil are typically \$11,000 to \$12,000, whereas OPS is only \$9,000 and they still have room on their mill levy to go ahead and raise it, if they choose to, to hire a lobbyist. So it's a local decision not to do so. [LB153 LB664]

JACK GOULD: Well, in most cases I think you'd have a very hard time going to a school board in rural Nebraska asking for dollars to hire a lobbyist unless they were convinced that they could change the formula, because, ultimately, it might mean firing a teacher to hire a lobbyist. [LB153 LB664]

SENATOR WAYNE: Or it means raising property taxes or not hiring...and still hiring that same teacher. [LB153 LB664]

JACK GOULD: Correct. And you know, raising the property taxes is a very sensitive issue in a lot of rural areas. [LB153 LB664]

SENATOR WAYNE: But shouldn't that be to the local, the local people who directly elect those people... [LB153 LB664]

JACK GOULD: I think...I think... [LB153 LB664]

SENATOR WAYNE: ...to determine how to use their money and if they feel it's in the best interest to hire a lobbyist... [LB153 LB664]

JACK GOULD: Yeah. [LB153 LB664]

SENATOR WAYNE: ...to come down to advocate for more kids? [LB153 LB664]

JACK GOULD: No, I agree. I would say...just say this, though. I think the state of Nebraska over the years has been very careful to make it a local problem. I mean they don't want to put state dollars into schools, correct? And so what do we do? We hire lobbyists to protect our interests as a big school district and you let the little guys fight among themselves. And if you get the farmers fighting with the school district, what a great accomplishment because those poor guys, I mean they can't solve their own problem. It's either cheat your kids or it's going to be, you know, put extra money into something which they may not afford...be able to afford. [LB153 LB664]

SENATOR WAYNE: I support the concept. I'm just playing...I'm playing Senator Hilgers' role today. (Laughter) [LB153 LB664]

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JACK GOULD: Remember, I'm not a lawyer. I'm not a lawyer. (Laughter) [LB153 LB664]

SENATOR HILGERS: I'm afraid to ask. I'm afraid to ask which role that is. [LB153 LB664]

SENATOR LOWE: (Inaudible). [LB153 LB664]

SENATOR HILGERS: Yeah. (Laugh) [LB153 LB664]

JACK GOULD: I'm kind of disappointed that Senator Hilgers hasn't asked me a question. (Laughter) [LB153 LB664]

SENATOR HILGERS: I was considering it but you did such a good job. [LB153 LB664]

JACK GOULD: Oh, well, please do. [LB153 LB664]

SENATOR HILGERS: (Inaudible) protocol. [LB153 LB664]

SENATOR BREWER: Okay. Additional questions? I'd like to compliment you on this chart. This is kind of revealing. I had not seen anything like this before. I kind of... [LB153 LB664]

JACK GOULD: It took a long time to put it together, Senator. [LB153 LB664]

SENATOR BREWER: All right. Well, it's definitely a one-shot nice explanation of how everything is set up as far as how it's increased over the years, so nice work. [LB153 LB664]

JACK GOULD: Thank you. [LB153 LB664]

SENATOR BREWER: Okay. No other questions. Thank you for your testimony. [LB153 LB664]

JACK GOULD: Okay. Thank you. [LB153 LB664]

SENATOR BREWER: Additional proponents. Come on up. Welcome. [LB153 LB664]

MATT LITT: Thank you. Let's see. Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, my name is Matt Litt, M-a-t-t L-i-t-t. I'm the Nebraska director

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of Americans for Prosperity and I am here in support of both bills, LB153 and LB664. On behalf of our organization actives across the state, we urge your support for both bills, which the first would create a cooling off period before certain elected officials and public employees could become paid lobbyists, and LB664, which would stop the practice of political subdivisions from using our tax dollars and fees to employ lobbyists. Our organization is a strong proponent of good government reforms and LB153 creates a cooling off period, as it's commonly referred to, and is a good step towards good government. Across levels of government, the revolving door continues to spin. And I think Mr. Gould did a very good job of presenting that so I won't go into all that detail. But the revolving door is a way to bend the system to an influential entities' will. It's also a system that feeds cynicism and distrust of government. To restore trust and confidence in our civic institutions, it is reasonable to create common-sense barriers to, quote unquote, cashing in on public service. The two-year cooling off period for various elected officials and the one-year waiting period for individuals working in the same offices would slow the revolving door and help restore the public's confidence. As I mentioned, we also support LB664. This is a simple, straightforward change that ends the taxpayer funding of lobbying. The citizens of Nebraska expect their local governments to fill potholes and protect the public and not to employ lobbyists. When I first started testifying on a regular basis four years ago, I was stunned by the number of times I testified on a bill to lower taxes or remove unnecessary barriers to opportunity to be met by our tax dollars on the other side of the issue. I was relaying these experiences to a colleague and they summed it up quite well by saying, our tax dollars are used against us. As you're aware, Nebraskans are taxed too much. Recent reports reveal that Nebraskans pay the 14th highest income tax per capita in the country, 5th highest property tax rates, and an above-average sales tax rate. The frustration with Nebraska's high-tax climate is exacerbated when citizens find out that many local units of government have contracted with lobbyists creating a system where overtaxed Nebraskans are publicly funding lobbyists who come before the Legislature advocating at times for increased spending or higher taxes. The current system of taxpayer-funded lobbying is a slap in the face at times to hardworking Nebraskans who, year after year, have made it clear to the body that the system must change. Citizens expect the local government to fill potholes and protect the public but not pay lobbyists. It's our understanding this bill does not prohibit members of school boards, mayors, or whomever in an elected role from speaking with their state senators and doesn't stop them from joining formal or informal associations to make their issues heard. Various public entities can and should have their interests represented before the Legislature. However, we believe those interests can be represented by elected officials themselves or by staff. Nebraskans should not be forced to pay for government lobbyists with their tax dollars. We support both these bills and I will attempt to answer any questions I can. And I am also not a lawyer, so. [LB153 LB664]

SENATOR BREWER: All right. Thank you for your testimony. Yes, Senator Blood. [LB153 LB664]

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SENATOR BLOOD: Thank you, Vice Chair Brewer. Sir, and I'm sorry, sometimes I have to kind of talk my questions out. So I certainly don't want to be rude and assume this... [LB153 LB664]

MATT LITT: No, no, I'm the same way. [LB153 LB664]

SENATOR BLOOD: So you're with Americans for Prosperity. [LB153 LB664]

MATT LITT: Uh-huh. [LB153 LB664]

SENATOR BLOOD: So in, I want to say, 2014 I know that you took in at least \$90 million in income for the organization, for the national organization, and you've created PACs that...no PACs? You don't have any PACs? So those ads that were done during certain campaigns across the United States that were paid for by Americans for Prosperity were not done by you? [LB153 LB664]

MATT LITT: No, those would be issue advocacy advertisements through a 501(c)(4). [LB153 LB664]

SENATOR BLOOD: Which is part of Americans for Prosperity. [LB153 LB664]

MATT LITT: Correct, but it is not a PAC or a super PAC or... [LB153 LB664]

SENATOR BLOOD: Okay. So... [LB153 LB664]

MATT LITT: ...(inaudible) would electioneer, which we do not do. [LB153 LB664]

SENATOR BLOOD: So ultimately, when you pick causes such as taxpayer issues, which of course is a very worthy cause, are you not lobbying for those causes? [LB153 LB664]

MATT LITT: We are lobbying and we are a private entity. And the two bills are about public entities. [LB153 LB664]

SENATOR BLOOD: So the question that I have and I guess this is kind of the answer to the question I asked Senator earlier is that if we eliminate this lobbying, then is this opening the door to well-paid organizations that have a stronger voice because they have the money? And so that's my concern is that you're a national organization... [LB153 LB664]

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MATT LITT: Uh-huh. [LB153 LB664]

SENATOR BLOOD: ...who receives...who was your biggest donor. Do you know who Americans... [LB153 LB664]

MATT LITT: Our donors are able to be private so if...you'd have to ask individuals. [LB153 LB664]

SENATOR BLOOD: Who are the brothers that helped initiate this original organization? Do you know? [LB153 LB664]

MATT LITT: Charles and David Koch. [LB153 LB664]

SENATOR BLOOD: Okay. So there's a lot of money behind your organization regardless of whether they're secret donors or not. [LB153 LB664]

MATT LITT: They are private citizens who see the value in advocating for free speech and free markets, and they choose to join us in those efforts privately. [LB153 LB664]

SENATOR BLOOD: Which, again, protecting taxpayers is a very worthy cause. I just am concerned that you're the example of what I fear, so...not you personally, (laughter) not you personally. [LB153 LB664]

MATT LITT: I understand. [LB153 LB664]

SENATOR BLOOD: But you hear what I'm saying. [LB153 LB664]

MATT LITT: Yeah, I do. [LB153 LB664]

SENATOR BLOOD: All right. Thank you for those answers. [LB153 LB664]

MATT LITT: Sure. [LB153 LB664]

SENATOR BLOOD: I appreciate them. [LB153 LB664]

MATT LITT: Sure. [LB153 LB664]

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SENATOR BLOOD: I'm sorry to put you on the spot. [LB153 LB664]

MATT LITT: No, it's...they're...I think they're valid questions from your point of view. [LB153 LB664]

SENATOR BLOOD: Thank you. [LB153 LB664]

SENATOR BREWER: All right. Additional questions? Additional questions? Seeing none...oh, sorry. You're in the dead spot. [LB153 LB664]

SENATOR HILGERS: Thank you, Colonel Vice Chairman. Thank you for your testimony, Mr. Litt. Just piggybacking off of Senator Blood's question, which I think was implied in the question, which is that perhaps public entities are acting as a counterweight towards private interests. Was suggested that maybe they're in a conflict. Do you see that public...these public entities are in a conflict with private interests? And if so, does that cause you...I mean so I guess...well, let me just ask you that. Do you see that they're in conflict? [LB153 LB664]

MATT LITT: I think from our organization's point of view and from the point of view of activists and other citizens I've talked to across the state, as I mentioned, they feel like...we feel like our tax dollars are being used against us to increase spending or increase our taxes. And so then I point back to these public entities would be advocating against the will of their citizens. And citizens also don't have the opportunity to come down on a regular basis and lobby. And from my conversations, it seems that they perceive that they're at a disadvantage because the entities they're funding with their tax dollars that they don't have a choice not to participate in are spending their tax dollars to, at times, increase their taxes or increase the burden that they're put under. [LB153 LB664]

SENATOR HILGERS: So if we were to look off of...if we just take the issue of spending taxpayer dollars, so just the issue of spending, do you find that there are not privately funded entities that are advocating for the increased spending of taxpayer dollars? [LB153 LB664]

MATT LITT: No, there are definitely entities advocating for increasing taxes. [LB153 LB664]

SENATOR HILGERS: Okay. Thank you. [LB153 LB664]

MATT LITT: Yeah. Yes. [LB153 LB664]

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SENATOR BREWER: Senator Wayne. [LB153 LB664]

SENATOR WAYNE: To kind of to the point that I said earlier, so you're against taxpayer dollars being used even if it's an employee of. [LB153 LB664]

MATT LITT: I think that could be a job responsibility of the employees and potentially an expectation of those who are serving in public office to represent their constituents, their constituency at the State Capitol and the example you're using as...or previously using as a school board member, for example. [LB153 LB664]

SENATOR WAYNE: So let's take the city council where I get paid using public dollars. If I'm down here advocating against one of your bills, you're taking the same position although I'm an elected official but I'm using public dollars. I still get paid at the city council, actually get paid more than I get paid at the State Legislature. [LB153 LB664]

MATT LITT: (Laugh) It's neither here nor there. [LB153 LB664]

SENATOR BLOOD: No, that's not true. [LB153 LB664]

SENATOR WAYNE: Well, in Omaha. [LB153 LB664]

SENATOR BLOOD: Yeah. [LB153 LB664]

SENATOR WAYNE: So are you just against public tax dollars no matter what, who it is? Or... [LB153 LB664]

MATT LITT: No, I think it would be... [LB153 LB664]

SENATOR WAYNE: ...(inaudible) lobbyists? [LB153 LB664]

MATT LITT: ...private lobbyists. So I think, as I mentioned, it could be the expectation of a staff member within the body or the political subdivision or as a taxpayer who votes for a representative, that they would also be representing my views at the Capitol. [LB153 LB664]

SENATOR BREWER: All right. Any additional questions? Seeing none, thank you for your testimony. [LB153 LB664]

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MATT LITT: Thank you. [LB153 LB664]

SENATOR BREWER: All right, additional proponents? Welcome, Mr. Edwards. How are you? [LB153 LB664]

ROD EDWARDS: (Exhibit 5) Senator Brewer, I'm fine. Thank you. Vice Chairman Brewer and members of the committee, my name is Rod Edwards, R-o-d E-d-w-a-r-d-s, and I'm testifying on behalf of the Nebraska Taxpayers for Freedom. My testimony, I would wish to be entered into for LB663, LB664, and LB665; we have no position on LB153. As part of your packet that's being distributed, there's also testimony from NTF President Doug Kagan. This testimony covers the same bills. The Nebraska Unicameral is made up of 49 senators and 331 lobbyists. That is a ratio of almost 7:1 lobbyists to senator. Those 331 lobbyists represent 527 special interests or principals, which is a ratio of almost 11:1. More staggering is the fact that in last year's 60-day session more than \$14 million was spent lobbying in Nebraska, which is \$233,000 per legislative day. Some of that is the reality of the free market and the fact that we have the right to petition our government. The question before you today is the ethics of taxpayer-funded lobbying: taxpayer-funded entities hiring lobbyists with taxpayer money to advocate for even more taxpayer money. This practice, common in Nebraska, provides little accountability and even less transparency. Most citizens are unaware it happens and those who have limited access to information about what government entities are paying who to lobby what. This lack of information is a result of weak disclosure laws and the inherent delays in information in the political and bureaucratic process. Taxpayer-funded lobbying can distort the priorities of public entities. If lobbyists are effective for government entities, it is an incentive for politicians to divert funds into lobbying in the hopes of obtaining political credit for their purposes. Practice of hiring outside lobbyists to advocate against the will of the taxpayer can shield elected officials from being tied to certain policies for reelection purposes. That is the...unrepresentative and hides from the voters what their elected officials are pushing when the Legislature is in session. Taxpayer-funded lobbying can lead to politicians putting political expediency above the needs of the constituents they serve. Consider public education and public schools. Public schools have a core function of education and student achievement, but they spend heavily on lobbyists to secure more money, often under the guise of teacher pay. This favor with teachers...this creates favor with the teachers' union, one of the most powerful organizations in the state and is a top spender in election cycles. And while teachers and unions have gained power, student achievement has remained stagnant. From 2009 to 2014, public schools in Nebraska funded with taxpayer money spent more than \$2.7 million on lobbying. That is in addition to the millions of dollars the teachers' union spent in the same time period on lobbying in elections. The problem is that taxpayer-funded lobbying leads to more government spending and more lobbying. This has created an arms race that has turned taxpayer-funded lobbying into a growth industry. Public entities competing for state resources are strongly incented to outdo and outspend others to gain greater influence and spending. Consider Nebraska is...consider that four of ten entities who

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spent the most on lobbying in Nebraska are taxpayer funded: the League of Municipalities, which is funded from municipal taxpayer money; the University of Nebraska, which accounts for 14 percent of the budget of Nebraska's \$4.4 billion budget and had six registered lobbyists in 2014; Nebraska public schools districts, which again spent almost \$3 million over a five-year period on lobbying; and the Nebraska Public Power District. To any citizen who hears this, it's not right. It undermines faith in the democratic process and alienates people from democracy in practice. Unfortunately, Nebraska is not alone in this practice. Right now ten states prohibit state agencies from using public funds to retain a lobbyist: Alaska, Connecticut, Illinois, Florida, Louisiana, North Carolina, South Carolina, Texas, Utah, and Virginia. Four additional states impose restrictions using state funds for lobbying. They are Hawaii, Iowa, New Hampshire, and Washington. And I'll wrap up here quickly. In Arizona, Governor Doug Ducey issued an executive order to prevent many state government entities from hiring lobbyists, and other governors are considering the same. When Thomas Jefferson, in his wisdom, wrote, "To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical," he had no way to know that this practice would become an industry in state capitols across the country. The Nebraska Taxpayers for Freedom strongly encourages you to advance LB663, LB664, and LB665. Thank you for allowing me time to speak and I'd be happy to answer any questions. [LB153 LB663 LB664 LB665]

SENATOR BREWER: Thank you for your testimony. Questions? Yes, Senator Blood. [LB153 LB664]

SENATOR BLOOD: Thank you, Vice Chair Brewer. Mr. Edwards, I have a question for you. Who put these lists together? [LB153 LB664]

ROD EDWARDS: Huh? [LB153 LB664]

SENATOR BLOOD: Who put these lists... [LB153 LB664]

ROD EDWARDS: My research, research of some people from Nebraska Taxpayers for Freedom. [LB153 LB664]

SENATOR BLOOD: And where did you get these titles? [LB153 LB664]

ROD EDWARDS: Huh? [LB153 LB664]

SENATOR BLOOD: Where did you get these titles for each category? [LB153 LB664]

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ROD EDWARDS: The titles for each category. [LB153 LB664]

SENATOR BLOOD: Uh-huh. [LB153 LB664]

ROD EDWARDS: Titles are very readily available on-line in different places if you search for resources. [LB153 LB664]

SENATOR BLOOD: Okay. [LB153 LB664]

ROD EDWARDS: There are plenty of resources available pertaining to all kinds of matters like these and all kinds of taxpayer entities funding projects. [LB153 LB664]

SENATOR BLOOD: Okay. So the concerns that I have when I look at this list... [LB153 LB664]

ROD EDWARDS: Uh-huh. [LB153 LB664]

SENATOR BLOOD: ...is that you're calling AARP Nebraska a liberal and leftist organization. [LB153 LB664]

ROD EDWARDS: Oh, that's...that was put together by Doug Kagan. I apologize. I thought you were talking about lists in my testimony. [LB153 LB664]

SENATOR BLOOD: Okay. So let's go through this. Liberal and leftist organizations: AARP Nebraska, I think a lot of your seniors would be surprised to hear that; ACLU Nebraska, which really whose job is to represent all people from all walks of life regardless of whether they are Republican or Democrats, rich or poor, black or white--I don't...I guess if you protect people that makes you liberal; Center for Rural Affairs, which is about helping lift up our rural communities. I mean some things I understand where you're coming from. League of Women Voters, the most nonpartisan organization that pertains to voting in Nebraska; the Sierra Club, I guess those hippies should be cutting down those trees and not letting them grow. Gosh, and I can see where some of these could be considered liberal, but other of these...and when you say the word "welfare groups," what exactly do you mean by welfare? You mean people who receive government funding that are trying to help the downtrodden? Is that where the word "welfare" comes from? [LB153 LB664]

ROD EDWARDS: As I said, that list was put together by Doug Kagan. I wasn't personally involved in putting that list together. As to some of the other questions you asked, I think

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whether you view an organization as liberal or conservative can be subjective based upon that person's opinion. As I said, that list was put together by Mr. Kagan. [LB153 LB664]

SENATOR BLOOD: I am concerned when we talk about people with disabilities under the category of welfare groups. I have to say, and I mean this quite respectfully, this is a very insulting list. [LB153 LB664]

SENATOR BREWER: Okay. Any other questions? All right, seeing none, thank you for your testimony. [LB153 LB664]

ROD EDWARDS: Thank you. [LB153 LB664]

SENATOR BREWER: Okay, additional proponents. Okay, let's go with opponents. Welcome. [LB153 LB664]

LYNN REX: (Exhibit 6) Thank you. Senator Brewer, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I do think that Senator Kuehn has brought two very interesting proposals for you this afternoon. The League will be neutral on the other two proposals, but I did want to testify on these. And I'd like to start by saying I do think that the two words he used are critically important for this Legislature, and that is "transparency" and "accountability," and that needs to be across the board. We respect that. We support that. We just do not respect...well, I'm saying we don't respect but we don't support this legislation. We respect him; we just don't support the legislation. Let me start by saying that I'm handing out letters from the council president, Ben Gray of the Omaha City Council; Mayor Jean Stothert of the city of Omaha; and also Mayor Beutler. First of all, I would like to start with LB664. This is the bill that would say that, "A political subdivision shall not use revenue from any tax or fee imposed by a government body to employ or contract with a lobbyist." I realize that this was suggested that this is needed to perhaps level the playing field. Let me just suggest to you that I know that there are...there's a contract lobbyist for the city of Lincoln. From time to time they've also had an employee who is a lobbyist from the city of Lincoln. Jack Cheloha is an employee of the city of Omaha. In addition, we have a number of cities, six or seven of them, in central Nebraska. They have hired a lobbying firm. From time to time, other cities will collaborate and coordinate. But I will tell you that the League of Nebraska Municipalities was formed in the late 1800s to protect the interests of local governments. There's an organization like the League in every state. Every state municipal league in this country lobbies on behalf of its members. I will also tell you the League of Nebraska Municipalities does not use taxpayer money to lobby. So let us start with that. Secondly, I also want to underscore that one of the reasons why we do think that every city and village, all 529 of them, have an effective lobbyist. It's not me but I think it's our organization. We have a board of which Mayor

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Beutler, Mayor Stothert, and 13 other elected municipal representatives serve on that board. They're elected by our membership. Our membership is comprised of elected municipal officials who vote once a year on who they will send down to the League of Nebraska Municipalities to vote on policy choices and, as staff, I do what we're directed to do by them. And I will tell you that the other 527 municipalities that do not have either a contract lobbyist or an individual like Jack Cheloha, who is an employee that lobbies for them, they work through our organization to have bills introduced by senators on their behalf. There are five classes of municipalities in the state of Nebraska, five different forms of government in addition to those five classes of cities that are based on a population basis. So whether it's Venango or whether or not it is Omaha, Nebraska, we all collaborate and work together. And more so the Urban Affairs Committee than this committee deals with numbers of bills put in every year that deal with second-class cities and villages. Of the 527 cities and...29 cities and villages in the state, 222 have local option sales tax. Sixty-eight of those have local economic development programs that are also voter approved. So there's a complexity that comes with all of this. I would just like to...my time is kind of running out here so I'll try to go quickly here. And one of the reasons, too, why we do have bills introduced on behalf of municipalities is because of Dillon's Rule, and I believe one of you referenced this. In the state of Nebraska, municipalities only have those powers which are expressly granted, implied, or necessary to effectuate corporate powers. So we have to bring these bills before you. It's not like Iowa where they are a grants of power state where a city over there can do whatever they want to do unless the Legislature says they can't. So there's really a need for this and we think that it's very important that municipalities have a voice. And Senator Wayne and some of the rest of you have already noted that as an appointed official, as an elected official, to think that whether you are in Genoa, Nebraska, or whether you're in Columbus, Nebraska, Lincoln, or Omaha that an elected or appointed official simply has the time to commit to follow all the bills that have a municipal impact. We only have 25 to 30 bills introduced on our behalf every year. However, we spend most of our time advocating against bills that take power away from local government officials and we, at least every year, have at least a third of all the bills that are introduced have a municipal impact. I'll wrap it up here. I know that the light is on. I was going to read to you some important words here that I liked, and I'll do it very quickly. This is from Ben Gray, just a...I'm going to read just a statement: Our lobbyist is able to communicate personally with senators and connect them directly with city and private subject matter experts that can explain the practical impact of legislation. Very quickly from Mayor Stothert: Lobbyists also add a layer of transparency, and I think this is a huge issue in terms of transparency, in terms of their ability, what they have to do--and this is the second paragraph--the reporting with NADC, their client list, the amount of money they spend and so forth. And then Mayor Beutler's letter I think is also excellent and I just want to underscore on the last page, when you turn it over: I note that the bill is limited only to political subdivisions and not state government. As you know, the Governor's Policy Research Office routinely lobbies for and against bills. It also readily provides information to lawmakers regarding the impact on state agencies. I would submit to you that the Policy Research Office plays an important role, a role

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which political subdivisions should likewise have the ability to fulfill. In addition, and again I would give...hope you would me leeway here just a couple minutes since we're doing two bills at once. [LB153 LB664]

SENATOR BREWER: Go ahead. [LB153 LB664]

LYNN REX: And I appreciate that. I'll make it very quick. So I do want to underscore again that I do think that political subdivisions do need to have a playing field here. When we are in opposition and opposing legislation put in, whether it is by natural gas companies, any other utility provider on the private side, even sometimes the public side, we're dealing here with not just millions of dollars, hundreds of millions of dollars, sometimes billions of dollars at stake. And local governments need representation in that process. With respect to the other bill, LB153, we would also just respectfully basically oppose this measure as well. I think it's already been stated that former Speaker Bromm and also Senator Avery, the former Chair of this committee, have legislation in very similar to this. The concern we got with a bill of this nature is that basically we are a very small state and you will find that your perception as a state senator now may change, as Senator Bromm's did. He was a strong advocate for this very legislation, but that changed when he was no longer a senator because of some other things that happened. And I'm just going to submit to you that you never want to say never. You never know what's going to happen down the road, not that any of you would want to be in a position of being a lobbyist. I'm not suggesting that. I am suggesting, however, that this is very important and I think the way to address this is through transparency. If we need more transparency, let's have more transparency, let's have more filing, let's have more information. And I do want to indicate the League, and I'm not necessarily proud of this, but we are always at the top list of the top three or four, quote, big spenders when you read in the Omaha World-Herald. Let me clarify that if in doubt, when in doubt, I direct my staff to report everything. We report more than what we're required by Nebraska law to report because we believe in transparency. My board wants it that way and we report it all. And I do want to underscore we do not use taxpayer dollars to lobby. We also have other entrepreneurial functions that we do and those are the dollars that we use. We could use them to lobby but we do not. With that, I'm happy to respond to any questions that you might have. [LB153 LB664]

SENATOR BREWER: Senator Hilgers. [LB153 LB664]

SENATOR HILGERS: Thank you, Mr. Vice Chair. Thank you, Ms. Rex, for your testimony. Let me start with your last comment which is the League does not use taxpayer funds. [LB153 LB664]

LYNN REX: No. No. [LB153 LB664]

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SENATOR HILGERS: How is the League funded then? [LB153 LB664]

LYNN REX: Well, we're funded with a number of other...for example, we have a relatively small budget certainly, about \$1.7 million. Of that, there's well over I believe close to \$700,000, between \$650,000 and \$700,000 that come from entrepreneurial type functions. We sell directories. We have magazines. We do conference work. We do other training work across the state of Nebraska. Even though we were formed in the late 1800s, as were most other state leagues, for the purpose of lobbying that has now been extended to also include conference work, training seminars. The Nebraska Accountability and Disclosure Commission has determined, and I think that this is properly so, that there's no difference if the city of Lincoln decides to send someone to a private sector conference, the purpose of that for training for whatever it is. Maybe it's put on by, again, a private sector organization or a nonprofit, by the way, or they can come to a league for training too. Those lose its characterization as taxpayer dollars. But we do not use any dues revenue at all for lobbying. Now again, we could but we don't. We're precluded from law from using any dues revenue to work for or against a statewide ballot question. And obviously, we don't do that. We do work statewide ballot questions impacting municipalities but, again, we do not use taxpayer dollars for that. We're precluded from doing that and we don't. [LB153 LB664]

SENATOR HILGERS: So in your \$1.6-\$1.7 million budget, is all of that from the...what you just listed, conferences, merchandise? Or I thought I heard you say maybe some of that, \$750,000 or so. [LB153 LB664]

LYNN REX: About \$700,000, \$600,000 to \$700,000. [LB153 LB664]

SENATOR HILGERS: What about the balance that remains? [LB153 LB664]

LYNN REX: That would be with dues revenue. [LB153 LB664]

SENATOR HILGERS: And that's paid from the individual municipalities? [LB153 LB664]

LYNN REX: That's paid by...we're a voluntary organization. [LB153 LB664]

SENATOR HILGERS: Uh-huh. [LB153 LB664]

LYNN REX: A municipality is not required to participate. They do pay dues to come participate and work with us and develop policies (inaudible). [LB153 LB664]

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SENATOR HILGERS: And those dues are funded through taxpayer dollars? [LB153 LB664]

LYNN REX: Yes, they are. [LB153 LB664]

SENATOR HILGERS: Okay. [LB153 LB664]

LYNN REX: Yes, they would be. [LB153 LB664]

SENATOR HILGERS: So that would not...I mean in my way of thinking it seems like those are taxpayer dollars that are being paid, and you may call them a dues but those are still taxpayer funds that are being paid. [LB153 LB664]

LYNN REX: The dues are taxpayer dollars. [LB153 LB664]

SENATOR HILGERS: Okay. [LB153 LB664]

LYNN REX: They're taxpayer dollars. We do not use dues revenue to lobby. [LB153 LB664]

SENATOR HILGERS: Oh, I see what you mean. [LB153 LB664]

LYNN REX: And I'm suggesting to you, Senator, there may be other organizations, I'm sure there are, that do use dues dollars to lobby. We just don't happen to be one of them (inaudible). [LB153 LB664]

SENATOR HILGERS: So the League receives dues that are taxpayer dollars and you're saying (inaudible). [LB153 LB664]

LYNN REX: That is correct. [LB153 LB664]

SENATOR HILGERS: Okay. [LB153 LB664]

LYNN REX: We use those to do statewide efforts all across the state on other arenas of things that cities request us to do for them. [LB153 LB664]

SENATOR HILGERS: Okay. And that somehow keeps up, I mean, because money is fungible so are those funds kept separately? [LB153 LB664]

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LYNN REX: The way that we keep them separately is we know the difference between the amount of money we get for dues to the dollar and the amount of money that we have that are nondues revenue. However, we have other organizations--and I'm not going to name them because I'm not familiar with their budgets or how they're structured--that I'm sure do use dues revenue to lobby the Nebraska Legislature and I think that's very appropriate. I do think it's extremely important, especially for smaller communities in this state, villages and others, to have the ability to have someone. They don't...they can't afford a Jack Cheloha. They can't afford someone within city government to do this. And I do think the city of Omaha definitely needs to have their separate lobbyist. We coordinate with him just like we coordinate with the contract lobbyist for the city of Lincoln. [LB153 LB664]

SENATOR HILGERS: Okay. So on...I take your point about there might be some information gathering, facilitation of information functions that can be provided. But isn't there a conflict on the spending side, this idea that taxpayer dollars could be used to then be able to coerce more taxpayer dollars through increased spending? So would you be comfortable if there was a carve-out where taxpayer dollars could not be used to advocate for increased spending but for maybe for other...for maybe for other issues maybe relating to various powers or liabilities that the municipalities would have? [LB153 LB664]

LYNN REX: Well, let me give you some examples of why I guess I think that there should be... [LB153 LB664]

SENATOR HILGERS: Well, do you think that it should or do you think... [LB153 LB664]

LYNN REX: I should...I do think that you ought to be able to use, we don't, but I think you ought to be able to use taxpayer dollars to advocate for taxpayer dollars in the state dollars that you have. Let me give you an example: storm water. We have several municipalities in the state subject to a storm water federal mandate. We've had other municipalities in this state...let me rephrase that. Every municipality in the state and county given a federal mandate in 1991 on Subtitle D regulations for landfills. The federal government passed it on to every state in the country and said, states, you handle it, you're going to take care of landfills. The Legislature said here's what we're going to do. Cities and counties, you handle it and, by the way, we're not going to give you a dime to do it, but good luck with that. So basically, we came in and we tried to get some methods by which they could get some grants to try to help them do that process. We just lost, through this, because of your budget situation, we just lost the remaining storm water funds that would be there. Someday we hope to get them back. I will also share with you that as the State Legislature, as you well know, you set the tax base. So there was a time when I first started, back in 1978, that the base for local governments was this broad. You had a big base in terms of property tax base. And I'm not suggesting that the exemptions over the years were not important

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or that they were not needed, but one bill alone--and I've talked to some committees about this in the past--but just one bill alone, I would take LB518 back in 1978. When that bill passed that was the last part of exempting livestock, farm equipment, and business inventory. That was the tax base on which local governments were formed. Again, important exemptions, but, Senator, the Legislature said, don't worry, we're going to reimburse you; we're going to reimburse you dollar for dollar so this is not shifted over to the property taxpayers. Guess what? Never...Senator...Governor Exon then said we can't afford it. So then what happens over a period of time, there was a fund put together. I'm just going to summarize it quickly--a fund put together after three or four U.S. and Nebraska Supreme Court cases and others saying the Legislature couldn't just call it personal property tax reimbursement fund so we're going to call it something else. Senator John DeCamp then said one day, well, after failing in three Nebraska Supreme Court decisions, we're just going to call it state aid. So there was, quote, state aid to municipalities. We now have zero dollars in state aid to municipalities. Our \$17.9 million, which was at that time should have been well over \$100 million just for municipalities, even ours, even our \$17.9 mill is done. So should we have people here organizing, trying to make sure that you as state senators understand that local governments, you set the tax base. You don't decide property taxes. You don't decide tax asking, but you determine the tax base. You determine whether or not 527 and basically municipalities have the chance to do what they need to do. [LB153 LB664]

SENATOR HILGERS: Well, so maybe I can just narrow this a little bit. I don't want to take up much more time on these questions, but so it seems to me that there's a conflict between on the spending...using taxpayer dollars to advocate for more spending. At the same time I hear a counterargument which is, well, there's so many bills and there's so much information that we need to be able to sort through that we've got to have someone on the ground. But in my view, some of the examples that you're bringing up sort of sound like exceptional outlier type examples that could be addressed through contact from elected officials, through other avenues that would still be left open after...if this bill were to pass. So I guess my question is when it relates to spending bills I don't see the justification for where you've got more limited...not that there shouldn't be any contact, but that's not what this bill would do. It's just that the justification to sort through all the information and be there on the ground for amendments and the like doesn't seem to apply, at least at a significant enough level to overcome that conflict. How would you respond to that? [LB153 LB664]

LYNN REX: Well, I would disagree with the premise. I think that things happen fast. There have been major... [LB153 LB664]

SENATOR HILGERS: With the premise that there's no conflict or the premise? [LB153 LB664]

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LYNN REX: I don't think there's a conflict in doing it. I don't. And I think that the stakes are so high to make sure that as a state senator...and again, I can't even imagine the plethora of bills with which you have to deal. I mean we, on our staff, we have a very small staff but all we do is look at municipal bills. And we're looking at hundreds of them that have an impact on cities, not the banking ones, not the other ones. I mean we are not doing UCC bills and other things like that, but I mean... [LB153 LB664]

SENATOR HILGERS: But that's not...those are nonspending bills. [LB153 LB664]

LYNN REX: ...Senator, there have been...there have been Select File amendments that have had multimillion dollar impacts on cities in this state and there is no way you're going to get a bunch of mayors that are going to be able to call you on the drop or some city administrator that's going to say, oh my gosh, that just happened, because they're working a street improvement project, or if you're a mayor, unless you're the mayor of Lincoln or Omaha, you're likely working your job, your full-time job, and then going to city hall at night doing certain things. So...but the stakes are too high and so, no, I think that we really do need to do that and especially when you look at...I mean to me the most dominant was the natural gas wars. And lucky for all of you, you were...I know you were engaged because you were a city council member, but unless you were involved in local government at that time or as a State Legislature, literally hundreds of millions of dollars at stake with passage of a bill. Those things really matter and you've got to make sure your public interest and public investments are taken care of. And I don't think...and do we...I mean did we have letters pouring in? I think on the state aid bill to municipalities, on the natural gas bills we literally had letters from about 80 percent of all our members. I know that may not seem really high but for them that's an extraordinary number. People that don't have the...you know, they don't have four and five people sitting there writing letters for them. They're writing them themselves. And we had all those letters pouring in. And at the end on state aid, we have zero cents left in state aid to municipalities because when the budget cutting cycles came you needed that money. Counties lost it. NRDs lost it. So these things really matter, Senator. It really does. And frankly, the reason why you have 222 cities with local option sales tax is because that has been one of our big efforts over the years, is to get cities to have the ability to help themselves so that we're not here all the time asking for money. [LB153 LB664]

SENATOR HILGERS: Well, and I'm not...I don't disagree that they don't matter. I guess my position, my thinking is that you've got...they do matter but there's two sides to the coin. You've got the cities and you got the taxpayers who are funding the cities and using their dollars to advocate for additional funding is the conflict that I perceive. We perceive it differently. My last question, and then... [LB153 LB664]

LYNN REX: Okay. [LB153 LB664]

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SENATOR HILGERS: ...I will stop asking questions, is on the LB153 which I understand that the League is opposed to. And it seems to me that the two-year waiting period at least addresses some of the concern. It doesn't bar officeholders from ever being lobbyists but it does address this perception that elected officials are trading on inside knowledge, inside relationships. And if there's no cooling off period right away and they leave, they have a contract immediately. I mean isn't the perception that they're using their office and those relationships to benefit? And doesn't the two-year waiting period balance the concern that you raised, which is, you know, we're a small state, there might not be individuals who could fill these lobbying positions, with the need to avoid the perception that individuals in the public trust are trading off of that knowledge they have? [LB153 LB664]

LYNN REX: Well, and, Senator, I do think that the answer to that, because I think it's a legitimate issue, but I think the answer to that is transparency, transparency, transparency. And by the way, to the issue of transparency, I find it somewhat ironic with Americans for Prosperity testifying here today in as much as we would love to be able to see who donates, who funds them, where is it coming from. I just think that's another issue to the transparency. [LB153 LB664]

SENATOR HILGERS: Well, but that's a free speech issue and I don't...not everyone would love to see that. And people have the right to be able to have anonymous speech. So that's a separate question. [LB153 LB664]

LYNN REX: Okay. [LB153 LB664]

SENATOR HILGERS: But isn't that treating... [LB153 LB664]

LYNN REX: We don't see it that way but I understand. [LB153 LB664]

SENATOR HILGERS: That's fair but that's, you know, we had a different hearing on that. But and I... [LB153 LB664]

LYNN REX: Uh-huh. But I... [LB153 LB664]

SENATOR HILGERS: ...I don't know if it's appropriate to be commenting on other testifiers at this point. But I'll let the Vice Chairman weigh in on that. But is it...what additional transparency would you suggest when already the contracts are transparent and already that information is provided to the public? And maybe there is additional transparency. You say the answer is transparency. What additional incremental transparency would you suggest? [LB153 LB664]

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LYNN REX: Well, my guess is at some point you're going to have Frank Daley up here today, who does an extraordinary job I think for the state of Nebraska. When he's up here, ask him what other information he thinks could be brought forward. I will tell you we're happy to bring forward anything that we...any additional information from us that you think would be necessary. I'm sure that other lobbyists would be prepared to do that as well. And I think that as state senators, maybe you have some kind of a special list that is available on NADC's Web site of anyone who's been a former senator or a former whatever, that they'd have to put their name down so the public is aware of it. But basically, you also indicate yet the flip side of that to me is that you're precluding some group, whoever that group may be, whichever that group may be, of saying, well, we're not going to hire a Curt Bromm because he's a former Speaker of the Legislature, so we're not going to hire him. And you've taken that choice away. And by the way, not that maybe it matters, but the League also opposed term limits. I think that it has done just what people said at the time, Senator, which is it has empowered lobbyists, it's empowered staff. And I think that you, as state senators, are the ones that should be the most empowered and I wish that term limits had not passed. By the same token, some of you may not have been here so, with that, there's always...it's always good to get new blood too. [LB153 LB664]

SENATOR HILGERS: Thank you. [LB153 LB664]

LYNN REX: Thank you very much. [LB153 LB664]

SENATOR BREWER: All right. Additional questions? Senator Lowe. [LB153 LB664]

SENATOR LOWE: Thank you, Vice Chair. And thank you, Ms. Rex, for being here. Two questions: You said you keep the funds separate. Do they go into the same account? And I appreciate your transparency about this. So when your dues come in and then your fund-raising, are they in the same account or are they in separate accounts with just different accounting? [LB153 LB664]

LYNN REX: Well, it's not different accounting. I mean we're audited annually. We basically make sure that throughout the year, though, our board knows, here's the line in the sand, here's the amount of funds that came from dues revenue and we never, never exceed that amount for lobbying purposes. [LB153 LB664]

SENATOR LOWE: And what's your belief on taxpayer money being used for lobbyists? [LB153 LB664]

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LYNN REX: I think that it...we don't, but I think it should be able to be used for a lobbyist, for lobbying purposes. Again, I think that everybody, every local government in particular, needs to have the ability to be represented and I also think that those folks on the local level are the ones that are held accountable. There's nothing that forces them to do it. They're the ones that are elected to make those decisions and they're to be held accountable. And I do think, too, even though I don't represent schools, that there are issues here about, well, some of the bigger schools hire lobbyists and others don't. The Nebraska State School Boards Association, the Nebraska School Administrators Association, I'm sure they're like us. They represent all their members and, you know, I do understand some of the issues that have been raised here today. But again, I do think, too, that it comes down to transparency and accountability across the board, and I don't think you can ever have enough of it. [LB153 LB664]

SENATOR LOWE: Thank you. [LB153 LB664]

SENATOR BREWER: All right. Any additional questions? Senator Blood. [LB153 LB664]

SENATOR BLOOD: Thank you, Vice Chair Brewer. Ms. Rex, I've had the benefit of being on the League of Municipalities legislative committee, but I know that the other members of this committee have not. And the thing that concerns me and I'm hoping that you can clarify, just kind of paint a picture for some of the members of this committee, you know, I keep hearing the phrase lobby to lobby for more money. Well, it was my experience when I was on League of Municipalities it was more of a there's strength in numbers. And there are many, many, many more examples of where we were lobbying to either get state statute that allowed us to pool together to save money for taxpayers or we found deficits, such as vacant properties, where we needed to have a unified voice. I'm going to answer the question for you. Can you just...I just think there's a misconception where it's like lobbyists are lobbying for more money. That's not necessarily the case. Can you kind of walk through briefly, because I know this is taking a long time, talk about the larger cities and the smaller cities, how often we meet--or I don't meet anymore obviously because I'm not on the city council anymore--and the challenges that we face and why we needed to meet as a group? And just name, you know, maybe two or three of the things that we've accomplished because we're able to meet and lobby through your organization. And that's the other thing is that when you die those municipalities are so screwed because the knowledge that you have... [LB153 LB664]

LYNN REX: Some would disagree with you. (Laughter) [LB153 LB664]

SENATOR BLOOD: Yeah, I know. You better get on training somebody. I mean you're like a walking encyclopedia. You know, vacant properties is the one I know that we worked with Omaha, worked with Columbus. I mean there's so much in the state statute that would not have

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been crafted without this organization and you lobbying on our behalf. And I know me as a city councilperson who had a full-time job, who was only paid \$11,000 a year, and you know all about my community involvement, it was hard for me to even carve out coming to your meetings and basically as a volunteer because no other councilperson was doing that from our community. Talk about the benefits, because I think that there's this misconception that it's just about lobbying but it's really about a unified voice. And I want you to kind of walk them through what happens at least with the League. [LB153 LB664]

LYNN REX: Okay. I'll try to be as concise as I can. Thank you for the question. The League has two internal League legislative committees: The larger cities legislative committee, that's comprised of representatives of all first-class cities, Lincoln and Omaha. First-class cities are cities with a population of 5,000 and up: Columbus, Grand Island, Bellevue, Kearney, Scottsbluff-Gering. There are 30 cities of the first class plus Lincoln and Omaha. And then we also have a small cities legislative committee and, sadly, we have fewer members there. We have about 60 that show up on any given time for the larger cities legislative committee. But the reason is because the smaller the community the harder is it for them to get away, and in terms of staff even, whereas even with the large cities to have people of Senator Blood's caliber who is busy doing other things as a councilmember and all of her community work and everything else, again, volunteering because we don't pay people to be involved. We don't even give them mileage. We do hook people up by phone so in your part of the state, Senator, they can participate by phone for those that aren't able to come. With that, they meet face to face at least three times and then we have numerous meetings by telephone conference call through Meet-Me calls. They make recommendations. We get anywhere from 40 to 50 requests for legislative action. Those come from municipalities. They come from the Governor's Office. They come from state senators. Senator Briese gave us some ideas of some things that he wanted to do this session. We ran it by our legislative committees. They make recommendations. And then our 15-member elected board by our membership, they ultimately say here's what our position will be on those bills. And again, we do spend most of our time defeating legislation that will take power away from cities. But to your point specifically on the funding side, I would guess that--this is a rough estimate--95 percent of all of our bills deal with enabling municipalities to have the power that they need on the local level to do things as basic as how to give notice on certain street improvement districts, building codes, how...so we speak with a unified voice on how to address building codes and inspections, issues on how they can have interlocal agreements and what...how they do that and structure it in a way that is streamlined. So it's about the governance side of local government. Five percent of our time would be before the Appropriations Committee asking for some type of grant money to be maintained or something of that nature. So that's...and that's really where we spend our time... [LB153 LB664]

SENATOR BLOOD: Thank you. [LB153 LB664]

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LYNN REX: ...is empowering local governments so they can govern, and that is because of Dillon's Rule because they can't do anything unless you authorize it. [LB153 LB664]

SENATOR BREWER: Okay. Any additional questions? All right. Thank you. [LB153 LB664]

LYNN REX: I really appreciate the time and I do appreciate Senator Kuehn introducing these bills because I do think these are important issues for the committee to consider. Thank you. [LB153 LB664]

SENATOR BREWER: Thank you for your testimony and your history lesson. Okay. Additional opponents. Those in the neutral. Oh, welcome, sir. [LB153 LB664]

FRANK DALEY: Well, thank you. [LB153 LB664]

SENATOR BREWER: Think I got a question here for you somewhere. [LB153 LB664]

FRANK DALEY: (Exhibit 7) Vice Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, my name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission. I'm here in a neutral capacity as to both LB153 and LB664. As to LB664, I passed around earlier a suggested change in the language which just tightened it up in a way that I think made it less subject to interpretation at a later date. That's for your consideration. I will tell you that I believe it was on your table before you even arrived so it may be buried. I do want to be forthright that this is not something that Senator Kuehn has necessarily endorsed, so he will have to make his own decision as to whether he does. If I may, I'll just try and respond to a couple of the questions that came up during the course of the discussion. Number one, with regard to the revolving door bill, LB153, Senator Blood asked about couldn't we have better definitions that would encompass more people rather than simply excluding administrative staff? And, yes, it's possible, but I will tell you a lot of attempts have been made to do that and because this is a prohibition which carries a penalty it has to be really, really clear who's covered and who's not. And when you have so many, particularly in the executive branch, employees that kind of fall into areas where you're not clear if they're covered or not, it becomes vitally important that the definition be as precise as possible, and that means broad categories. So that's kind of the reason. I fear that otherwise the Accountability and Disclosure Commission would be dealing with a series of requests for opinions and looking at job descriptions and trying to parse whether or not they fell within the prohibition or not. So I think that's part of the rationale there. Senator Wayne asked about the definition of a lobbyist. In the Accountability and Disclosure Act, a lobbyist is someone who acts in a representative capacity to affect matters before the Legislature. And that would actually include employees of political subdivisions. If an employee of a political subdivision has duties

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which includes lobbying, he or she is a lobbyist. They're currently required to register and they do register. There are some exceptions. For whatever reason, employees of the executive branch of state government that are acting in their official capacity, such as me, are not required to register as a lobbyist, except for people associated with the University of Nebraska. So I assume someone was mad at them one day and that's the reason for that. (Laughter) [LB153 LB664]

SENATOR WAYNE: (Inaudible). [LB153 LB664]

FRANK DALEY: Yep, possibly. And I think the question was what happened before lobbying. I will tell you that there was no before lobbying. As long as there have been legislative bodies there has been lobbying. It's just a matter of whether it's been regulated and disclosed or not. In the Eighth Century, in England, there was a legislative body called a witenagemot, and I am sure that there was somebody whispering in the ears of the members of that, suggesting that they ought to do one or the other. So there have been lobbying laws in Nebraska, I think, since about the 1940s and the current lobbying law has been in place since 1976. So thanks for the opportunity to testify. [LB153 LB664]

SENATOR BREWER: All right. Questions? Senator Hilgers. [LB153 LB664]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Thank you, Mr. Daley. I have one question for you on LB664... [LB153 LB664]

FRANK DALEY: Yes. [LB153 LB664]

SENATOR HILGERS: ...and this is to get your statutory interpretation knowledge. So it says, "A political subdivision shall not use revenue from any tax or fee imposed by a government body to employ or contract with a lobbyist." Now you just gave us the definition of a lobbyist. Under your interpretation or how you read the statute, would that preclude a political subdivision from using anybody, whether it's an employee, in your example, or a city council person or anyone to communicate or interact with a public official? [LB153 LB664]

FRANK DALEY: I think it would. It has the potential for prohibiting an employee of a political subdivision from engaging in lobbying activity. On the other hand, I don't know that it would affect an elected official. [LB153 LB664]

SENATOR HILGERS: And that's...then that's where I'm going with it because we've discussed...well, if we had this prohibition, well, one, you know, for some important matter the elected officials would get together and lobby, even if it's not technically lobbying. So...but I

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want to make sure there's no ambiguity on that point because I think it's critical to it. So you say you're not sure if it would be lobbying. Is that because it's ambiguous in the definition of lobbying or on how it's been applied, whether or not a lobbyist would include an elected official? [LB153 LB664]

FRANK DALEY: If I look at the definition, if I look at the term "employ" as meaning an employee as opposed to someone who's an independent contractor, then I think that means that you can't have an employee engaging in lobbying activity unless it falls within one of the exceptions to the requirement to register, one of the exceptions being coming to committee hearings and testifying or providing written information. [LB153 LB664]

SENATOR HILGERS: That's good. At our...maybe you don't know the answer to this. I never...I hadn't thought about it, but we have wages withheld. Do you know if elected officials are...well, part-time elected officials are independent contractors or employees? Is that how the test is? So in other words, if a city councilperson is an independent contractor, they're not an employee; therefore, they're not a lobbyist? Is that the touchstone there? [LB153 LB664]

FRANK DALEY: No. Well, yeah, it could be under these circumstances. It's just...there's a separate provision that allows city council member or elected officials to engage in lobbying activity without registration. And so... [LB153 LB664]

SENATOR HILGERS: Okay. Got it. Okay. [LB153 LB664]

FRANK DALEY: ...we have to... [LB153 LB664]

SENATOR HILGERS: I'm with you. [LB153 LB664]

FRANK DALEY: ...kind of see how that all fits together. [LB153 LB664]

SENATOR HILGERS: I'm with you. Okay. Thank you very much, Mr. Daley. [LB153 LB664]

SENATOR BREWER: All right. Any additional questions? Yes. Senator Wayne. [LB153 LB664]

SENATOR WAYNE: So just so I'm clear, underneath your definition of how you read this and how I read it too, so I'm agreeing with you, a superintendent couldn't contact multiple senators and lobby on an issue. [LB153 LB664]

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FRANK DALEY: Superintendent could not engage in lobbying and in activity that was considered lobbying. That's correct. [LB153 LB664]

SENATOR WAYNE: And would the Office of PRO fall underneath this? I'm sorry if I didn't get an answer to that. [LB153 LB664]

FRANK DALEY: As in Policy Research Office? [LB153 LB664]

SENATOR WAYNE: Yes. [LB153 LB664]

FRANK DALEY: Okay. The answer is, no, because there is, first of all, the language applies to political subdivisions so it would not apply to a state agency. And again, there's an exception in the law now that employees of executive branch agencies engaged in their official duties can engage in this type of activity without being registered or being considered a lobbyist. [LB153 LB664]

SENATOR WAYNE: So the executive branch can lobby but the municipalities can't lobby against the executive branch. [LB153 LB664]

FRANK DALEY: I'll let you draw your own conclusions, Senator. [LB153 LB664]

SENATOR WAYNE: Okay. It's interesting. [LB153 LB664]

SENATOR BREWER: Lawyers, what can I say? (Laughter) [LB153 LB664]

FRANK DALEY: You have to love them, Senator. (Laughter) [LB153 LB664]

SENATOR BLOOD: Yeah. [LB153 LB664]

FRANK DALEY: Thank you very much. [LB153 LB664]

SENATOR BREWER: Any additional questions? [LB153 LB664]

SENATOR HILGERS: It's fascinating. [LB153 LB664]

SENATOR BREWER: Thank you. [LB153 LB664]

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SENATOR HILGERS: Fascinating. [LB153 LB664]

SENATOR BREWER: Thank you, Frank. [LB153 LB664]

SENATOR HILGERS: I was there with you. [LB153 LB664]

SENATOR BREWER: All right. Any others in the neutral capacity? Seeing none, that concludes...oh, I'm sorry. [LB153 LB664]

SENATOR KUEHN: I'm up next so I'll just see quick if there's any additional questions as far as in closing. Again, support the idea across the board that this should not be an insider game. I appreciate the questions regarding employment. I think that's a language issue we can certainly look up and avoid any unintended consequences should the bill move forward and advance. Any other questions from the committee? [LB153 LB664]

SENATOR BREWER: Oh, go ahead. [LB153 LB664]

SENATOR BRIESE: Thank you, Vice Chairman. Thank you again for being here. Would your interpretation of this language go so far as Mr. Daley's would? [LB153 LB664]

SENATOR KUEHN: That is not my intent. So if we need to look at...and part of it came in this idea of contract versus employee in terms of an outside party. And if we need to look at language that would address that or clarify that, I think that is certainly worth examining. We don't want to inhibit the ability of, for example, a superintendent or a manager to be able to interact with and lobby. And it may just be also a member of...an issue of either changing that definition or looking at some of the other exclusions which are present for who needs to register and who doesn't. [LB153 LB664]

SENATOR BRIESE: To my thinking, the language doesn't describe lobbying per se but prohibits the employment or contracting with a lobbyist. [LB153 LB664]

SENATOR KUEHN: Uh-huh. [LB153 LB664]

SENATOR BRIESE: And so I guess I don't read it quite perhaps as broadly as some others do anyway, but. [LB153 LB664]

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SENATOR KUEHN: Right. And I didn't either, but I'm always open. I've watched a lot of Law and Order but I'm not even close to a lobbyist...or to a lawyer, so... [LB153 LB664]

SENATOR BRIESE: Thanks. Thank you. [LB153 LB664]

SENATOR KUEHN: ...or a lobbyist. [LB153 LB664]

SENATOR BREWER: (Exhibits 8 and 9) All right. Any other questions? We do you have letters to read into the record on LB581...oh, I'm sorry, LB664. Opponents we have Ben Gray, president, Omaha City Council; and Mayor Chris Beutler of the city of Lincoln. And with that, that concludes our Government and Military Affairs. That concludes our session. No? [LB153 LB664]

SENATOR LOWE: There's LB663 and LB665.

SENATOR KUEHN: Oh, no.

SENATOR BREWER: Oh, jeez.

SENATOR KUEHN: Oh, no. (Laughter)

SENATOR BREWER: So close!

SENATOR BLOOD: Nice try.

SENATOR KUEHN: Is this the equivalent of the ejection chair, Vice Chairman Brewer?
(Laughter)

SENATOR BREWER: No, feel no pressure to hurry or anything.

SENATOR KUEHN: Wow, okay, we'll keep it quick. (Inaudible).

SENATOR BREWER: Go ahead on LB663 and LB665. You're combining the two, right?
[LB663 LB665]

SENATOR KUEHN: Yes, (laugh)... [LB663 LB665]

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SENATOR BREWER: Okay. [LB663 LB665]

SENATOR KUEHN: ...that is correct. [LB663 LB665]

SENATOR WAYNE: There's more bills? (Laughter) [LB663 LB665]

SENATOR BLOOD: It's called an agenda. [LB663 LB665]

SENATOR KUEHN: And Senator Blood wondered why I didn't bring others. I mean, we've got our draft. If you guys want to take them as a committee amendment, we're happy to stay as long as you'd like to have the conversation. Members of the Government, Military and Veterans Affairs Committee, Vice Chairman Brewer, I am John Kuehn, J-o-h-n K-u-e-h-n, and I'm the senator from District 38, here with two additional bills. Again grouping them together, LB663 and LB665 both deal with reporting issues around the action of lobbying. So we'll start with LB663, which would require full disclosure of the entire contract of a lobbyist who would be paid with public funds. You'll note that the language includes taxes, fees, as well as grants so that if tax dollars or dollars that flow from a public entity are given to an organization and that organization hires a lobbyist or contracts with a lobbyist the full contract would need to be disclosed. I think this is important because just serendipitously you heard a testifier on the very first bill you heard today who talked about the fact that they have a function with some clients where they engage in lobbying activities, but they do other things. And so in that case, the entirety of that contract would need to be placed on file for full disclosure. The other important aspect is that this does not just apply to municipalities but, for example, a grant recipient. So if, for example, we have a grant recipient of a block grant through economic development or through Health and Human Services, if they are operating with public funds--whether that be from a grant, a fee, or a tax--and they engage the services of a lobbyist they would need to file the entirety of their contract. So it's an effort to improve the transparency so that taxpayers are aware fully of how dollars are flowing through and how they are used. So not like in LB664 where we saw a prohibition of the use of public funds; rather, an increased level of disclosure about how those public funds are used. The second, LB665 addresses the timeliness and the issue of when a lobbying activity would need to be reported and disclosed and made available to the public, to senators, as well as to the media. So under LB665, it would require that everyone who is required to be registered under current state law, within 24 hours of their initial contact with a senator or a member of the executive branch--so not just legislative branch, but executive branch as well--would need to file electronically with the Clerk's Office that they have engaged in activity on that bill. So they would need to place their name, the name of their principal, the interest or who they're representing, and the bill number. This is important to me because it provides real-time access via the Clerk of the Legislature's Web site to know who is engaged on a specific piece of legislation. It allows the public, media, as well as other senators, and even

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other lobbyists to know who is influencing that legislation in real time, not waiting till after the session ends so that you know who was active and where they were at a particular bill. And this is really important in that role of protecting the ability of citizens to petition their government. It needs to be as open and in the light of day as possible. Current statute requires that that report has to be filed within 45 days after the end of the session. And I encourage you, if you have not...screen shots don't really give the full impact of this, but if you have not had an opportunity or not done so, I encourage you to go to the Clerk of the Legislature's Web site and put in a bill from last session. Just put in a bill number and it will come up with a listing of the lobbyist, the principal, their client, and then the position they took on a particular piece of legislation. You can search it by principal, you can search it by lobbyist, you can search it by bill number. If you go and you try to search based on bill number for something happening this session--and I'm guessing all of you have probably been actively lobbied on a specific bill that has been before the body in this first 52 days of the session--you put in one of those bill numbers and there are no results. Now some are reporting in real time; they're not published and available. I think this is really important because I don't know how many of you have been working on an issue or a bill has come to the floor and you're curious as to who's active, who's working, you may have a question about needing to know what expertise to go, you may be unclear as to what the opposition is. The ability in real time to put in the bill number and say these are the individuals who are actively lobbying on this bill, these are their principals, the interests that they are representing, I think is important in the transparency of the process. We have the ability with technology to do that in real time. I think it's important that we have the ability then to access that information. It also improves transparency of the process so that individuals, whether it is you as the bill sponsor, whether it is an interested party, or whether that is a voter, can go on line and see who is active on a particular bill. And I think part of the process of encouraging transparency and full disclosure is ensuring that we know who is engaged and how they're doing so. Now, there's been some concern and I've had some members of the lobby have talked to me that they feel that it would be every time you had a contact you would need to report. And that's not the case. This is once you've engaged on a particular piece of legislation, that you then disclose that you are engaged on that piece of legislation and who you are representing. With regard to some of the previous issues brought up in Senator McDonnell's bill earlier with conflicts and things like that, that would be readily available if you saw the same individual involved for two different clients on the same bill in potentially opposing perspectives. So the more information the better, as we look and move forward with transparency. So with that, any questions that the committee may have on LB663 or LB665 I'm happy to address. [LB663 LB665]

SENATOR BREWER: All right. Questions? Questions? Seeing none, thank you. Oh. You've got to sound off. Okay. [LB663 LB665]

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SENATOR HILGERS: Thank you, Mr. Vice Chairman. Welcome back, Mr Chairman. I didn't see you. [LB663 LB665]

SENATOR MURANTE: There will be consequences (inaudible). [LB663 LB665]

SENATOR HILGERS: So this is...it says initial context, so you're proposing just the first time, not every time? [LB663 LB665]

SENATOR KUEHN: Right. And you know again, it becomes a question of different states require reporting in different ways and require different levels of reporting. It is my opinion in looking at reporting requirements of other states, we're pretty lax. You can do a lot of freewheeling. Visit with some of our colleagues in other states and if they're handed a cup of coffee on the way in, they're required to report it to disclose it and do so in real time. So it would be the initial contact. It's not every single contact. I would have no problem if you would like to increase the level of reporting as to the nature of the contact, the number of the contact. But, again, that's one of those bills for next year, Senator Blood. But the initial contact, and it's the incremental process of helping us understand exactly who is active on a bill and why at that point in time. [LB663 LB665]

SENATOR HILGERS: And then on LB663, a real quick question. So in my world I think in the litigation side usually contracts have a lot of information about the confidential, they might be concerned about public disclosure. Can you speak to the added incremental benefit of having the contract as opposed to what we currently have now, which is the name of the principal and the amount? [LB663 LB665]

SENATOR KUEHN: Yeah, because I think if you look...so, again, if you haven't spent some time looking around on some of the reports, it's kind of interesting in terms of what may constitute as a portion of the contract and responsibilities that is lobbying versus what part of that particular contract may be other activities, public affairs, or something outside of lobbying. And so certainly a pure public affairs contract is a public affairs contract, but there are creative ways in which you can reduce the amount of disclosure for lobbying activities or reduce that dollar amount while still engaging in a wide variety of services for that particular client. And when it comes to privacy provisions, again this is not talking about private dollars, this is public dollars that are used to...as a means of hiring. So if a public...that entity that's receiving public dollars engages in the services of a lobbyist, then they would have to disclose the entirety of the contract. And I think that's important because, for example, we have a lot of organizations that receive grants or lobby for grants or lobby for block services. And we don't really have a clear idea of exactly how that is funneling through and that kind of incentivization to lobby and

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influence the process and whether that's awarding those grants or active on legislation which may enable those grants, whether it's an appropriation or others. [LB663 LB665]

SENATOR HILGERS: Okay, thank you. [LB663 LB665]

SENATOR MURANTE: Thank you. Senator Briese. [LB663 LB665]

SENATOR BRIESE: Thank you, Chairman Murante. And thank you again for being here. Relative to LB665, 24-hour reporting of additional contacts. How does that compare to other states? [LB663 LB665]

SENATOR KUEHN: It's all over the map. So if you want to really get...dive into it, I encourage you again...NCSL has done phenomenal work in terms of documenting this. I was putting together a handout and I could only get it down to 43 pages of what's available on the Web site that summarizes each individual state's reporting requirements and I'd encourage you to take a look at that and see. I mean, again, some states are requiring more real-time reporting. And I think, again, we're seeing movements in more and more states--especially with the advent of on-line options--so it's not a matter of burdening someone like the Clerk's Office or NADC to have to handle paper filings and then update it. When you have the ability to go on-line--and lobbyists in Nebraska do go on-line and fill out their reports now--when you have the ability to simply pop on-line, fill that you've been active, it decreases that time element and helps us collect that information in real time. [LB663 LB665]

SENATOR BRIESE: Is considerable precedent for this scheme here, I take it? [LB663 LB665]

SENATOR KUEHN: There's what? [LB663 LB665]

SENATOR BRIESE: There is considerable precedent for what we're trying to do right here. [LB663 LB665]

SENATOR KUEHN: I think that as far as looking at increasing the visibility between who is active in influencing legislation is...has nationwide momentum on a lot of different fronts, with lawmakers as well as interest groups. [LB663 LB665]

SENATOR BRIESE: Okay, thank you. [LB663 LB665]

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SENATOR MURANTE: And seeing no additional questions, thank you for your opening.
[LB663 LB665]

SENATOR KUEHN: Thank you. [LB663 LB665]

SENATOR MURANTE: And we will proceed to proponent testimony. Mr. Geis, welcome back.
[LB663 LB665]

GAVIN GEIS: Chairman Murante, members of the committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s, and I am representing Common Cause Nebraska. Today has been a fun day, hasn't it? It's been nice. I will be quick. We are supporting LB663. I don't have anything to say on LB665 at the moment. We are in support of LB663 and I just want to make a few points so it won't take long. First of all, I'm sure you've noticed that this bill and one of the previous bills that dealt with no tax spending on lobbyists play on each other in different ways. If you don't move forward, the no tax spending on lobbyists, this could have a...LB663 could have a different impact than if you would move that one forward. In particular, if you just move LB663, that would catch up a lot of these government contracts that are already public record, which is fantastic in our opinion. I don't know how many of you have dealt with public records requests from a variety of different state agencies, requesting that to try to gather data. That's not the most enjoyable and it's not the easiest thing to do. So bringing this into one unified source, if this is what moves forward, bringing those documents together so they can be reviewed and looked at I think is fantastic for just everyone across the board. But I'd be happy, in particular, while we dig through all these data for our lobby reports. But also, Senator Hilgers mentioned the sums we get, those total numbers. And they don't...they're reported, right? We know how much is being transferred hands, but that only tells part of the story. We don't know the background agreement that goes into that. We don't know what's really been talked about between the principal and the lobbyists when it comes to the job being done. So, yes, those totals are great and I'm happy they're there, but when it comes to public spending, public money, it'd be great to have just a little more information about what's actually been agreed upon between the principal and the lobbyist instead of just those sums that don't really tell much of a story at all, they're just numbers. And with that, that's all I had to say. Thank you very much. [LB663 LB665]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thanks for coming. [LB663 LB665]

GAVIN GEIS: Thank you. [LB663 LB665]

SENATOR MURANTE: And welcome back. [LB663 LB665]

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MATT LITT: Thank you. Chairman Murante and members of the committee, my name is Matt Litt, M-a-t-t L-i-t-t. I'm the Nebraska director of Americans for Prosperity. And on behalf of the organization, our activists across the state, we urge your support for both LB663 and LB665. Former State Treasurer Shane Osborn's transparency Web site which put contracts and detailed information of state expenditures on-line was met with support from across the state, including support from the Legislature. In fact, in 2009 there were efforts by members of the Legislature to drastically increase the funding for the state transparency Web site and replicate the service. I bring this as an example to illustrate a basic point: Transparency in government spending is a nonpartisan issue, it's common sense, and it restores the public's confidence in their government. And we also apply the same principle of government transparency to all levels, and that includes when our government bodies contract with lobbyists for paid services. LB663 would allow citizens from across the state to see what they are getting for their tax dollars. This bill simply provides taxpayers a means to see the contract between the lobbyist and the principal if the principal receives public funds via taxes, fees, or grants. These contracts entered into by public entities in other areas of government are already made public, and LB663 brings this type of public contract in line. And just briefly on LB665, regardless of a lobbyist's interests or their client base, we feel it's important for transparency purposes that members of the Legislature, their staff, and the general public have more closely real time information on the projects they're working on. And with that, I'll attempt to answer any questions you have. [LB663 LB665]

SENATOR MURANTE: All right. Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. [LB663 LB665]

MATT LITT: Thank you. [LB663 LB665]

SENATOR MURANTE: Welcome back. [LB663 LB665]

FRANK DALEY: (Exhibit 1) Thank you very much. Senator Murante and members of the Government, Military and Veterans Affairs Committee, my name is Frank Daley, D-a-l-e-y, I serve as the executive director of the Nebraska Accountability and Disclosure Commission. I am here in a neutral capacity as to LB663, but a proponent of LB665. So with regard to LB663, I will just point out that again I passed out some language before the session started of how you can tighten the language a little bit more. That has not necessarily been approved by Senator Kuehn, so please take it for what it's worth there. Let me address, if I may, LB665. We support LB665 because currently lobbyists are required to file statements of activity, which disclose positions they've taken on bills for each of their clients, but these are due 45 days after the end of the legislative session. Now, that made sense in 1976 because that was a time when forms were probably--well, in fact I know--they were filed on carbon paper. And the Clerk of the Legislature's Office didn't want multiple pieces of paper, so one report that included everything

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was preferable. The other difference is that the expectation of all of us and the members of the public as to when information would be available was radically different than it is today. Currently, we have a system whereby lobbyists, as they are engaged in lobbying activity, can go into the electronic system that the Clerk of the Legislature maintains and put in the information that's required by this bill. They just don't submit the information until 45 days after the end of the legislative session. So, in essence, this is a bill that is requiring that information already required under law be submitted and made available on a more timely and useful basis for members of the Legislature, members of the public, and others who are interested in the legislative process. So I do want to thank Senator Kuehn for introducing this bill. Thanks for the opportunity to testify. [LB663 LB665]

SENATOR MURANTE: All right. Thanks for coming down. Are there any questions? Seeing none, thank you. [LB663 LB665]

FRANK DALEY: Thank you. [LB663 LB665]

SENATOR MURANTE: Additional proponents wishing to speak. Is there any opposition testimony? Is there any neutral testimony? [LB663 LB665]

WALT RADCLIFFE: Senator Murante, members of the Government, Military and Veterans Affairs Committee, my name is Walt Radcliffe, W-a-l-t R-a-d-c-l-i-f-f-e. Although I'm a registered lobbyist, I'm not appearing on behalf of any clients. I'm here for myself, pro bono; that's Latin for stupid. (Laughter) And I am here neutrally on both bills, because frankly I'm happy to file the contracts and I'm also happy to disclose. Let me...just one thing on filing the contracts in LB663. Before you can really make any contact with somebody on behalf of somebody else, you've got to go file and register as a lobbyist. That's fine. Quite honestly, a lot of times you get hired and you've got to go to work right away. Having a copy of a contract to file with that initial registration may not be possible to have, simply because it's not going to be signed off on by the political subdivision. So I think there should be some allowance made for getting...for giving people time to get that contract filed. As far as filing it goes, it's fine. LB665, you know, I've got...I always say my approach, as I've said this to Mr. Daley a number of times, I will comply, circumvent, or challenge, you know, if I don't...whatever the law happens to be, just tell me what the rules are. So let me tell you how I'll comply or circumvent with LB665. You're all going to get a letter from me every first ten days of the session saying: Pursuant to LB665, Section blah, blah, blah, please consider this my initial contact on the following bills. And you'll have 1 through 73, 73 through 88, and I'll file those. And I'll do the same thing with the executive branch, simply because from a business standpoint I'm not going to file dozens of reports every day. And that's, frankly, what it would be. But you want me to report initial contacts, I'll be

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happy to report initial contacts. So any questions? I'd be happy to try to answer them. I'm sure we all want to get out of here. [LB663 LB665]

SENATOR MURANTE: All right. Are there any questions? Seeing none, thanks for coming down. [LB663 LB665]

WALT RADCLIFFE: Thank you. [LB663 LB665]

SENATOR MURANTE: Welcome back. [LB663 LB665]

LYNN REX: Thank you. Senator Murante, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First of all, we just have questions. We're happy to comply however you choose to proceed with this. As I said before, I think the more transparency you have the better it is for everybody involved. With respect to LB663, my only question is, I'm a principal under the lobbying rules. And that's because of the municipalities--in two ways--in the municipalities that we represent, but we don't have contracts with them. My only question is to comport with that, would you want a list of members that we represent or do you literally want every...all 500-some cities to have a contract? I mean, we can get one done if that's what you want. I'm just saying, I'm sure the school boards and other organizations...statewide organizations don't have contracts with their members. We could, we don't. But we just want to know, how would we comply? And even though the League does not use dues revenue for lobbying, I think that we have no problem filing whatever you want. We just don't know what you want and how you want that. And perhaps Senator Kuehn could respond to that as well. And I do think that the point he raised about having folks that are lobbying for block grants, this, that, whatever, I think the more information you have the better it is for everybody concerned. With respect to LB665, couple questions. And again, happy to comply with whatever you do, because contrary to what Walt Radcliffe indicated to you--and, actually, we do hire Walt to do several bills a year with us--and we do have a contract with him. So we're happy to file his contract with you. Do we file that? Does he also file that? I mean, I'm the principal so I guess we both file that contract. Happy to do that, too, no problem. Happy to do that too. However, here's some questions I would have and perhaps Senator Kuehn or committee counsel could respond to these. On line 6, initial contact with an official in the executive branch or legislative branch. By official, do you also mean staff? So, for example, if I contact Senator Brewer's staff, is that considered...not him, because he wasn't there, he was up on the floor. I mean, I would think that would consider that would be counted as an initial contact. I don't know. The contrary is also true, especially the first part of the session. We will get contacted by a number of senators, as you did, Senator Briese, saying, what's the League's position going to be on this? So I'm assuming somehow you'd want to make sure it's the contact either way, I would think. But...and in other words, is it counted as an initial contact if the

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lobbyist doesn't initiate it, but still we're being asked? Just a question. We're happy to do whatever you want, just what do you want us to do relative to that? And then the other thing, too, is, I would think that just because--and maybe it's just our own IT system--but you want to have some other option in case you can't get in electronically. So let's say that you can't...you try from our office. We try to get in within the 24-hour period and you can't get in for whatever reason, because of electronic challenges so that at least within the next business day you could drop something off hard copy to the Clerk's Office so you'd have some safe harbor there in case...I mean, obviously, I can tell you, my staff would rather do it on-line any day than trek over to the State Capitol. But just suggesting to you, you need to have some way to respond to that. And then the other question, which is probably true for most of us that are in statewide organizations, would be that I may not personally make the contact with the senator or staff, but as you know, Senator Blood, as a former councilmember we send out weekly legislative bulletins. We'll indicate to our members, you know, to mayors and city administrators, please contact your state senator because the bill on tax incremental financing will be up next week. Here are the League's talking points. Please contact your state senator. So they're going to contact you. So Jeff or the mayor of Gretna contacts Senator Murante. It was initiated by us to say, please do that, because of course they're not back home looking at 600 and some bills saying what do we do for tomorrow? But is that considered a contact or do we...does it fall within the purview of this to say that these are the bills or issues the League is asking people, our elected officials, to contact you with. We just want to know, what do you want so we know we're in compliance and so our elected officials know that too. They are not registered lobbyists, but I'm the one--or my staff is--indicating, please do this, so they're actually doing it at the request of a lobbyist. And then there is the other distinction whereby we will have folks like your Jeff, who's city administrator of Gretna, who is very attuned to everything happening in Sarpy County. So if he comes across something he may contact you and we don't even know it. So then what is my responsibility with respect to that, just so that we know. We're happy to provide whatever you want, just how do we do it and what do we do? With that, I'm happy to answer any questions. [LB663 LB665]

SENATOR MURANTE: All right. Thank you for your testimony. Are there any questions? Seeing none, thank you. [LB663 LB665]

LYNN REX: Thank you very much. Thanks. [LB663 LB665]

SENATOR MURANTE: Is there additional neutral testimony? Seeing none, Senator Kuehn to conclude Senator Kuehn day, part two. This is your second Senator Kuehn day. [LB663 LB665]

SENATOR KUEHN: Thank you. I know. I appreciate your patience and I really do appreciate the discussion and conversation. I think we need to be talking about these much more frequently as colleagues. A couple of just quick things. One, to put on the record, I certainly think that the

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language suggestions made by Mr. Daley and NADC as far as tightening up the language are excellent suggestions and endorse them as well. And I certainly appreciate his diligence and time in helping make sure that that language fits within NADC, as well as his support and NADC's support, the commission's, for LB665. Just to address a couple of quick questions that were brought up and just to make sure that everyone is clear on what we mean by initial contact and it's not the initial contact with each individual, it is once you become active on a bill. So if, for example, once a lobbyist has become active on LB665, once they've had a contact with any individual they simply file that they have become active on that bill in real time. And that's the only filing. So once that they have established that they're active on the bill, they file it instead of filing it 45 days at the end of the session, they simply file it in real time and they're good to go. It's not each individual initial contact with each individual person. So I think there's a little bit of misconception over what you would have to file. I think...well, certainly Mr. Radcliffe's idea of I would just file all of them at once, I think it would be a little bit weird if you went on-line and said, why is his client, Tyson Foods, engaged on LB665? That would not help with the idea of promoting transparency of who's active on a bill. Also, Ms. Rex brought up the question of who would, and I think if you look at line 3 it specifically says that the burden is the lobbyist. So individuals who are not registered lobbyists are required to register electronically already does not fall under the requirement to submit for the initial contact. So happy to work with those stakeholders on additional questions about meeting compliance. So with that, I appreciate all of your time and great questions today. Happy to address any others that you may have. [LB663 LB665]

SENATOR MURANTE: All right. Thank you, Senator Kuehn. Any final questions? Seeing none, we will go vote on a Senator Kuehn bill now in Executive Session. [LB663 LB665]

SENATOR KUEHN: All right. Thank you very much. I appreciate your time and attention. [LB663 LB665]