

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

*Review of the Occupational Regulation of  
Private Detectives, Private Detective Agencies, and Plain Clothes Investigators*

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

*Submitted to the Clerk of the Legislature of the 106th Nebraska Legislature  
on December 20, 2019*

Committee Members:

Sen. Tom Brewer, Chair  
Sen. Andrew LaGrone, Vice Chair  
Sen. Carol Blood  
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## INTRODUCTION

In 1885, the Nebraska Legislature first enacted legislation to regulate private detectives in Nebraska. This law specifically required that persons associating for the purpose of “carrying on detective or secret service business for pay” must file a certificate with the Secretary of State including the names and home addresses of the participants, and the association’s office address. The law then required the filing with the Secretary of State within thirty days certain legal and professional conduct affirmations from each participant and a \$10,000 bond.

Simple noncompliance with this original act was punishable as a misdemeanor by up to thirty days in jail and a fifty dollar fine. False and fraudulent pretended association for the purpose of obtaining something of a value greater than thirty-five dollars from another person was punishable by up to five years imprisonment and a fine of up to one hundred dollars.<sup>1</sup>

In 1959, the Nebraska Legislature substantially increased the regulation of this occupation when it passed Senator Michael Russillo’s LB 617. This legislation imposed a new license and regulation scheme not only for private detective agencies but also for the individual persons employed as private detectives and plain clothes investigators. LB 617 as introduced would have created a new Private Detective Licensing Board, along with providing for qualifications of board members and general procedures for granting licenses and otherwise regulating the profession.

The Judiciary Committee, in its committee statement of April 28, 1959, noted that its substitute bill was prepared to resolve the committee’s concern that “the original bill would too greatly restrict competition because of the large amount of fee required, the fact that it would cover some investigators and guards, and would prevent many persons in our state from obtaining part-time employment in the field. Also the committee was concerned about the cost of setting up a separate board.”<sup>2</sup>

According to committee records, the committee’s substitute bill was prepared in large part by the Deputy Secretary of State. It more narrowly targeted the regulations on private detectives, so as to exclude other investigators and uniformed guards. The new version reduced the high fee initially proposed, from \$250 in the introduced bill to \$10 for private detectives and \$2 for plainclothes investigators. The revision also eliminated provisions creating a new

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<sup>1</sup> Laws Nebraska 1885, c. 24, §1 *et seq.*, p.189.

<sup>2</sup> See Appendix D: Statement on LB 617. Judiciary Committee of the 76th Nebraska Legislature. April 28, 1959.  
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*Government, Military and Veterans Affairs Committee of the Nebraska Legislature*

regulatory board, instead housing the licensure program in the office of the Secretary of State. It retained a surety bond requirement.<sup>3</sup>

The provisions of law pertaining to the occupational regulation of private detectives were last amended in 1993 by LB 121. Fees have been updated since 1959 but the basic regulatory structure imposed by LB 617 remains in law today.

Current regulations require thousands of hours of investigatory experience for licensure as a private detective. The actual experience requirement varies based on the level of educational attainment. Three thousand hours of “verifiable investigative experience” is required for applicants without a relevant degree from an accredited college, 2,500 hours for applicants with an associate’s degree in criminal justice or a related field, and 2,000 hours for applicants with a qualifying bachelor’s degree.<sup>4</sup>

Plain clothes investigators are not subject to an experience qualification for licensure, but they can only be employed as such by a licensed private detective.<sup>5</sup>

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<sup>3</sup> *Ibid.*

<sup>4</sup> 433 Neb. Admin. Code §3-005.01.

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

## **PROGRAM OPERATIONS DATA**

On September 11, 2019, committee staff submitted a survey request to the Secretary of State's office ("SoS") for the purpose of collecting historical information on its operation of this regulatory program. The committee received the SoS's electronic response on October 31, 2019. Because this program is administered by a constitutional officer's staff and not by an independent board or commission, there are no data pertaining to occupational board membership, qualifications, or meetings.

The SoS's survey response indicated that there are 357 professionals regulated by this program. 296 credentials have been issued since January 1, 2014. There has been one revocation during that time, for a revocation rate of approximately .05 percent per annum over the reporting period. The revocation occurred in 2016, when a licensee was convicted of wire fraud in federal court and agreed to surrender their license voluntarily.

During the same period, four applicants were denied credentials, for a denial rate of 1.3 percent during the reporting period. The reasons for these denials included failing the exam three times (2 applicants), misdemeanor conviction involving moral turpitude (1 applicant), and an undisclosed felony conviction (1 applicant).

The budgetary data provided by the SoS in its survey response initially appears to indicate that it expended approximately \$872 per regulated professional in the most recent fiscal year. However, this budgeted amount refers to the shared budget for three support staff working across multiple programs and so does not accurately reflect the cost to the SoS of carrying out this particular program.

*(The Secretary of State's survey response is attached to this report as Appendix A.)*

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

The SoS provided with its survey response a table providing a list of states and their respective methods for regulating private detectives. Individual background checks, examinations, and license/registration fees are the most common regulatory measures described in the SoS response.

According to the data compiled in this table, only three states were found to have no license or registration requirements for private detectives: Idaho, Mississippi, and South Dakota. Two other states have no state-level regulation of the occupation but do have relevant occupational regulations in one or more local jurisdictions. These states include: Alaska and Wyoming. Indiana requires licensure of private detective agencies, but it does not mandate licensure of the individuals employed by such agencies.

Delaware operates what it describes as a “licensure” program with only a fee requirement and no background check, examination, or other personal qualifications. Under the relevant section of Nebraska’s Occupational Board Reform Act (“OBRA”),<sup>6</sup> this program would be classified as a registration.

The remaining forty-three states and the District of Columbia all regulate private detectives in a manner that would be defined as an “occupational license” under the relevant section of OBRA.<sup>7</sup> Most require either a background check and fee,<sup>8</sup> or a background check with payment of a fee and satisfactory performance on a written examination.<sup>9</sup>

The cost of obtaining a license in the various state programs — including application fees, background check fees, and examination fees — ranges from a low of \$58 in Texas to a high of \$1450 in Connecticut. Nebraska’s current fees fall near the low end of the range, with combined fees totalling \$138 for a private detective agency, \$88 for private detectives and \$63 for plain clothes investigators.

*(The Secretary of State’s table comparing regulations in different states is attached below as Appendix B.)*

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<sup>6</sup> Neb. Rev. Stat. §84-944.

<sup>7</sup> Neb. Rev. Stat. §84-939.

<sup>8</sup> Jurisdictions requiring a background check but no examination are: AZ, CT, DC, GA, IA, IN, MD, MA, MI, MN, NH, NJ, NC, PA, RI, SC, TX, UT, and WV.

<sup>9</sup> Jurisdictions requiring a background check and examination are: AL, AR, CA, CO, FL, HI, IL, KS, KY, ME, MO, MT, NV, NM, NY, ND, OH, OK, OR, TN, VT, VA, WA, and WI.

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

Legislative records from the 1885 legislative session are incomplete. Consequently, details of information presented in any public hearings or floor debate are unavailable. However, it is apparent from the language of the 1885 law itself that the basic assumptions underlying the creation of these first regulations on private detective agencies included:

- The contractual employment by state magistrates of private detectives for the execution of legal writs and other police functions;<sup>10</sup> and,
- The existence of persons falsely representing themselves as private detectives for the purpose of defrauding or otherwise causing harm to members of the public.<sup>11</sup>

Unlike the 1885 legislation, thorough legislative records from the committee hearing and executive session on LB 617 in 1959 are available, including a hearing transcript and committee statement. The committee of jurisdiction at that time was the Judiciary Committee. The transcript of the Judiciary Committee's February 27, 1959 public hearing on LB 617 show that proponents included representatives of an Omaha law firm, the Deputy Secretary of State, firms employing private detectives and armed guards, a representative of the Associated Retailers of Omaha and Associated Retail Credit and Collection Division of Nebraska, and Thomas Pansing, a lobbyist representing the Police Officers Association of Nebraska.<sup>12</sup>

Testifiers speaking in support of the licensure bill referenced the following conditions as warranting more strict regulation of the profession:

- The susceptibility of the public to fraud by unscrupulous persons representing themselves as private detectives<sup>13</sup> and the assumption that using past criminal history to disqualify license applicants would aid in preventing future fraud;<sup>14</sup>
- The possibility that the then-existing process for incorporation of a detective agency (under the 1885 law) could be seen as an endorsement by the Secretary of State of that firm's professional competency, despite the office's lack of authority to oversee, suspend,

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<sup>10</sup> See Laws Nebraska 1885, c. 24, §§5-6, pp.193–194.

<sup>11</sup> See Laws Nebraska 1885, c. 24, §§7, 9, pp.194–196.

<sup>12</sup> See Appendix C: Hearing transcript. Judiciary Committee of the 76th Nebraska Legislature. February 27, 1959.

<sup>13</sup> *Ibid.* at 6.

<sup>14</sup> *Ibid.* at 7–8.

or otherwise discipline members of the profession;<sup>15</sup> and

- The inability of small businesses on their own to adequately investigate the competency and character of private detectives they hired as watchmen.<sup>16</sup>

Ted Richling, an Omaha attorney later appointed by President Kennedy as U.S. Attorney, testified in opposition to LB 617. Mr. Richling said that three Omaha detective firms asked him to communicate their opposition “to the setting up of a monopoly.”<sup>17</sup> He stated that “This bill is an attempt to put one certain man in Omaha out of business[...]. Is it worth it to set up another bureau to get rid of one man? [...] I don’t think a board set up to control their own little business is the American way.”<sup>18</sup>

In addition to this in-person opposition, letters were received by the committee from opponents including the Order of Railroad Conductors, Brotherhood of Firemen and Enginemen, and the Brotherhood of Locomotive Engineers.<sup>19</sup>

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<sup>15</sup> *Ibid.* at 6–7. This issue was raised by the Deputy Secretary of State in his testimony.

<sup>16</sup> *Ibid.* at 7. *NB:* This concern was left unaddressed in the committee’s substitute bill, since that revised bill was more narrowly tailored to regulate only private detectives and to exclude guards, armored car services, or others engaged in investigative work, e.g., loss prevention investigators in a retail context.

<sup>17</sup> *Ibid.* at 8.

<sup>18</sup> *Ibid.* at 9.

<sup>19</sup> *Ibid.*

## **OBRA POLICY ANALYSIS**

The Occupational Board Reform Act (“OBRA”) makes several statements of policy which committees are instructed to apply as part of the regular OBRA review process.<sup>20</sup>

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

- a. Analysis: Current regulations are costly and time-consuming to satisfy, particularly for a job that pays approximately \$35,000–\$73,000 per year in the Omaha market.<sup>21</sup> The licensure requirements for private detectives require up to 3,000 hours of prior investigatory experience, with formal educational attainment reducing this requirement by up to 1,000 hours. Disqualifying criminal convictions appear to be limited to (1) felonies and (2) misdemeanors involving moral turpitude. It does not appear to be possible for people to legally pursue this occupation unless they are first employed either by a law enforcement agency or by an existing private firm operated by a person who is already licensed as a private detective.

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

- a. Analysis: Committees completing their regular review of occupational regulations under OBRA shall determine whether an occupational regulation is the least restrictive regulation necessary to mitigate the risk of harms that might otherwise result from the practice of the occupation.<sup>22</sup>

The financial cost of submitting an application for licensure in Nebraska is relatively low compared to other states, but as previously mentioned the personal qualifications are daunting for applicants seeking licensure as private detectives or private detective agencies.<sup>23</sup> Given the fact that only four licenses have been denied and only a single license has been revoked during the reporting period, it is not obvious how much of a threat there is to be protected against.

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<sup>20</sup> See Neb. Rev Stat. §§84-946 and 84-948(7)

<sup>21</sup> “Private Detective Salary in Omaha, Nebraska.” *Salary.com*. Retrieved December 14, 2019. [URL: <https://www.salary.com/research/salary/alternate/private-detective-salary/omaha-ne>]

<sup>22</sup> Neb. Rev. Stat. §§84-937 and 84-948(4)

<sup>23</sup> 433 Neb. Admin. Code §3-005.01.

Some of the assumptions underlying the creation of these occupational regulations are based on historical conditions that no longer exist. An important basis for requiring special rules for formation of private detective agencies was the fact that these agencies were frequently called upon to serve civil magistrates in official state court proceedings. Furthermore, during the late nineteenth century these firms often operated as private police forces, or even as private paramilitary organizations.<sup>24</sup> These public policing and court functions are now carried out by law enforcement officers who are subject to their own mandatory professional certification<sup>25</sup> (an occupational regulation that is beyond the scope of this report).

Other risks that existed in 1885 may still exist today and justify related regulations according to the hierarchy provided in OBRA.<sup>26</sup> The risk of noncompletion of work or substandard completion of work warrants a bond requirement under OBRA.<sup>27</sup> This risk appears to be of continuing concern today, according to the SoS survey response.<sup>28</sup>

The danger of fraud and misrepresentation by purported private detectives was identified as a problem by the Legislature in both 1885 and 1959. Under OBRA, the danger of fraud alone would not be enough to justify an occupational license. The appropriate policy response to address this danger is “to strengthen powers under the Uniform Deceptive Trade Practices Act or require disclosures that will reduce misleading attributes of the specific goods or services[.]”<sup>29</sup>

However, the risk of fraud or other dangers to the consumer, according to the Secretary of State, is compounded by the confidential and often personal nature of the information obtained by private detectives. According to the SoS survey response, access to certain sensitive databases is afforded to licensed private detectives but not to unlicensed persons. Private detectives are also involved in property search and recovery activities that could present a danger to the public if improperly carried out.<sup>30</sup> Additionally, the legislative record from 1959 and the SoS survey response both assert (1) an inability of reasonable consumers to

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<sup>24</sup> *E.g.*, near Pittsburgh, Pennsylvania in 1892, the Pinkerton Detective Agency was involved in the so-called “Homestead Massacre,” in which three hundred private police engaged in a gun battle with approximately 6,500 striking steel workers, resulting in ten dead and twenty-three injured.

<sup>25</sup> *See* Neb. Rev. Stat. §81-1414.

<sup>26</sup> Neb. Rev. Stat. §84-937.

<sup>27</sup> Neb. Rev. Stat. §84-948(4)(c).

<sup>28</sup> *See* Appendix A. “Agency Survey Response.” Nebraska Secretary of State. 2019.

<sup>29</sup> Neb. Rev. Stat. §84-948(4)(a).

<sup>30</sup> *See* Appendix A.

ascertain the quality and trustworthiness of providers, and (2) grave harms that could result from unscrupulous people's being contracted for private detective work. For these reasons, it appears that continuing occupational licensure of private detectives and plain clothes investigators is warranted under OBRA.<sup>31</sup>

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

- a. Analysis: The original version of LB 617 as introduced was expansive in scope and would have affected armed car services, all manner of security guards, insurance adjusters, and others. As amended by the 1959 committee and passed into law, the bill was more narrowly tailored to only apply to private detectives, plain clothes investigators, and the agencies that employ them.

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

- a. Analysis: The fact that a person may enter the business only after first being employed and supervised by a future competitor makes the field less competitive. It potentially allows established firms to obstruct the entry of new competitors in the market. The effect can be expected to be particularly acute in a field with only a few hundred licensed professionals across the entire state. The effect is mitigated to some degree by the growth of public law enforcement agencies and the greater number of investigator jobs that could provide qualifying experience.

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<sup>31</sup> See Neb. Rev. Stat. §84-948(4)(g).

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

### General Information

- Committee of Jurisdiction:  
Government, Military and Veterans Affairs
- Occupation Regulated:  
Private Detectives, Private Detective Agencies, and Plain Clothes Investigators
- Occupational Board:  
N/A
- Contact:  
David Wilson
- Purpose:  
Ensure that persons doing private police work and un-uniformed security are properly regulated so as to protect the public from potential harm. Private Detectives have access to sensitive information, will conduct investigations that involve inquiring about a person's habits, location, character, relationships, employment, civil/criminal liability, and other potentially sensitive/harmful information. Private Detectives have access to databases that nonlicensed persons do not that gives them information about citizens and residents of Nebraska not otherwise available to the public. A licensee could potentially harm someone if this information is not correctly protected or used in a harmful/dishonest/unethical manner. Additionally, clients of Private Detectives entrust the licensees with their money and sensitive information. A licensee is required to pass a background check to ensure they are a person of honesty and good character. This helps prevent clients/the public from undue damage caused by the work of a Private Detective.
- Regulated Professionals:  
357
- Year Created:  
1959
- Year Active:  
1959
- Sunset Date:  
None

### Authorization

- Statutory Authorization:  
71-3201 to 71-3213
- Parent Agency:  
Secretary of State

## Memberships

- Number of Members: N/A
- Who Appoints: N/A
- Legislative Approval: N/A
- Qualifications of Members: N/A
- Per Diem: N/A
- Expense Reimbursement: N/A
- Term Length: N/A
- Terms Rotate or Expire at Once: N/A

## Meetings

- Required FY 2018-2019:  
0
- Held FY 2018-2019:  
0
- Required FY 2017-2018:  
0
- Held FY 2017-2018:  
0
- Required FY 2016-2017:  
0
- Held FY 2016-2017:  
0
- Required FY 2015-2016:  
0
- Held FY 2015-2016:  
0
- Required FY 2014-2015:  
0
- Held FY 2014-2015:  
0

## Operations

- Support Staff:  
3
- Shared or Separate:  
Shared
- FY 2018-2019 Budget:

- 311512
- FY 2017-2018 Budget:  
307841
- FY 2016-2017 Budget:  
294656
- FY 2015-2016 Budget:  
267197
- FY 2014-2015 Budget:  
338134
- Other Funding Sources:  
Fees from applicants/licenses; 71-3204
- Spending Authority:  
71-3204; 71-3201 to 3213

#### Other

- Government Certificates Issued:  
296
- Issued Certificate Descriptions:  
296 represents all licenses newly issued since 1/1/2014 for all three categories.  
Broken down by category:  
Plain Clothes Investigator -- 187  
Private Detective Agency -- 71  
Private Detective -- 38  
Every licensee must renew every two years by June 3
- Government Certificates Revoked:  
1
- Revoked Certificate Descriptions:  
In 2016, we sought the revocation of a licensee who was convicted of Wire Fraud in federal court. In lieu of a hearing, the licensee agreed to surrender their license via a Stipulation and Consent Order.
- Government Certificates Denied:  
4
- Denied Certificate Descriptions:  
2 -- Failing the exam three times  
1 -- Misdemeanor conviction of moral turpitude  
1 -- Felony conviction not disclosed on application.
- Government Certificates Penalties Against:  
0

- Penalty Certificate Descriptions:

N/A

- Explanation of Effectiveness:

The current process ensures that only people with either (1) extensive investigative experience or (2) a position in an agency overseen by someone with extensive investigative experience are given licenses to conduct private police work or un-uniformed security services.

Additionally, the application process involves a background check by the Nebraska State Patrol that ensures only those with proper character and reputation for honesty are granted licenses.

Private police work involves background checks, investigating identities, habits, conduct, movement, and character. It also involves searching for and recovering property. These activities could cause great harm to individuals when done improperly or by inexperienced persons—including the clients or the subjects of the investigations. Clients place a great deal of trust and discretion with the licensees. Licensees also have access to databases containing potentially sensitive information that the public-at-large does not have access to. Private detectives are entrusted with this and we help ensure that only reputable people are granted licenses.

- Potential Harm:

Inexperienced or incompetent private detectives will be given access to private, sensitive information—either their clients’ or through secure databases they are granted access to—which could cause harm if improperly disclosed.

Persons with a history of serious criminal behavior, fraud, dishonesty, or lack of integrity could be investigating members of the public, impugning them unfairly during or after, or pursuing lost or stolen property attempting to recover it. Persons involved in those investigations or harmed by them may not believe that they are being properly protected and their interests properly considered. Clients who hire these licensees may not receive competent work and may not trust the results of the investigation they paid for.

- Regulation Comparison:

[See below]

## APPENDIX B: COMPARISON OF STATE REGULATIONS

| State              | Background Check | Exam | Fee   | Registration or License | Notes   |
|--------------------|------------------|------|---|-------------------------|---|
| Alabama            | Yes              | Yes  | Application fee: \$125; license fee: \$300  | License                 |   |
| Alaska - Anchorage | Yes              | No   | Fee: \$100  | License                 | Alaska, as a state, does not license private detectives. Cities in the state may. |
| Alaska - Fairbanks | Yes              | No   | Application fee: \$100; license fee: \$400  | License                 | Alaska, as a state, does not license private detectives. Cities in the state may. |
| Arizona            | Yes              | No   | Application fee: \$250; license fee: \$400  | License                 |   |
| Arkansas           | Yes              | Yes  | Application fee: \$450  | License                 |   |
| California         | Yes              | Yes  | Application fee: \$50 (\$130 if requesting firearms permit)   | License                 |   |
| Colorado           | Yes              | Yes  | Application fee: \$330  | License                 |   |
| Connecticut        | Yes              | No   | State background check fee: \$50; FBI background check fee: \$16.50; License fee: \$1450; License fee (PDA): \$1750 | License                 |   |
| Delaware           | No               | No   | Application fee: \$69; License fee: \$20  | License                 |   |
| DC                 | Yes              | No   | License fee: \$206  | License                 |   |
| Flordia            | Yes              | Yes  | Exam fee: \$100; Application fee: \$50; License fee: \$75; Fingerprint fee: \$42                                    | License                 |   |
| Georgia            | Yes              | No   | Exam fee: \$125; Application fee: \$400   | License                 |   |
| Hawaii             | Yes              | Yes  | Fingerprint fee: \$64   |                         | Exam is only for individuals going into business for themselves.                  |
| Idaho              | N/A              | N/A  | N/A   | N/A                     | No license requirement in state.  |
| Illinois           | Yes              | Yes  | Examination fee: \$291  | License                 |   |

|                      |     |     |  |              |   |
|----------------------|-----|-----|--|--------------|---|
| <b>Indiana</b>       | Yes | No  | Application fee: \$300   | License      | Individuals are not licensed; only business entities. |
| <b>Iowa</b>          | Yes | No  | Fee: \$140   | License      |   |
| <b>Kansas</b>        | Yes | Yes | Agency Fee: \$250; Owner of agency: \$100  | License      |   |
| <b>Kentucky</b>      | Yes | Yes | Individual Application: \$100 Application fee; \$300 License fee; \$20 licensing request fee<br><br>Company Application: Sole-proprietorship: \$100 application fee; Company, partnership, or corporation: \$500 application fee | License      |   |
| <b>Louisiana</b>     |     | Yes | Exam fee: \$50; Apprentice License: \$192.50, Individual License: \$192.50; Journeyman: \$342.50; Agency License: \$342.50   | License      |   |
| <b>Maine</b>         | Yes | Yes | Application fee: \$71; License fee: \$450  | License      |   |
| <b>Maryland</b>      | Yes | No  | Registration fee: \$15; Application fee: \$75  | Registration |   |
| <b>Massachusetts</b> | Yes | No  | License fee: \$550   | License      |   |
| <b>Michigan</b>      | Yes | No  | Licensing Fee: \$750   | License      |   |
| <b>Minnesota</b>     | Yes | No  | Individual: \$1000; Partnership: \$1700; Corporation/LLC: \$1900   | License      |   |
| <b>Mississippi</b>   | N/A | N/A | N/A  | N/A          | No license requirement in state.                      |
| <b>Missouri</b>      | Yes | Yes | Application fee: \$500   | License      |   |
| <b>Montana</b>       | Yes | Yes | Application fee: \$250; Examination fee: \$20  | License      |   |

|                       |     |     |  |         |   |
|-----------------------|-----|-----|--|---------|---|
| <b>Nevada</b>         | Yes | Yes | Application fee: \$20; Examination fee: \$100; Background Investigation Deposit: \$750   | License |   |
| <b>New Hampshire</b>  | Yes | No  | Application fee: \$150 (Private Investigator Agency License: \$500); Criminal Record Check Fee: \$25; Background Investigation Fee: \$10 | License |   |
| <b>New Jersey</b>     | Yes | No  | Application Fee: \$250; Agency Fee: \$300  | License |   |
| <b>New Mexico</b>     | Yes | Yes | Application fee: \$200   | License |   |
| <b>New York</b>       | Yes | Yes | Examination fee: \$15; Application fee: \$400  | License |   |
| <b>North Carolina</b> | Yes | No  | Application fee: \$150   | License |   |
| <b>North Dakota</b>   | Yes | Yes | License fee: \$130; One time fee: \$100  | License |   |
| <b>Ohio</b>           | Yes | Yes | Examination fee: \$25; License fee: Up to \$375  | License |   |
| <b>Oklahoma</b>       | Yes | Yes | Fee: Unarmed PI: \$91; Armed PI: \$141; Examination fee: \$24  | License |   |
| <b>Oregon</b>         | Yes | Yes | Background fee: \$79; License Fee: \$550   | License |   |
| <b>Pennsylvania</b>   | Yes | No  | License fee: \$200   | License |   |
| <b>Rhode Island</b>   | Yes | No  | License fee: \$150   | License | Licenses are issued by counties/cities. |
| <b>South Carolina</b> | Yes | No  | Liense fee: \$350  | License | Continuing education is required.       |
| <b>South Dakota</b>   | N/A | N/A | N/A  | N/A     | No license requirement in state.        |
| <b>Tennessee</b>      | Yes | Yes | Application fee: \$150; Fingerprint processing: \$60; License: \$100   | License |   |

|                            |     |     |  |              |  |
|----------------------------|-----|-----|--|--------------|--|
| <b>Texas</b>               | Yes | No  | Application fee: \$33; FBI background fee: \$25  |              |  |
| <b>Utah</b>                | Yes | No  | License fee: \$100   | License      |  |
| <b>Vermont</b>             | Yes | Yes | Application fee: \$60 (unarmed) \$120 (armed)  | License      |  |
| <b>Virginia</b>            | Yes | Yes | \$600 for one year registration; \$850 for 2 year registration. \$50 certification for agents.   | Registration | Exam is part of training that is required.   |
| <b>Washington</b>          | Yes | Yes | Application fee: Unarmed Agency: \$600; Armed Agency: \$700; Unarmned PI: \$200; Armed PI: \$300 | License      |  |
| <b>West Virginia</b>       | Yes | No  | Processing Fee: \$50; Application Fee: \$150 (WV residents); \$550 (Non-resident)                | License      |  |
| <b>Wisconsin</b>           | Yes | Yes |  |              |  |
| <b>Wyoming -- Cheyenne</b> | Yes | No  | Application Fee \$20; Finger print fee \$15; Background Fee \$20                                 | License      | Wyoming as a state does not have a license requirement but cities may require one. |

## APPENDIX C: LB 617 HEARING TRANSCRIPT

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Since there was some question in the minds of the Committee members as to why the Lincoln Bar Association was opposed, Mr. Ginsburg was allowed to speak again.

Mr. Ginsburg: My point isn't that we are opposed because of the change in the law. We are opposed because it will not accomplish what the Senator says it will. I am opposed to the four month period after the decree. That will fall right into the hands of those who have someone else in mind to marry. We don't care if you say 90 days until the time of trial, but don't like the shortening of time at the end.

Hearing closed.

LB 617:

### PROponents

Sen. Michael Russillo, Omaha: The purpose of this bill is to license private detectives and investigators and to increase the standards practiced in that profession. The fee of \$250 may seem high but in other cities the fees are much higher and it is necessary to have a decent fee so that the people who apply have a high standard. It is necessary that the board as set up have at least one member who is acquainted with and has practiced being a detective, but I think it not be necessary that he be actively engaged but should have been a few years immediately before. Other proponents probably can explain the bill better than I.

Joseph J. Vinardi, attorney, Omaha: History behind the bill: This started about 18 months ago when a complaint was filed with the Governor that a person was not licensed. The client called our office and was told there was no such thing as licensing in this state. There is not only no provision for licensing, the only thing there is is an incorporation procedure for detective business. If two people wish to start a business, they incorporate under certain statutes--there is no regulation regarding private detective agencies. An individual or firm can engage in a business without any license or supervision of any kind. It leaves the public open to fraud in that line of business. A study was begun and was made of states throughout the US and the bill was then prepared. There have been many studies made since the drafting of the bill and we have amendments to improve the bill.

Roland Luedtke; Deputy Secretary of State, Lincoln: Senator Busillo asked us to give our impression of the bill so far as it affects the operation of our office. We are very happy that some sort of a bill regulating private detectives came up. When the Pinkerton Detective Agency came into the state to do business a number of years ago, they were quite amazed at the type of law we have. The only statutory authority we have is for establishing

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a private detective or secret service business is under our corporation laws (21-904 to -914). We agree these laws are out of date. The corporate procedure includes the preparation of a certification by the Secretary of State as to the corporate status of any such detective association. This is issued after the bond is filed. This frequently means a deceptive holding out to the general public that the state of Nebraska has somehow approved of the activities of persons holding such a corporate certificate of compliance. Such a "show of right" gives the general public the feeling they can complain to the Secretary of State about the subsequent operations of such detectives. The Secretary has no power of investigation and can do nothing to alter the corporate status. The Secretary is much concerned about this situation because we receive numerous inquiries about licenses and licensees and can satisfy neither, and we receive complaints from the general public that licensed detectives have done this and that, and would be investigate. We cannot investigate. We also receive inquiries from law enforcement officers and other private detectives who are concerned about their profession. Our basic objection to the law as it exists is that we simply do not have a licensing act of any kind, and the law we do have is weak and ineffective in this modern age of law enforcement. We feel some central licensing of all such operators is essential. Our office is not concerned with the details such as whether it be through control of a board, individual control, or what have you. We will administer to the best of our ability any licensing act you give us. We would go along with any reasonable amendments to make LB 617 a workable law to control the operations of this field in Nebraska. The fees as set up in the bill would cover the expense involved in our office because there are so few organizations involved.

Mr. Keith Carter, of Samardick and Company, Omaha, past special agent with the FBI, who had a hand in drafting the bill, told of the kind of people who operate as detectives--one was a convicted felon who worked as a private detective when not in the Penitentiary. Told of a case where a man got \$150 from a woman for investigating her husband and got \$150 from the husband for not investigating. We also got a complaint of a man who was hired to protect a business and was caught burglarizing the place. These are cases of unethical conduct. We feel the law is most needed. We think the fee should be high enough to pay for the service. Samardick and Company is essentially an armed car service; we do not handle domestic cases of any kind. We investigate shortages in wholesale and retail businesses. The licensing fee in New York is \$300 per year.

Bill Day, of Gross, Welch, Vinardi and Kaufman, of Omaha, submitted amendments.

George Wruck, Associated Retailers of Omaha, and Associated Retail Credit and Collection Division of Nebraska: We think that anything in the direction of assuring merchants when they hire private detectives that they are getting someone qualified is good. Small firms don't have the possibility to investigate the men they hire for watchmen, etc.

John Henry, manager, Better Business Bureau of Omaha: I came to oppose the bill but approve it now that it has been amended to exclude the Better Business Bureau. There have been criticisms made to our office on this type of thing. Because of the nature of it, the ordinary person does not complain because he doesn't want to admit he has been "bilked." Therefore, there would probably be more complaints than there are. The public now is at the mercy of anyone who wants to be a private detective.

Thomas Fansing, representing Crosby, Fansing and Guenzel, law firm in Lincoln: We are council for the Police Officers' Ass'n. of Nebraska and their interests. It is at their request we approve the intent of the licensing of this business. We feel there is a need for high type private detectives. There are five firms in Lincoln--Samardick and the ADT, which is a national firm, and three others who are of the Mickey Spillane type. Every man who fancies he has a fast draw would like to get into this business. Some men think they can be private detectives without any training for it at all. They come and go in Lincoln; we have one that is a convicted felon.

On page 7 of the bill, at the end of line 24 and through line 29, that perhaps should be made more specific and it would be reasonable to say that "standards should be set up that are equally applicable to all applicants." On page 9, line 9 of section 12, "Felony or any crime involving moral turpitude" and there probably should be included misdemeanors which would cover petty larceny, etc. It has been suggested that it should be made clear that there is a duty on any licensee to report any crime that comes to his attention. We would like it required. Also, if the board develops any information, it should be reported to the police.

Our organization represents about 800 police officers in the state and we do feel the need for a more stringent agency.

Joe Vinardi: We could amend the top of page 5, lines 8 through 12 by striking these and inserting "but such police power shall not be so exercised as to infringe upon or nullify any license duly issued and held under the provisions of this act." We have no objections to the amendments suggested by Mr. Fansing.

#### OPPONENTS

Ted Richling, attorney, Omaha: I am not in opposition to licensing and controlling these agencies, but am in opposition to LB 617. There will be a new board created and the license fee will be \$250 for two years. We had a similar bill in the 1953 legislature and it was defeated. Several lawyers from Omaha asked me to speak for them, too.

In Omaha, we have Samardick, Pinkerton and four other firms engaged in this business. Three of those other firms asked me to say they are opposed to the setting up of a monopoly. Many police

officers do this kind of work in their off hours to supplement their pay. The proponents say this bill wouldn't cover them, but I think it will--they would have to buy a license. It will also cover the student from law college or anyone who is hired to do this work even on a part-time basis. If a window is broken in a department store, they will hire someone to watch that window and he will not be put on the regular payroll--it will be a contract deal because the store doesn't want to be responsible if he shoots someone. That watchman will have to have a license. This bill is an attempt to put one certain man in Omaha out of business, but the bill really will not do that. I have brought a suit against this particular man and the bonding company got scared and withdrew his bond and he was out of business for a few months--then he was right back in again.

Is it worth it to set up another bureau to get rid of one man? The bill says they will have an office in the State House. It doesn't say the Secretary of State should do this in addition to his other duties. And all of this to cover 18 men at the outside. It is to set up a monopoly. The board is going to set up its own rules. There is an oral examination and if someone applies they don't like, they can flunk him on that examination. At, say, 10 people in the business, at \$250 for two years, how are you going to pay two people a total of \$2500 for two years' work? If the Committee feels there is a need for licensing, all it needs to do is set it up in the Secretary of State's office, and give him the power to call the Highway Patrol to do the investigation rather than create another board or bureau. I don't think a board set up to control their own little business is the American way.

There is provision for a \$1000 cash bond. Where in the judiciary system do you find the requirement of a \$1000 cash bond? And how can you appeal on an error when there is no record made in the first place? There is no appeal.

We feel the bill is too cumbersome and too expensive for the few people it covers.

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The Chairman read letters and telegrams in opposition from: Anton F. Munch of Omaha; C. R. Kuehn, Order of Railroad Conductors, Lincoln; O. D. Menefee, Brotherhood of Firemen and Enginemen, Fairbury; and J. H. Gerteisen, Chairman of State Legislative Board, Brotherhood of Locomotive Engineers--opposed for the same reasons expressed by Mr. Richling.

#### REBUTTAL

Sen. Russillo waived his right of rebuttal and designated Mr. Vinardi to do so.

Mr. Vinardi: This does not cover any law firm or lawyer in the practice of law. The student does not need a license because it covers any manner of operation of a lawyer. As for setting up

another bureau, this is a bill to protect the public. The Deputy Secretary of State says it will pay for itself and I think he is a good authority. We don't care about the licensing fee--change it if you wish. As for the \$1000 bond, the purpose of that is obvious, but we don't care if you make it \$10 or \$50. These figures in the bill are just suggestions.

Hearing closed.

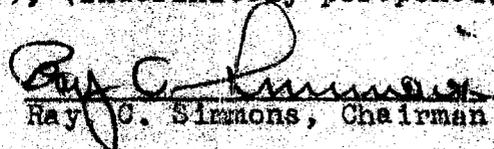
LB 312: Senator Adams asked unanimous consent to withdraw the bill. Request granted.

EXECUTIVE SESSION

Due to the lateness of the hour, there was no executive session. The meeting was adjourned.

The bills heard this date were considered in executive sessions on the following dates:

- LB 336: March 2, 1959, (advanced to general file.)
- LB 337: March 2, 1959, (advanced to general file.)
- LB 533: March 2 and March 18, 1959, (advanced to general file on April 13, 1959.)
- LB 617: March 11 and March 23, 1959, (advanced to general file on April 20, 1959.)
- LB 649: March 2 and March 18, 1959, (indefinitely postponed.)

  
Ray C. Simmons, Chairman

  
Betty R. Minder, Clerk

# APPENDIX D: COMMITTEE STATEMENT ON LB 617

## STATEMENT ON LB 617

This bill as amended sets up provisions for the licensing and regulation of private detective businesses in the state. The bill as originally drawn set up a private detective licensing board and required licensing not only of private detectives but also of certain investigators and guards. The original bill also required a \$250 license fee and permitted the board to hire employees.

The Committee felt that the original bill would too greatly restrict competition because of the large amount of fee required, the fact that it would cover some investigators and guards, and would prevent many persons in our state from obtaining part-time employment in this field. Also, the Committee was concerned about the cost of setting up a separate board. Nevertheless, the Deputy Secretary of State advised the Committee that he felt some sort of licensing legislation was necessary. A number of witnesses appeared before the Committee representing ~~armed car services, Associated Retailers of Omaha, Associated Retail Credit and Collection Division, Better Business Bureau, and Police Officers' Ass'n.~~ They told the Committee that there were some persons engaged in private detective work who were of questionable character and that some restrictions were necessary.

In opposition were officers of the Railroad Brotherhood.

The Committee asked the Deputy Secretary of State to prepare amendments to the bill to take out the above described objectionable features and yet retain a bill that would safeguard the public in this field. The Deputy Secretary of State prepared a revised bill as set forth in the amendments. As amended, the bill merely requires the licensing of persons who actually hold themselves out to be private detectives and not those who are merely in investigative or guard work.

The bill requires any person engaging in the private detective business or as a plain clothes investigator or any person who represents himself as a licensee to obtain a valid license from the Secretary of State. A licensee must be of good moral character, etc., and must have such experience and competence in the detective business as the Secretary may determine to be reasonably necessary. The private detective license costs \$10 and that of a plain clothes investigator, \$2.00. No person can obtain a private detective license if he has been convicted of a felony, a misdemeanor involving a sex offense, or moral turpitude. The licensee must have a surety bond in the sum of \$10,000. The license is valid for two years, after which a renewal license can be obtained for the same amounts. The secretary has the power to deny an application for a license or a renewal, may suspend a license,

etc. Such action may be appealed to the district court. The requirement of a surety bond was felt to be an additional safeguard since bonding companies ordinarily make careful investigations of applicants for bonds before accepting such applications.

It was felt by the Committee that the bill as amended was desirable legislation and it was advanced to general file by a unanimous vote.

*Ray C. Linn*  
Chairman, Judiciary Committee

April 28, 1959