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Government, Military and Veterans Affairs Committee
February 17, 2011

[LB143 LB176 LB412 LB419 CONFIRMATION]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, February 17, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB176, LB419, LB143, LB412, and a gubernatorial appointment. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Lydia Brasch; Charlie Janssen; Russ Karpisek; Paul Schumacher; and Kate Sullivan. Senators absent: Rich Pahls.

SENATOR AVERY: Welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I chair the committee. I'm from District 28 here in Lincoln. Before we start our hearing today, I want to introduce the members of the committee. Starting on my right on the end down there: Senator Rich Pahls probably will not be with us today, I think he has some medical appointments; but seated next to him is Senator Lydia Brasch from Bancroft, newly-elected member of this body; Charlie Janssen sits next to her, he is from Fremont; next to him is Senator Scott Price, the Vice Chair of the committee from Bellevue. Next to me on my right is: Christy Abraham who is the legal counsel for the committee; Senator Karpisek will be here soon, he's always late (laughter), and he is from Wilber; seated next to him is Senator Kate Sullivan from Cedar Rapids; and next to her is Paul Schumacher from Columbus. Our committee clerk is Sherry Shaffer. She will be the person that you will want to hand this sign-in sheet. If you are planning to testify for or against any of these bills, we will ask you to fill out this testifier form. It calls for information about the bill that you wish to address and it gives a spot for your name and address and phone number. Please print that legibly. When you arrive at the table to address the committee, please speak clearly, spell your name for the record so that we have everything straight. If you are here and wish to record your preference for or your opposition to any of these bills but you do not wish to testify, there is a form that you can fill out indicating your position. Both of these forms are available at each entrance to the room. Our agenda today starts with a gubernatorial appointment, and then we'll proceed with the bills as posted outside the room starting with LB176, followed by LB419, and then LB143 and LB412. Before we start with our gubernatorial appointment, let me make a few comments about some of the procedures we'll follow in the testifying and the hearing of the bills. We will ask you to try not to repeat previous testimony, keep your comments as brief as possible. We have a light system that gives you a total of five minutes to make your comments. The green light indicates four minutes. When it turns to amber, that means you have one more minute to finish your remarks. The red light means you should be finished by then. Please pay attention to the light system so that I don't have to stop you in mid-sentence. If you have any electronic equipment here, particularly if it makes noise, we ask that you turn them off. If you have a cell phone, certainly we'll want you to silence it or put it on vibrate. If you have exhibits that you want to share with the committee, please have 12 copies. Give them to our pages. Our pages are over here seated against the west wall: Danielle Henery from Battle Creek and Kyle Johnson from Sutton. They'll be happy to

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help you. When you arrive at the witness table, please give the sign-in form to the clerk and she will make sure that they're properly recorded. Now I'm going to move to the gubernatorial appointment. We have on the telephone today Mr. Dana Miller who is being recommended for appointment to the State Emergency Response Commission. Mr. Miller, can you hear me? [CONFIRMATION]

DANA MILLER: Yes, I can, sir. [CONFIRMATION]

SENATOR AVERY: Thank you very much for taking the time today to address the committee. We understand that you cannot get here from your distance but we are happy to have you here by telephone. Let me start by asking you to tell us a little bit about yourself and your qualifications for this position and why you think you want to do this. [CONFIRMATION]

DANA MILLER: (Exhibit 1) Very good, sir. First of all, my name is Dana Miller, that's D-a-n-a, last name Miller, M-i-l-l-e-r. I'm the fire chief in Scottsbluff, Nebraska, a mere 400 miles to your left. I've been involved on the State Emergency Response Commission as either chair or vice chair for approximately ten years. My representation on the commission has...or the State Emergency Response Commission has been to represent firefighters from across the state. I'm a 30-year veteran of the fire department here. I'm also on the State Fire Chiefs' Municipal Association group that is represented by the League of Municipalities. I'm also a member of the volunteer Fire Chiefs' Association, represents the 500-plus volunteer departments across the state of Nebraska. And I appreciate you allowing me to call in today. It did help quite a bit in relationship to the 400-mile trip each way to come out for this meeting, and I will answer any questions that any of you ladies or gentlemen would have for me. [CONFIRMATION]

SENATOR AVERY: Thank you, Mr. Miller. Could you tell me if you have ever had any conflicts of interest arise during the course of your tenure on the response commission? [CONFIRMATION]

DANA MILLER: Not to this point. I think if anything some of my wide variety of contacts, I'm also a team leader for the Governor, one of the Governor's emergency response teams, the hazmat teams of which there's ten of across the state. So if nothing else, it's gave us a real good insight to help the local emergency planning committees to better prepare for emergencies and help interact with the agencies that are scattered throughout the state. So I think it's been a real good working relationship. [CONFIRMATION]

SENATOR AVERY: If a conflict did arise, can you tell us how you would handle it? [CONFIRMATION]

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DANA MILLER: Well, first of all, I would bring it immediately to the chairman's attention, and then contact our liaison, which would be Tonya Ngotel through NEMA, and express to them my concern or what the conflict was and see what direction they would suggest I go. [CONFIRMATION]

SENATOR AVERY: Thank you. I'm going to ask the other committee members now if they have any questions for you. Senator Price has a question. [CONFIRMATION]

SENATOR PRICE: Yes, sir. Mr. Miller, thank you for your willingness to stand up and do this task. My question for you, and I think it would be particularly poignant seeing how as you are a mere 400 miles to our west, is your impression on what the state has done to develop a statewide communication network that will assist in emergency response situations. [CONFIRMATION]

DANA MILLER: Well, personally I've been quite impressed in the efforts that have been put forth. We were lucky out here in western Nebraska that some of the statewide interoperability was started up about a year ago out here in the Scotts Bluff County area and has been moving towards central and eastern Nebraska. Like with any new process, there's been a few bugs, but I think that we're working those all out and trying to gain a good, smooth operation. Recently, there was some mutual aid channels assigned in several of the different frequencies statewide. We've already started programming those into our radios here on the local Panhandle area and I think that's going to be a great asset at such time that we have a more regional or a statewide event that we need to interopt with everybody. [CONFIRMATION]

SENATOR PRICE: Thank you. [CONFIRMATION]

SENATOR AVERY: Any other...we have a question from Senator Kate Sullivan. [CONFIRMATION]

SENATOR SULLIVAN: Thank you, Senator Avery, and thank you, Mr. Miller, for your willingness to serve. You indicated not only on your resume but also in your testimony that you represent the firefighters across the state in your service on the commission. Can you give me an idea of, first of all, how many are on the commission and what other areas of interest and occupations are represented? [CONFIRMATION]

DANA MILLER: Okay. The commission is...the State Emergency Response Commission is comprised of a number of state agencies that are all appointments from the Governor. Normally those are going to be state department heads in all the different areas as far as: law enforcement, Health and Human Services, Nebraska Department of Environmental Control, highway department, all the different entities. Usually their department heads or one of their designees are on the commission. And then from the private sector we have state and local government, county government, I think

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representing private industry, fire department, a variety of them are probably...not remembering all of them, I think there's approximately two dozen members around the commission. And that is a good, vast array of good mixing of both public and private and local government and state government. So a lot of good ideas come to the table and I think transpired out to the rest of the local committees so that they get a good help whenever they need it. [CONFIRMATION]

SENATOR SULLIVAN: So you are the lone representative of firefighters.
[CONFIRMATION]

DANA MILLER: As it relates to out in the field. The State Fire Marshal's Office is represented by John Falgione representing the state offices. And we work real close together in interacting between both volunteer and career departments within the state.
[CONFIRMATION]

SENATOR SULLIVAN: Okay. Thank you very much. [CONFIRMATION]

DANA MILLER: Thank you, ma'am. [CONFIRMATION]

SENATOR AVERY: Mr. Miller, I have one question. Were you asked to provide a statement of financial interest in your application? [CONFIRMATION]

DANA MILLER: I believe I was but it's been a little while since I did it. I've been reappointed a number of times, but I believe that there was some statement along that line. [CONFIRMATION]

SENATOR AVERY: Well, we don't have a copy of it. I may have the committee staff contact you later. [CONFIRMATION]

DANA MILLER: That would be fine, sir. I'd be glad to provide it. [CONFIRMATION]

SENATOR AVERY: Okay. Any more questions? I don't see any more questions from the committee. Thank you very much for taking the time to talk with us.
[CONFIRMATION]

DANA MILLER: Thank you, Mr. Chairman. Again, I appreciate you allowing me to do this by phone. [CONFIRMATION]

SENATOR AVERY: Okay. You're welcome. That ends the hearing on the gubernatorial appointment. We'll move now to our agenda of bills starting with LB176 which is mine, and I will turn the chair over to the Vice Chair, Senator Price. [CONFIRMATION]

SENATOR PRICE: Thank you and welcome, Senator Avery.

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SENATOR AVERY: Thank you, Senator Price. I am here today to bring to you LB176 which is a bill in a series of bills that I have introduced this session to increase the amount of revenue generated by the Accountability and Disclosure Commission and, thereby, reduce the amount of General Fund dollars that the agency might require. This is a part of the overall policy that we have been pursuing in this committee and throughout the Legislature of reducing General Fund obligations to the state. LB176 allows the Nebraska Accountability and Disclosure Commission to issue an order requiring a person who has been found to violate the Nebraska Political Accountability and Disclosure Act to pay the cost of the hearing in a contested case. The funds received under the bill would be deposited into the commission's cash fund. Some of the costs of the commission today may have...are a part of a contested case would include such things as the cost of transcripts, mileage, fees for witnesses, costs of a hearing officers, cost of a court reporter. Under current law, if a person is found to have violated the accountability and disclosure statutes, the commission pays the expense of the contested case. So what we're doing with this bill is allowing the commission to charge the party that is found guilty. The amount of income that might be generated from this proposal would of course vary from year to year depending on the number of contested cases. That is a pretty simple bill. I think there are other people here who will address it. So I would be happy to take any questions you might have at this time. [LB176]

SENATOR PRICE: Thank you, Senator Avery. I'll ask a question. Now was this a part of our...the committee's LR542 process? [LB176]

SENATOR AVERY: No. [LB176]

SENATOR PRICE: Okay. [LB176]

SENATOR AVERY: This came to me in a conversation with Mr. Frank Daley when we were discussing a variety of measures that he might be able to adopt or we might be able to adopt that would allow him to reduce his General Fund obligations. [LB176]

SENATOR PRICE: All right. Thank you. Are there any questions? Yes, Senator Sullivan. [LB176]

SENATOR SULLIVAN: Is there precedence for doing this in any other area? [LB176]

SENATOR AVERY: Well, I don't know that there's any other agency or commission in state government quite like accountability and disclosure. There may be but I don't know of any. So there is no precedent that I know of. [LB176]

SENATOR SULLIVAN: If the person is found guilty, I assume there are fees assessed,

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and would those fees go toward covering the expenses of...? [LB176]

SENATOR AVERY: There are fines and fees that can be... [LB176]

SENATOR SULLIVAN: Fines, I should say, yes. [LB176]

SENATOR AVERY: ...yeah, can be assessed. But those are separate from what we're trying to do here. We're trying to get the parties that are found to have violated the law, we're trying to get them to pay for the costs of the hearing. It's like in a court of law, you would...the guilty party is often asked to pay court costs. [LB176]

SENATOR SULLIVAN: Okay. [LB176]

SENATOR PRICE: Senator Schumacher. [LB176]

SENATOR SCHUMACHER: Thank you, Senator Price. Senator Avery, things in the accountability law are often somewhat less than clear. And in a case where there's a de minimis violation but, nevertheless, the commission might find that there was a technical violation, didn't amount to much, but a big proceeding involving attorneys, involving all those kind of things and transcripts and it costs money. Does this not open the door for people's political opponents or to put really a lot of pressure on them for those extra costs just simply because they can? [LB176]

SENATOR AVERY: Well, my experience with the commission, and I believe this to be true for the vast majority if not all of the cases that come before them, they don't have de minimis cases really. I mean, they...if you're involved in a minor infraction, say, an inadvertent failure to report or something of that sort, usually you get a letter and you are...it's explained to you what you failed to do and you're given an opportunity to correct it. It's only in those instances where there is apparent willful disregard for the rules and regulations or the laws and a failure to respond to what are often repeated requests from the commission for some kind of explanation as to why you didn't report, why you filed the wrong form, or why you left off your report an important contribution, or something of that sort. I, frankly, have only had probably one or two filings since I've been in office when I didn't have a letter from the commission asking me for additional information, and it's always been in those de minimis cases, so. But I think that would be a question that could be better answered by Mr. Daley or somebody from his office. But I just don't think there are any instances where a de minimis infraction would lead to any kind of real investigation or any significant fees or costs incurred by the commission. [LB176]

SENATOR SCHUMACHER: Thank you, Senator Avery. I don't have anything further. [LB176]

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SENATOR PRICE: Thank you, Senator Schumacher. Are there any questions from anybody on the committee for the senator? Seeing none, thank you, Senator Avery. We are joined, of course, by Senator Karpisek from Wilber and Senator Janssen from Fremont. And now we'll move onto proponents. Do we have any proponents for LB176? Welcome, sir. [LB176]

FRANK DALEY: Thank you very much, Vice Chairman Price 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, and I'm here today to express the commission's support of LB176. LB176 really does one simple thing, and that is, it allows the commission to assess courts costs against people who have gone through the formal hearing process and are ultimately found to have violated the Accountability and Disclosure Act or the Campaign Finance Limitation Act. Now we envision hearing costs as being such things as the cost of our hearing officer, the cost of our court reporter and transcript, and in some cases witness fees and mileage reimbursement for witnesses. Currently, the commission has the authority to assess civil penalties of up to \$2,000. And in response to Senator Sullivan's question, by law, the civil penalties must be deposited in the Campaign Finance Limitation Act Fund, and under current law, those funds can be used for no other purpose other than to provide public funds to candidates for their campaigns. So that money cannot under current law be used to recoup our costs of the hearing. The idea behind all of this is really pretty simple. The impetus is the fact that our General Fund appropriation keeps going down. We have a cash fund and in the special session a year ago, some of that money was taken as well. And so we're in a situation where for 30-plus years the commission has absorbed these costs as just part of its operations, but our operation budget keeps shrinking and shrinking and shrinking. And so we're looking for other ways to generate funds, and it just seems to me that there's a certain logic and a certain fairness that those whose actions cause the expenditure of these funds ought to participate in the process of helping us to recoup them. Let me point out a couple more things which may help you to put this in perspective. Number one, I realize that there may be some opposition based upon the idea, what does a hearing cost? Is it the costs of the commission's attorney, things of that nature? My thought is, no, but to the extent that it's useful to tighten up the definition and define precisely what we mean by "hearing costs," we're certainly alive to that. To the extent that there's some desire to tighten up when court costs could be assessed against violators, we're okay with that as well. But one of the things we want to point out are some real-world practical situations we face. If you're in a court and there's some sort of civil proceeding and you file a lawsuit and the other side never shows up or responds, there's something called a default judgment. You simply show that the other party has failed to appear or otherwise and under law that entitles you a default. You don't have to put on a full case before the judge. In administrative law which is what we do in prosecuting violations, that doesn't apply. We still have an obligation to make a good record to show that the violation actually did take place. So if

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a violator never responds or never shows up, we still have an obligation to hold the hearing so that we can make a record of the violation. By way of example, most of you are familiar with statements of financial interest. You filed them when you became candidates. You know that you file them annually on or before April 1. There are about 2,500 public officials or public employees that file those each year. Well, a lot of people don't make the April 1 deadline. We send out letters. Sometime...we get toward June and we have a handful left, and then we down to one or two. And I think the commission takes more than reasonable steps trying to contact these people and alert them to the fact that they have this obligation, they're required to file, and they need to do it soon. If they do not respond or don't fulfill that requirement, we start a formal investigative action and ultimately go on to an evidentiary hearing to show that the person was required to file and did not. It's not uncommon for those folks simply never to respond and not to show up. And so we have to hold this hearing to prove that case, and we pay a hearing officer and we pay a court reporter, and we have the transcript and so forth and so on. So we have those costs and those are the types of things that we're realistically trying to recoup in one way, shape, or form. So I ask you to please give serious consideration to LB176. And I want to thank very much Senator Avery for introducing this bill and thank all of you for the opportunity to testify today. [LB176]

SENATOR PRICE: Thank you very much, Mr. Daley. Do we have questions? Senator Sullivan. [LB176]

SENATOR SULLIVAN: Thank you, Senator Price, and thank you, Mr. Daley. So if I understand you correctly, any fines assessed go into the Campaign Finance Limitation Act? [LB176]

FRANK DALEY: Yes. [LB176]

SENATOR SULLIVAN: In any given year over time, what's the average amount of fines assessed that go into that fund? [LB176]

FRANK DALEY: It's a little bit hard to detect because late filing fees also go into the fund and we don't separate those for our accounting purposes, plus, it tends to go up or down depending upon the election year. But we're normally talking about in the neighborhood of, very speculative, \$50,000, \$25,000 to \$75,000, maybe something like that. And then of course funds go out during election years when candidates make claims for them. [LB176]

SENATOR SULLIVAN: Is that part of what you said were your cash funds or is that... [LB176]

FRANK DALEY: No, it is not. We have two separate cash funds. We have the Campaign Finance Limitation Act Cash Fund where the fines and late fees and

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checkoffs from taxpayers go, and then we have a separate cash fund which includes things such as parts of the lobbying registration fees, the money people might pay for photocopies, things of that nature. [LB176]

SENATOR SULLIVAN: And what's...you said last year that was raided? (Laugh)
[LB176]

FRANK DALEY: Yes. [LB176]

SENATOR SULLIVAN: So what are we talking about is the average balance of that fund? [LB176]

FRANK DALEY: I can get that information to you, but the fund is going down because as our...it's going to be at approximately zero probably within about two to three years.
[LB176]

SENATOR SULLIVAN: Okay. [LB176]

FRANK DALEY: Because as our General Fund appropriation has gone down, we've had to rely upon that more and more for our operating expenses. [LB176]

SENATOR SULLIVAN: And with respect to the Campaign Finance Limitation Cash Fund... [LB176]

FRANK DALEY: Yes. [LB176]

SENATOR SULLIVAN: ...statute governs what goes into there and what goes out of it.
[LB176]

FRANK DALEY: Correct, correct. [LB176]

SENATOR SULLIVAN: All right. Thank you. [LB176]

SENATOR PRICE: Thank you, Senator Sullivan. Are there any other questions from the members of the committee? Seeing no questions, thank you very much, Mr. Daley.
[LB176]

FRANK DALEY: Thank you very much, one and all. [LB176]

SENATOR PRICE: You "betcha." Next proponent, please. [LB176]

JACK GOULD: Senator Price, members of the committee, my name is Jack Gould, that's G-o-u-l-d, and I represent Common Cause Nebraska, and I just want to voice our

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support for Senator Avery's bill. We attend most of the Accountability and Disclosure Commission meetings, and I can testify to the fact that they are a very hardworking group that deal with a tremendous volume of paperwork that they have to go through. Our greatest fear is the fact that if they can no longer provide funding that we'll see some kind of a reduction in staff or some other reduction in services that could hurt public in general. And we feel that this is a very fair approach and we feel that it's something that needs to be done in order to keep the agency in a position where it can do the work. Thank you. [LB176]

SENATOR PRICE: Thank you, Mr. Gould. Are there any questions from the members of the committee? Seeing none, thank you. Do we have any other proponents for LB176? With that, we'll move to opponents. Are there any opponents for LB176? [LB176]

J.L. SPRAY: Good afternoon, Senator Price and members of the committee. My name is J.L. Spray. I'm a lawyer in Lincoln with the Mattson Ricketts law firm. [LB176]

SENATOR PRICE: Can you spell your name, please? [LB176]

J.L. SPRAY: S-p-r-a-y. [LB176]

SENATOR PRICE: Thank you. [LB176]

J.L. SPRAY: And I think I got it right on the sheet which I've already turned in. I actually practice law in this area and appear in front of the commission from time to time. And I just want to make a few points, some of them I think answer some of the questions that have been raised. First of all, the constituents of this commission are people who serve on boards and commissions. They are people who work for state government as a state employee as a public servant and then elected officials like yourselves. Now these mistakes that can be made by people can be as innocent as using a state telephone inappropriately or using a state computer inappropriately. They can be stealing a road grader but honestly there aren't that many cases like that. Most of these matters are, in my opinion, terribly de minimis, and I want to talk about a couple of cases in particular. One of them went to the Nebraska Supreme Court; the other one resolved in district court. Both of them involved day-long hearings, one over the use of a computer...not a computer, a use of an Internet spot, an IP address with the city administrator's personal computer at home on his own time using that IP address. Everybody in a day-long hearing agreed that the cost to the city of that share of that IP address was less than a penny. The commission still ran him through a day-long hearing, still assessed a \$1,000 penalty, and I'm convinced that's exactly the kind of case where they'd whack him with costs and be glad to do it on top of all that. Now a lot of times these cases involving these public servants, these volunteer board and commission members, these elected officials who are as you know giving up a lot to do what they do to serve, a lot of times these cases involve very innocent mistakes. And the choice is to either admit that you

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made a mistake, create a political problem for yourself, maybe your boss, maybe some of your constituents, or to fight for what you think is right. And if on top of all this that the commission can already do to these people (laugh) you allow them to assess costs when it is unprecedented to my knowledge that a commission is in a...or a board or commission, especially a noncode agency has authority to do this, if you allow them to do that, in essence you're enhancing their power over these folks who are already in a position oftentimes where they're fighting for their principle or a political principle over something as de minimis as a penny. The local case involved Jim Vokal, a city council member using his office as a backdrop for a TV ad. The commission found him guilty; fined him. He appealed to district court. My recollection is he won. The commission appealed to the Supreme Court before he was finally vindicated. You don't think he already paid some costs for counsel and court costs? I can assure you he did. And the last point that I want to make involves the definition of "costs". And I think Mr. Daley appropriately flagged that for the committee. Costs are not a defined term and there is nothing in this bill that keeps your delegation of authority to the Accountability and Disclosure Commission from blossoming in a tough budget year. There's nothing on the face of this bill that would keep them from assessing attorney's fees as costs. There is nothing that would stop them from assessing deposition costs. Now in cases I've been involved in, we have taken depositions, and my clients have incurred those expenses and paid for them themselves along with fees and costs. If you really want a fair bill, if that's really the objective, then let's make it a two-way deal. Let's go ahead and make the commission pay fees and costs if they run somebody through the wringer and they're wrong because it happens. That would be fair. So I yield the rest of my time and be happy to answer any questions. [LB176]

SENATOR PRICE: Thank you, Mr. Spray. Are there any questions from the committee? Senator Karpisek. [LB176]

SENATOR KARPISEK: Thank you, Senator Price. Thank you, Mr. Spray, for being here. [LB176]

J.L. SPRAY: Thanks, Senator. [LB176]

SENATOR KARPISEK: We have the incidental and de minimis law passed as I recall. I got beat up (laugh) all over the floor over that and (inaudible). Does that help at least? [LB176]

J.L. SPRAY: It helps. It certainly helps, Senator, and I appreciate your efforts on that. It doesn't just...this doesn't just apply to use of...misappropriation of public assets for either political purposes or personal purposes, it applies to the entire act. And so I would hate to say that eliminates all the different scenarios that could come up. [LB176]

SENATOR KARPISEK: Sure. [LB176]

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J.L. SPRAY: There are others. [LB176]

SENATOR KARPISEK: Sure. And I realize that. I just wondered if...I'm not even going to go there, but if it is helping and... [LB176]

J.L. SPRAY: Yes, and I think it was LB26, right? It does help and it makes things easier for us. But as Senator Schumacher said, this is a pretty complicated area chocked full of lots of gray. I think even Mr. Daley would have to admit that some of these issues are gray, especially when you get into the CFLA, so. [LB176]

SENATOR KARPISEK: Very good. Thank you, Mr. Spray. [LB176]

J.L. SPRAY: Okay. Thank you, Senator. [LB176]

SENATOR KARPISEK: Thank you, Senator Price. [LB176]

SENATOR PRICE: Thank you, Senator Karpisek. Are there any other questions from members of the board...committee? Seeing none, thank you. [LB176]

J.L. SPRAY: Thank you. [LB176]

SENATOR PRICE: Can we have our next opponent? [LB176]

LYNN REX: Senator, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities, and we do respectfully oppose Section 1 of this bill. We don't have a problem with Section 2 of it but we do have a problem with Section 1 and, again, relating to the paying the cost of the hearing in the contested case. And as we read this, it is a disjunctive or so that basically they can put a penalty in or they can do this, but we don't know whether or not it's intended to be. Sometimes those are interpreted to be conjunctive, so we want to make sure that that would be separate. But in any event, the issue of cost, we think it's serious. We think that LB626 which was passed in 2009 and came through this committee is extremely important. It did take out and basically clarify that the de minimis exception has always been there. So that's been very important for us. But still there are a number of things that come into play when you're dealing with the acts that are governed by Chapter 49 Article XIV. So on a personal note I will tell you the commission and Frank Daley in particular I think has gone just...has been incredibly accommodating. I mean, the League, I'm embarrassed to say, on more than one occasion on a ballot question, especially on Amendment One, we had a filing, I think we missed a filing by one day. I mean, they've been very accommodating in letting us know, working with us, even though our staff was trying very hard to make sure that we did everything in a proper order. So I think that he personally has been very accommodating and that he's done a

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great job in training elected officials across the state. He's going to be doing that again at our midwinter conference. But I also know in the case involving Mike Nolan that there was an attorney who's no longer with the commission, but it was more than a year process, and that was the result of why LB626 was so important, and what occurred with the passage of that to basically establish what constitutes de minimis and what does not. And of course that bill did a lot of other things, too, that this committee worked on very hard. And we appreciate Senator Avery as Chair and Senator Karpisek as primary introducer in working with us on that measure. But at the end of the day when you have a prosecution and that attorney was prepared to prosecute to the very end, and so even though a \$1,000 fine was imposed, at the end when the lower court said that it would be...the lower court basically said...as I recall and Frank might be able to clarify this, but that it basically did not rise to that level and make it I think a \$50 fine or \$100 fine or something. And I know that Mr. Nolan had a lot of discussion about whether or not to appeal that case because of attorney's fees, and he paid attorney's fees for that personally. I mean, so when you have this kind of a complaint, including any of you, you are personally responsible for your attorney's fees. It's not the Attorney General that's going to represent you. You're going to go out and get your own attorney. You're going to represent yourself. And then on top of that if you find out that for whatever reason you're going to be on the back end, if it's more expensive because you contested it because perhaps--just like Mr. Vokal--your reputation was on the line and Mr. Nolan felt his reputation was on the line, you decide to defend yourself, then you might be in a position where you are going to be in a contested case. You are going to be in a position where the commission is going to have to have attorneys, they're going to have to have witnesses. I was deposed in the Nolan case in terms of the kind of training that the League has done. So in any event, I just think it's important to make sure that we can address what's occurred with the commission with these various issues. And I will also tell you I do think without question their general fund has been cut and it's been cut too deep. This is the cost of doing business. When you have a commission and they do important work, you need to fund them properly. And I think that they have been cut and those cuts have been severe enough and that's why they're now in a position of trying to find other ways to fund this. But...this is not a good analogy but I'm going to use it anyway. I'm sure you can think of better ones. It'd be the same thing as if, for example, police departments were going to be funded by the number of tickets that they have outstanding. It gives an incentive to go out and do that. I'm not saying this commission would go out and do that because they've been incredibly helpful to the League in so many ways and Frank has personally. But I do think it's important because we may not always have a Frank Daley in that position, we may not always have our current commission members in that position. It's important to make sure the law itself is very clear. And if the intent is to address the specific example, which I think is what he's saying, people that don't show up, they just ignore the commission entirely, then let's address that situation. So if you have someone that just doesn't show up, doesn't bother to come, and they still have to do their job of due diligence by having the evidentiary hearing, then that's when someone ought to be

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assessed those costs. So with that, I'd be happy to respond to any questions that you might have and, again, thank Senator Avery as Chair of this committee on the hard work on LB626 and Senator Karpisek as primary introducer because that was an extremely important bill. It is and continues to be. [LB176]

SENATOR PRICE: Thank you very much, Ms. Rex. Are there any questions? Senator Schumacher. [LB176]

SENATOR SCHUMACHER: Thank you, Senator Price. Ms. Rex, you made several references to a Nolan case. Could you share with us the facts there? [LB176]

LYNN REX: Okay. I will give my best recollection of that. And we can get you a copy of it as well. But my recollection is this goes back to an issue on initiative measure 423 which was in 2006, and that was an initiative measure to put basically caps on state spending. And the League and many other organizations, over 50 statewide organizations, opposed that. The school administrators opposed it, many others did. And I tried to get ahold of the president of the Nebraska City Management Association who was then Doug Rix in Waverly, and he was unavailable. And this was after 5:00 when I called him because we know the rules. I mean, we try to make sure our people follow the rules carefully because it is important to follow the rules. It's the law. You have to do it. And so I called him on his personal cell phone, couldn't get Doug. So then I called Mike Nolan after 5:00 on his personal cell phone and said, why don't you see if the Nebraska City Management Association--he's a past officer of that group--if they would be willing to contribute some funds. I told him I don't care what it is but just something because the other organizations across the state, professional and others, are out here making it clear that the state Legislature and the Governor is not going to be in a position here to try to get around this constitutional amendment. I mean, this would have a huge impact on your ability to govern, so we were opposing that effort. And he did that. He contacted Doug Rix by phone at some point. But at some point along the way, Doug had e-mailed him and he was responding to an e-mail from Doug Rix who was and still is the city administrator of Waverly. And Mike Nolan has always owned his...it's not a personal computer, it's a personally-owned computer. He owns the computer himself. As a matter of fact, right now he's executive director of the League Association Risk Management. He still owns his own computer because of the case involving NADC, but even before that he owned it. And so he sent two e-mails. My recollection is one at 7:25 at night and one at 7:27. One went over the Cable ONE provider in Norfolk, Nebraska. He was then city administrator of Norfolk. The other one went over the city's server. So one went over the Cable ONE server, one went over the city server. And it's that one that was the subject matter of this issue. And the complaint was filed by Mike Groene as I understand...Mike Groene who was one of the primary proponents of initiative measure 423. So a complaint was filed with the commission. The commission dutifully has to do their job which is to investigate and move forward with that. But in that process, the city attorney of Norfolk said that there were

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numerous...a tremendous amount of staff time in Norfolk, Nebraska, spent responding to questions. The individual was Bill Howland who worked for the commissioner at that time. And so the city of Norfolk spent a great amount of money to the point that Clint Schukei, who was the city attorney, just basically told him: you know, any more than this, you're going to have to come up yourself and do it because we're spending thousands and thousands of dollars responding to your inquiries here, and a lot of your inquiries we don't have answers for. So with that, that then moved...and of course Mike was saying that he did nothing wrong. His contention was that it was de minimis if anything. And as the case proceeded, the bottom line is that the commission held the hearing. I was...there were depositions. I was deposed because of what kind of League training we had on these issues and that sort of thing. And at the end of the day, the commission fined him \$1,000. In a large part, it circled around the question as to whether or not the Legislature itself had ever intended, had put into law and then removed from law the concept of de minimis. And there was confusion at the commission level about what had happened were it relative to that because indeed it was never a law to remove the de minimis. And I know your legal counsel and I had several discussions after the Nolan case came down about what happened with that and the references in that decision by the NADC because indeed it was never a statutory change, it was simply a change in an amendment of removal of the word "de minimis" but never in a law. So at the end of the day, the commission made its ruling--I'm assuming that had something significant to do with their ruling--and Mike Nolan appealed it. He felt very strongly about that because this is...when someone has accused you of violating...and this could be true for anyone of you or your staff members, when the accusation is that you have violated the Accountability and Disclosure Act, it's not that you violated some minor little rule, it rises to the level, certainly in the public sector, of being unethical. Are you ethical or are you unethical? That's how people I think view it. That's how in the generic sense. And I think that's why Jim Vokal worked so hard to defend his name in that. And Mike...the lower court said basically that they didn't think it was a big deal and they reduced the fine from \$1,000 to \$50. And he did, his question was whether or not he was going to spend another \$10,000 to \$20,000 in attorney's fees to appeal to the Nebraska Supreme Court. That was his decision. And he decided at that point he'd spent enough money, had great legal counsel but thought that he'd done enough and they reduced it to \$50, so he considered it a win and didn't appeal. But...so that is the Nolan case. The Vokal case, as J.L. Spray already outlined, involved something different. But LB626 was a bill that was put in in response to what happened at the Nolan case. And this committee held an interim study on it as I recall and also a significant amount of time spent working with the League, with Frank, with all interested parties, your legal counsel and Chair, and Senator Karpisek has spend a number of hours working and negotiating that to clarify that the de minimis standard has always been there and continues to be there and put into context what is appropriate on a ballot question, what cities can do, and what they can't do. And I will tell you Frank Daley is, in my view, one of the most accommodating individuals in the public sector or private sector with whom I've ever had the privilege of

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working. By the same token, the attorney that was involved in the Nolan case was probably one of the most uncooperative people I've ever dealt with, ever, barring none. Now he's no longer with them. But, again, this gets back to the issue of what do the statutes say, because in the same way that we may never...I mean, I hope Frank Daley stays for a very, very long time because he's done an extraordinary job up there, but if it's not a Frank Daley and it's somebody else, how's that person going to implement this? So I think Frank's outline here of when you have somebody that doesn't show up, that makes sense. You don't want...the commission should not be ignored. They have a very important role to do. By the same token, I will tell you that even if the fees arise to the level of \$300, that's a lot of money. We had an individual from Auburn, Nebraska, who's a utility superintendent. And this was another case from several years ago, and I think Frank...I don't know if...Frank may have been in the position of legal counsel at that time. But that issue was whether or not the public works director for the city of Auburn was granting...or was granting appropriate rates to an industrial supplier, as I recall. And a particular industry thought they should have been getting a better deal; the city's position was no. There's a classification of rates for industrial and that's what you pay. We're not able to give you a better rate. If you're the XYZ Company, you don't get any better rate than the ABC Company when you're doing business in Auburn, Nebraska, in terms of what you're going to be charged for electrical rates. And so the complaint was filed against him. And, again, on top of all of this, you're looking at going out and, again, as he had to do, hire an attorney to represent him. He spent thousands of dollars doing that to clear his name. So it doesn't look like it's a big deal until it's you. When it's you, it's a big deal. [LB176]

SENATOR SCHUMACHER: Thank you, Ms. Rex. [LB176]

SENATOR PRICE: Thank you. Senator Sullivan. [LB176]

SENATOR SULLIVAN: Thank you, Senator Price. Thank you, Lynn, for your comments. If you're opposed, as you are, to this bill and if, as you say, the commission is doing a really good and important job... [LB176]

LYNN REX: They are. [LB176]

SENATOR SULLIVAN: ...and in light of our limited resources in the General Fund, where do you think there's a way to embellish there the funds that they have to operate with? [LB176]

LYNN REX: I think there is point, Senator, and I say this very respectfully, there's a point where certain services are important enough to essential functions of government that you need to fund them. The same way that cities here are going to be strapped with how are they going to pay for cops and firefighters, I mean, it is a struggle on every level of government. And I don't have...if I had a magic bullet, I would certainly hand it over to

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you. I would submit to you that the \$115 million to \$17 million of property tax funds that are refunded back to each of us as taxpayers, I think that's a fund that you're better off, in my view, I'll just make a case for it, for paying the state aid to municipalities. We've got over 532 cities and villages, over 240 of them are at the maximum levy limit. They have no place to go, and they're the smallest of the state. They have no place to go. And we did appreciate the work that you did in on the LR542 study in recommending a 10 percent cut as opposed to the other total elimination of state aid, which is what we're going to end up with here. So it's a passing down. And I think the commission deserves to be funded and funded properly. It's the same...but, again, it would be the same thing in my view if you had a county attorney's office...and Senator Schumacher was one and a very good one for a quite a while, the county attorney's office was funded solely by the amount of money they could generate from prosecutions. I just think that's just not the way to do business. You need to fund this properly. [LB176]

SENATOR PRICE: Thank you. Seeing no further questions, thank you for your testimony. [LB176]

LYNN REX: Thank you very much. [LB176]

SENATOR PRICE: Is there any further opposition to LB176? Is there anybody who would like to testify in the neutral capacity? Seeing none, Senator Avery, would you like to close? [LB176]

SENATOR AVERY: Thank you, Mr. Vice Chair. I just want to call your attention to the fact that the opposition testimony really referred to most extreme cases in the past 40 years involving the commission. And I would also like to reiterate that LB626 that we worked so hard on last year essentially exempts cases like the Nolan case that are de minimis, and that was mentioned by both of the testifiers or two of them. I liked Ms. Rex's idea to levy costs against those who failed to appear. I think that has some merit as a compromise. So I would ask you to keep that in mind. With that, I would end my testimony. Thank you. [LB176]

SENATOR PRICE: Thank you very much, Senator Avery. Are there any questions? Seeing none, that will close the hearing on LB176. And the Chair will return to open on the next bill, LB419. [LB176]

SENATOR AVERY: Thank you, Senator Price. We'll now move to LB419 and invite Senator Nelson to come up to the table. Welcome, sir.

SENATOR NELSON: Thank you, Senator Avery. Chairman Avery and members of the Government, Military and Veterans Affairs Committee, for the record, my name is John Nelson, spelled J-o-h-n N-e-l-s-o-n. I am a state senator representing District 6 in midtown Omaha and here today to introduce LB419. LB419 is a simple proposal which

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seeks to remove duplicative and unnecessary reporting requirements in the Nebraska Political Accountability and Disclosure Act. Under current law, when a candidate uses an agent, usually a consultant, to make a campaign expenditure, both the campaign and the agent must line item all of the individuals involved with producing the expenditure. For example, if a candidate hires Acme Political Consulting Firm to produce palm cards, both the candidate and Acme Consultant must disclose the expenditure through Acme Consulting as well as who Acme Consulting paid to design, print, and ship the palm cards. Such a process is extremely burdensome for campaigns and particularly campaign treasurers who typically work without pay. LB419 removes the extra reporting requirement. Under LB419, candidates are still required to line item the exact costs and nature of every expenditure but would not need to go through the unnecessary detail of listing the vendors used by their consultants. The public would continue to have access to exactly how much candidates spend and on what they are spending their funds. LB419 maintains transparency regarding campaign expenditures without unnecessarily burdening our campaigns and campaign treasurers. I urge your support of LB419 and encourage you to advance the bill to General File. I would be happy to answer any questions that you may have. [LB419]

SENATOR AVERY: Thank you, Senator Nelson. Questions from the committee? I do see one question, Senator Schumacher. [LB419]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Nelson, in recent years a big phenomena has been the emergence of a number of independent expenditure committees who will supposedly not act in coordination with the candidate but who show up in the scene of a political contest in the last days with a lot of money. Are they also subject to the same requirements that their vendors report how their money is things because I notice out of your...they're not included in any of this language? [LB419]

SENATOR NELSON: You know, Senator, I don't know the answer to that question. I would think that they would come under this area of the requirement of the NADC but if Mr. Frank Daley is going to testify, I think he would be the appropriate person to answer those questions as to whether they're covered. [LB419]

SENATOR SCHUMACHER: Thank you, Senator Nelson. [LB419]

SENATOR NELSON: Um-hum. [LB419]

SENATOR AVERY: Any other questions? I don't see any. Thank you. Are you going to stick around to close? [LB419]

SENATOR NELSON: I'll stay. [LB419]

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SENATOR AVERY: Okay. Proponent testimony. Anyone wish to testify in support of LB419? Okay. Anyone wish to testify in opposition? [LB419]

FRANK DALEY: Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as Executive Director of the Nebraska Accountability and Disclosure Commission, and I'm here to express the commission's opposition to LB419 as it's written. And let me explain the basis of the commission's opposition. First of all, it would have the effect of resulting in less disclosure to the public on campaign statements regarding committee expenditures. And the corollary to that is that it would make it more difficult for our commission auditors to determine if the expenditures shown on campaign statements are permissible under law. The second reason that we oppose LB419 as written is that it would make it more difficult in many cases for committee treasurers to file the reports that they're required to report under law. I think based upon Senator Nelson's testimony I understand what he's concerned with and there's probably a way to get there without doing the damage that we see in the bill as written. And I think unfortunately a little bit of history is required here. Under current law and under past law, committees were required to report what are known as third-party payees, that is, if I as a candidate paid an advertising agency to produce commercials and place radio spots, not only did I have to report that I had paid this money to the advertising agency, but I also had to report the amount of money paid to produce the commercials and the amount of money to the various radio stations. For a number of years, there was some difficulty because that was the committee's obligation, the candidate's obligation, but the vendor had no particular obligation to provide that information so it could be reported by the candidate. And there have been a series of changes to the Accountability and Disclosure Act as to this specific statute to make it clear: 1) that vendors have an obligation to provide this information to the committees, and 2) it also provided an alternate reporting method such that you could do this one of two ways: either the committee could report these third-party payees or the vendor, the independent agent, or advertising agency could file a separate report on his or her own of those expenditures. You didn't have to do both. You had to do one or the other. Now as a practical matter, most of the time this is done by the committee itself, and that occurs in a lot of cases because the committee makes sure that its contract with the vendor or the advertising agency ensures that this information will be forthcoming. I guess that...and so if the committee saw fit to eliminate that option of having the agent file that expenditure report, I think the commission is okay with that because we don't receive very many of them anyway. It's probably better that it come from the candidate committee rather than this agent. But just to give you an example of some of the things that are problematic. If you were to look at page 2 of the bill starting at about line 10, look at the stricken language: The agent or independent contractor will make known to the committee all information required to be reported by the committee. I mean, what we're doing in LB419 as part of the process is taking out the specific obligation on the part of the vendor or contractor or agent to provide the information to the candidate, and I think that's probably not a good thing. So at any rate,

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we do oppose LB419 as written certainly to the extent that there's some desire on the part of the committee to eliminate the provision that allows the agents to file the expenditure report. We're certainly okay with that because that doesn't do any real harm. The other thing you need to be aware of is that the second part of the bill deals with expenditures involving ballot question committees. You need to know that this is a...that particular provision in current law has been crafted and recrafted over a series of years based upon US Supreme Court cases. You may recall that a number of years ago, we're probably talking 25 to 30 years ago, there were provisions in Nebraska state law that said you couldn't pay petition circulators. And then the US Supreme Court threw that out. And then there were various provisions in Nebraska state law that required petition circulators to be residents of the state of Nebraska, and provisions such as that were thrown out. And then there were provisions in law which required naming who the circulators were and how much they had been paid, name-by-name, address, and so forth, and the US Supreme Court essentially threw out that...the ability to require that information. So the second part of Section 49-1478 in the current law is carefully crafted to secure the maximum information which we can achieve on the process of collecting signatures without violating...without being contrary to the decisions of the US Supreme Court. So that's all I really have. Thanks for the opportunity to testify. I do want to say that I think that the campaign finance laws are incredibly important and so I, therefore, applaud Senator Nelson for taking the time to scrutinize them and give them consideration. Thank you. [LB419]

SENATOR AVERY: Thank you, Mr. Daley. Questions from the committee? Senator Schumacher. [LB419]

SENATOR SCHUMACHER: Thank you, Senator Avery. Mr. Daley, I'll address to you my question regarding independent expenditure committees... [LB419]

FRANK DALEY: Yes. [LB419]

SENATOR SCHUMACHER: ...which I understand form in the final days of a campaign... [LB419]

FRANK DALEY: Yes. [LB419]

SENATOR SCHUMACHER: ...with large amounts of cash, difficult for your office to track because...and almost impossible for a candidate or the person opposed or supported to track, do they have to when they file their last-minute expenditures, do their vendors also have to go through this same process of reporting it on the two-tier system that Senator Nelson described? [LB419]

FRANK DALEY: Okay. This bill and this particular statute does not deal with independent expenditures. To the extent that you are talking about expenditures made

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by committees formed under Nebraska law, yes, they do have to report, and those are reported in the same way as any other committee reports late expenditures. By way of example, if you've got a committee out there that makes independent expenditures of more than \$1,000 in approximately the 14 days immediately prior to the election, there's an obligation to file a special report within 2 days. Now the problem that we often have with these independent expenditures that come at the last minute is they're made by some group located in Virginia or Maryland or places like that that don't have any presence in the state of Nebraska so it's awfully hard to get a handle on them. [LB419]

SENATOR SCHUMACHER: And those independent expenditures are also not indexed against or for the candidate so the candidate and the general public have no idea who's pulling the strings in the final day of the campaign. [LB419]

FRANK DALEY: That's correct. [LB419]

SENATOR SCHUMACHER: Is that a problem we should address? [LB419]

FRANK DALEY: That is a problem that should be addressed, though if you come up with the magic solution, I think the 50 states will applaud you because that is the area that's most confounding in the campaign finance laws around the country. [LB419]

SENATOR SCHUMACHER: Thank you, Mr. Daley. [LB419]

SENATOR AVERY: Thank you. Any other questions? Thank you, sir, for your testimony. Any other... [LB419]

FRANK DALEY: Thank you very much. [LB419]

SENATOR AVERY: ...yeah...opponent testimony, sorry? (Laugh) Opponents. [LB419]

JACK GOULD: Senator Avery, members of the committee, my name is Jack Gould, that's G-o-u-l-d, and I'm here representing Common Cause Nebraska, and I don't think I can add a lot to what's already been said. There was one question that kind of came to mind, and maybe it's a trivial one, but in reading through it, we wondered whether this would affect credit cards. In other words, should a candidate just report that they paid MasterCard X amount of dollars for campaign expenses or whatever, would that relieve you from having to itemize everything that was on that credit card? As it is now regardless of how the third-party vendor is paid, it appears on the reporting. So that would be a concern that perhaps Senator Nelson can address that when he comes up. [LB419]

SENATOR PRICE: Okay. Thank you, Mr. Gould. Are there any questions from the committee? Seeing no question, thank you. Are there any other individuals who would

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like to testify in opposition? Would anybody like to testify in the neutral? Seeing none, Senator Nelson, you are free and clear to close. [LB419]

SENATOR NELSON: Thank you, Senator Price, members of the committee. In answer to Mr. Gould's question, the answer is no, and I get that from John Murante, my LA, because I was concentrating on something else here. I appreciate the testimony from...and I respect the testimony from Mr. Daley. Let me say that we will be more than happy to work with him in revising this to the point that he's satisfied with that, and I think his suggestion that we move the agents or consultants from having to report and keep the vendors probably has real merit. And it's not our intention here or my intention to reduce transparency or accountability in any respect. I've served four years now in the Legislature and run two campaigns, and it takes a tremendous amount of time on the part of the CPA that I use to do all these reports. My wife and I gather the information and get it to him, but it still takes a tremendous amount of time because to be accurate, it has to be very detailed and we're having to account for a lot of separate information here. So my purpose here is to try and simplify that process and still maintain a transparency and accountability. Now the way we have approached this may not be the best way to do it, but I do like the idea of making some change to make it less burdensome for the campaigns. And so, again, I would repeat: I'll be happy to work with him and bring an amendment for your consideration that would pass muster as far as all parties are concerned. Thank you very much. [LB419]

SENATOR PRICE: Thank you very much, Senator Nelson. Are there any questions? Seeing none, thank you very much, Senator Nelson. [LB419]

SENATOR NELSON: Thank you. [LB419]

SENATOR PRICE: And that will close the hearing on LB419. And we will now proceed to LB143, Senator Haar. Welcome, sir. [LB419]

SENATOR HAAR: Thank you. Thank you, Chairman Price and members of the committee. LB143 requires the filing of contacts...I'm sorry, contracts with Accountability and Disclosure. It requires public institutions of elementary, secondary, and postsecondary education to file with the A&D a copy of each contract for president, vice president, chancellor, superintendent, assistant superintendent, chief executive officer, or chief financial officer, or any other senior administrative personnel. The contract according to this shall include salary and benefit package and identify the source and value of each benefit. Now there's a fiscal note attached to this, however, in talking to Frank Daley, I believe if he's here will testify that we can mitigate this effect by requiring all contracts to be filed on a specific date, for example, January 1 or July 1, and then require updates, changes, or new contracts to be filed on that day. I would support such a change and would work with the committee and Frank Daley on an amendment. This bill does not require disclosure by private foundations, and if...however, if an official is

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receiving a benefit solely from a foundation, then it must be stated specifically on their contract. One other concern is that there may be benefits without defined value. If a benefit does not have a defined value or a variable value or a value that's indeterminable, then including it on the contract to the best of the ability is what is required. There's no penalty in the bill as I would expect our institutions to follow the law. If this bill is passed and violations become a problem, then we could come back and look at that. Contracts will be available all in the same place for public viewing, and contracts must show all benefits and their source. If a school administrator received a benefit from a private foundation, then they would appear on the contract. If the private foundation donates to the school and the school provides the benefit, then the only one showing on the contract would be the school. And I'd just like to repeat that last point because I think that's important. Let's say if a school administrator received a benefit solely from a private foundation, then that would have to appear on the contract. If the private foundation donates to the school and then the school provides a benefit, the only one on the contract that it would show is the school. There have been some questions over what do you mean by "benefit". We looked up on the Internet a law definition, and even though it's not in the bill, we feel that "benefit" is fairly self-explanatory. And here's the definition from the Internet, by the way, from one of the law sites: Employment benefits. All benefits provided or made available to the employee by an employer, including such things as group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an employee benefit plan. So it's not in the bill but we think "benefits" is a term that really doesn't need to be specifically in the bill defined. So with that, I would be happy to answer any questions. [LB143]

SENATOR PRICE: Thank you, Senator Haar. Are there any questions from the committee? Senator Sullivan. [LB143]

SENATOR SULLIVAN: Thank you, Senator Price, and thank you, Senator Haar. [LB143]

SENATOR HAAR: You bet. [LB143]

SENATOR SULLIVAN: You have to help me refresh my memory a little bit as far as what some of your motivations were behind bringing this, because I know we talked about it last year as well. [LB143]

SENATOR HAAR: Sure. Well, one of the motivations and this is on a different topic but it's the same kind of thing, for example, we saw the spill in the gulf and all of a sudden we become more responsive to concerns, safety concerns about how technology affects our energy industry. There was the incident either one or two years ago, whatever it was, where one of the college presidents was reimbursed and that never

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showed up. Some people have told me that has no bearing on this. I would simply say that that's made me more aware of these kinds of things. And it really comes under the topic of transparency. By putting all of these in the same place, those people who want to find this could go to Accountability and Disclosure and find that information. [LB143]

SENATOR SULLIVAN: Thank you. [LB143]

SENATOR PRICE: Thank you. Senator Janssen. [LB143]

SENATOR JANSSEN: Thank you, Vice Chair Price. Senator Haar, always a pleasure. [LB143]

SENATOR HAAR: Thank you. [LB143]

SENATOR JANSSEN: You were talking about things that would come under this law when you were telling about benefits, which I believe you gave a definition of the benefit in Websters or whatever you used. [LB143]

SENATOR HAAR: Yeah, yeah. [LB143]

SENATOR JANSSEN: What would be...would it be, say, at the Fremont Golf Course whereas I paid half of it but they paid the rest, would that be something that for a private golf course, that type of a benefit? [LB143]

SENATOR HAAR: Yes, if that's a benefit that you get as a result of your position, let's say, as a school superintendent, then that would need to be reported not only as a benefit but where the source of that money comes from. If it's simply...if the school district, let's say, is paying for that other half of the golf course, then that would be the source. If it was some private foundation, let's say, that was providing the other half, then that would be listed as the source. [LB143]

SENATOR JANSSEN: I guess same analogy as a school. We're talking about schools I think... [LB143]

SENATOR HAAR: Yeah. [LB143]

SENATOR JANSSEN: ...and universities. If the superintendent had to go to continuing education or some type of educational program and they received...they paid for it, would that have to be listed, too, as a benefit? [LB143]

SENATOR HAAR: I'm sorry, but who paid for it? [LB143]

SENATOR JANSSEN: Well, the institution, in this case we'll say Wayne State College.

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I'm the superintendent or the, sorry, president or some position that's defined under here and I went to continuing education. I paid for some, they paid for the rest, would that have to be disclosed under the bill? [LB143]

SENATOR HAAR: That would have to be reported as well. [LB143]

SENATOR JANSSEN: As an educational benefit? [LB143]

SENATOR HAAR: Yes, yes. Much I think is right now, you know, all of us have to report, "gifts that we get." So it's, again, something in your contract that's beyond simply your pay that, you know, you're getting as a benefit, the source, how much it is if you can quantify it, what it is, and where it came from. [LB143]

SENATOR JANSSEN: I think we agree. I think the taxpayer should know if I'm the president of a college and I'm receiving benefits of a free--maybe lavish, maybe not--golf membership or higher learning that I'm getting that for free or discounted, that should be transparent or known as a benefit. [LB143]

SENATOR HAAR: Exactly. And also one sort of one-stop shopping, one place to look for this would be Accountability and Disclosure then. [LB143]

SENATOR JANSSEN: Thank you. [LB143]

SENATOR PRICE: Senator Haar, let me ask you this question because we just heard a bill, LB419, which we talked about third parties for our campaigns where if you send dollars off to a printing company or someone and they print it, and they print it for things that have a subcontractor printer, we have to disclose that. Now we're saying in this bill if we have...if the money originates from the university...or not originates, if it originates at the university, report it, if it originates from an individual you report it, but if it originates from an individual who gives it to a school, let's say, you don't have to report the individuals, you only report the school now. And now we're not digging down into that. Why are we not in this instance looking for the original source of monies? [LB143]

SENATOR HAAR: Well, if, for example, the university has to...or any school has to publish their budget and show where their money is coming from. Now some people would like to take this a step further and let's say in the case of the Nebraska Foundation to show who the donors are. I think that's beyond what I'm interested in doing anyway in this bill. This gives that first source and then if you want to go chase that first source, that's up to the citizen. [LB143]

SENATOR PRICE: Okay. I can recall the media issues we had with all that and with the foundation, some things of that nature... [LB143]

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SENATOR HAAR: Um-hum. Um-hum. [LB143]

SENATOR PRICE: ...and the impact that would have. I just wanted to show we're doing two different things here. But thank you very much for your answers. Are there any other questions from members of the committee? Senator Schumacher. [LB143]

SENATOR SCHUMACHER: Thank you, Senator Price. Senator Haar, is basically the gist behind this kind of instead of having to go under the public records act to find out the bulk of this information is to put this in one location plus also bring in some additional private money that the employee might be getting from someplace? [LB143]

SENATOR HAAR: Yeah. It's to put it in one place but it's also very specific that any benefit has to have those three things: one is what the benefit is, it has to be stated; two is where it comes from, and three, the value of that. And as far as I know, that is not specific in public records law. [LB143]

SENATOR SCHUMACHER: Thank you. [LB143]

SENATOR PRICE: Thank you, Senator Schumacher. Senator Sullivan. [LB143]

SENATOR SULLIVAN: Thank you. And just to clarify, did you say that Mr. Daley is going to talk about how to deal with the fiscal note? [LB143]

SENATOR HAAR: I, sorry, didn't look. [LB143]

SENATOR SULLIVAN: Okay. All right. He's...okay. All right. Okay. Okay. That's fine. [LB143]

SENATOR HAAR: He's sitting here and he's shaking his head yes. (Laughter) [LB143]

SENATOR SULLIVAN: All right. Very Good. Okay. All right. Very good. Because they're already overworked and underpaid so I need to find out how they're going to deal with it. Thank you. [LB143]

SENATOR PRICE: Thank you, Senator Sullivan. Are there any other questions or comments? Seeing none, thank you very much. Will you be staying for close? [LB143]

SENATOR HAAR: Yes, yes. And if I seem a little out of breath, I was just doing another one in a another committee and so we rush, as we all do, back and forth from place to place. [LB143]

SENATOR PRICE: Well, thank you for being on time. [LB143]

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SENATOR HAAR: (Laugh) Thanks. [LB143]

SENATOR PRICE: Would the first proponent for LB143. Welcome back, Mr. Gould. [LB143]

JACK GOULD: (Exhibit 1) I'm back again. Senator Price, members of the committee, my name is Jack Gould, that's G-o-u-l-d, and I'm here representing Common Cause Nebraska. And I hope that I can answer some of the questions as well as Senator Haar has done. First of all, I think it's important to recognize the fact that there are a tremendous number of private foundations beginning to spring up across the state, much of it is due to the fact that there are budget cuts affecting public schools and public entities of all kinds. The problem with private foundations is the question of how is the money to be tracked. If foundations give money directly to a school district and they put the money in the General Fund, then the State Auditor's Office can follow that money. It's just...it's deposited in, the money is given out, it's able to be tracked. But in many cases private foundations are allowed to make direct payments or indirect payments. In other words, you know, these are some extreme examples but they do capture people's mind. If, for instance, a foundation wanted to give the superintendent an automobile, they would in turn be able to go to take their money, give it to the car dealer. The car dealer in turn...and maybe in the form of a lease, the car dealer would turn it over to the foundation. The foundation would turn it over to the superintendent. Now currently there's very little that you can track in that. If you were to go to Accountability and Disclosure, you would say, well, it should be in the statement of financial interests. We would agree with that. It should appear under gifts. That would be our interpretation. But most and all school superintendents in this state do not file statements of financial interest. There's really a limited number of people who have to file. Public employees, public officials, they do. There are certain state postsecondary educators that have to file, but the vast majority where all these foundations are springing up, there's really no reporting of statements of financial interests. So that answers some of the questions. So then you say, well, what about the foundations themselves? Well, I've tried to track down exactly how many of these foundations exist in this state and it's pretty tough because most of them file as 501(c)(3)'s with the Secretary of State's Office. But there's a huge number of those and unless you know the names of the foundations, it's difficult to find out who they are and where they are. I talked with the National Association of School Foundations, a gentleman by the name of Jim Collogan, and he indicated that there were about 18 school districts in the state that are affiliated with their organization, and they are the biggest districts for the most part--Lincoln, Omaha, Millard, so forth. But then I said, what about the rest of the school districts? And he said, well, you know, he really didn't know, and he said he would estimate in Nebraska from communications and so forth that there may be between 40 to 60 other private foundations set up for school districts. So the question...they couldn't answer the question. And I did talk with the school board's association, Nebraska School Board Association, and I know they have been extremely helpful and they are

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very careful when they're working with school districts to try to make...steer them in the right direction. But it does take some initiative on the part of the school, the school foundation to reach out to them to get this information and to do it properly. There's no requirement that they have to do that. And so even the Nebraska School Board Association was unable to give me any kind of a number of how many school districts have private foundations. The question again is what's the problem, you know. And I mentioned earlier that direct payments to a superintendent, for instance, in the form of deferred payments would not show up really anywhere, would not be in a...doesn't have to be in a contract necessarily, doesn't have to be reported to Accountability and Disclosure. It simply could be done with a payment directly from the foundation, a private entity, to a public official. The concern is obviously what happened to Peru. Some of you...we've talked about that before and you're aware of the fact that that foundation provided half a million dollars in deferred payments to the president of the university. He chose not to disclose that on a statement of financial interest and there was no one on the Board of Trustees who knew about it. There was no one in the Accountability and Disclosure Office who knew about it. And so it ended up being a really a tragic story with a very sad ending. But the point is, it takes some initiative and it takes some scrutiny on the part of the state to make sure that private money going to public entities is carefully handled. And it's a responsibility to both the public who are paying taxes into the public entity, want to know how their money is being used, but they also have the right to know how private money going into a public entity is...how that money is being used. [LB143]

SENATOR PRICE: I'd remind you your light is on. [LB143]

JACK GOULD: Oh, okay. I'm sorry. I'll stop. I think I've hit... [LB143]

SENATOR PRICE: Okay. Good. Are there any questions? Senator Sullivan. [LB143]

SENATOR SULLIVAN: Thank you. Thank you, Mr. Gould. Then what role does the local governing body that's closest to the individual receiving those benefits, what responsibility in oversight should they have and are they...do you feel that they aren't following through in their responsibility? [LB143]

JACK GOULD: Well, you're referring to the school board? [LB143]

SENATOR SULLIVAN: Right. [LB143]

JACK GOULD: Right. [LB143]

SENATOR SULLIVAN: Yeah, or the Board of Trustees or whomever. Right. [LB143]

JACK GOULD: Oh, you're right. Okay. That's a good question. I mean, unless they are

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asking the right question, I don't know whether they get the answer. I mean, there are no requirements that require the foundation to come forward and say what their arrangements are. That was clear at Peru. I mean, the foundation operated completely independent of the university and all of the people who have oversight. [LB143]

SENATOR SULLIVAN: But isn't that in fact or shouldn't that be a responsibility of the governing board if there is a relationship in fact between the private foundation that's helping provide support I mean, you know, in I guess what I would consider a public/private partnership? [LB143]

JACK GOULD: I agree. It's that public/private relationship is a tough one to define. I mean, there are obviously clear-cut rules when it comes to the public entity side of it. The private side of it is where we run into trouble. And, you know, I don't think anybody wants to discourage the private sector. I mean, right now they are providing real services to public schools and to groups across the state and foundations are providing scholarships. We all know what they can do, and I don't think we want to do anything that would discourage that. The problem is making sure that those donors who are giving to that foundation are able to see where their money goes. I mean, if you go to the Web sites of a lot of these places, you're going to see that it's all about academics. And that's good. That's where you want the money to go. But there are cases where that's not where the money goes. I mean, we don't know if someone actually donated to the foundation so that it would go to a country club membership or go to some other service of that type. The donor doesn't know. So I think it's fair to the donor. You don't have to identify the donor. I know you've raised that question. I don't think identifying the donor is necessary. All that's necessary is to know where the money goes. If it's going to whatever the project is or whatever the benefit is, then it should go there and should be visible. If it's not, then they're...you know, we're shortchanging both the donor and the taxpayer. [LB143]

SENATOR PRICE: Thank you, Senator Sullivan. Senator Schumacher. [LB143]

SENATOR SCHUMACHER: Thank you, Senator Price. Mr. Gould, I'm still not getting the big picture here I think, at least in my own head. You have a situation where a high school athletic director or something does a great job with the kids and gets his salary, whatever he gets from the high school. And the local booster club decides that, gee, you know, he's doing such a great job with the kids we're going to give him a membership on the country club, okay, all private money on that side of it. What is the concern that that's going to influence his behavior as a foot...as the athletic director? I mean, at what point does political accountability and disclosure move from the political world where you're controlling public money to somebody having a right to know where their private money to a foundation goes, which is...seemingly that's two different worlds? [LB143]

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JACK GOULD: Well, I think, again, it comes down to the definition of "public". If you're a public employee, it comes to the point where you don't accept those kind of things. You're paid a salary by the public and the taxpayers. And if there...I've been a football coach, so I can attest to that. When people come to you and want to give you something, you say "no". And you say "no" because you want to maintain that distance from everybody. You're a public employee. You do your job. You don't expect gifts. You don't expect favors. And so we have to keep that separate. That's the main thing. I know it sounds innocent, you know, for someone to come and say the superintendent is doing a great job, the football coach is doing a great job. Do it the right way. Give them a raise but do it through the school board, do it publicly so everybody can see it. When you start giving gifts of that type around the public eye, then they create all kinds of suspicion and it also creates dissension among faculty. There may be a lot of people doing a good job. Why should one guy get something from a private group and another one not? [LB143]

SENATOR SCHUMACHER: So is this an indirect attempt then to dissuade such gifts that we could achieve directly by just saying, thou shalt not...if you're a public employee in one of these classifications, thou shall not take a gift over \$50 or something? [LB143]

JACK GOULD: Well, from my perspective you don't take any gifts, doesn't matter. (Laugh) [LB143]

SENATOR SCHUMACHER: Over anything? I mean, is that...should we just...if this is indeed a problem, should we just say, okay, if you're on the public till, you know, Santa Claus doesn't come to you? (Laugh) [LB143]

JACK GOULD: That's right. Exactly right. Santa Claus does not come to you. [LB143]

SENATOR SCHUMACHER: Okay. [LB143]

SENATOR PRICE: Thank you, Senator Schumacher. Are there any other questions? Seeing none, thank you. [LB143]

JACK GOULD: Thank you. [LB143]

SENATOR PRICE: Can I have the next proponent? Welcome. [LB143]

JOEL LONG: Thank you, Senator Price and committee. My name is Joel Long, J-o-e-l L-o-n-g. I'm the director of communications for the Omaha World-Herald Company, 1314 Douglas Street, Omaha, Nebraska. I am representing the Omaha World-Herald, 14 other newspapers we own across the state, and Media of Nebraska. Now my comments will be very brief. We support this bill because it provides more openness in government. That is the goal of Media of Nebraska. We have all seen examples of

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compensation for senior government administrators that go beyond basic salary. Now we're not saying that that additional compensation is not always unwarranted. Most times such compensation is needed to attract and keep the best administrators. But the additional forms of compensation should be as public as the base salary so us citizens can know and assess total compensation package. We have seen examples of elected board and council members who are surprised themselves at the terms of the compensation negotiated and approved by a previous board. Especially in these times of tight government budgets, more pressure than ever on taxpayers, more openness on spending is good. Thank you for your attention. Any questions? [LB143]

SENATOR PRICE: Well, thank you very much, Mr. Long. Any questions from the committee? Seeing none, thank you. Are there any other proponents for LB143? Seeing none, we'll move onto opponents. Are there any opponents? Going once, twice. Seeing none, would anybody like to testify in the neutral? Welcome back, Mr. Daley, long time no see. [LB143]

FRANK DALEY: Well, thank you, and you're quite correct. I also think that Senator Sullivan is quite correct in that we are overworked and underpaid. (Laughter) [LB143]

SENATOR PRICE: For that we are in your debt. [LB143]

FRANK DALEY: Vice Chairman Price and members of the committee, my name is Frank Daley, D-a-l-e-y. I serve as the Executive Director of the Nebraska Accountability and Disclosure Commission, and I'm appearing here today in a neutral capacity. And the main purpose for my appearing is to assure you that our fiscal note, as significant as it is, is not intended to be "death by fiscal note". The bill as written essentially requires the commission to track the contracts of various officials in approximately the 257 school districts and the university system and the state college system and the community college system. And as you can imagine, these contracts that we're talking about come in various forms, they are of various durations, and they are entered into and terminated at various times of the year, and that's a very labor-intensive process. So to the extent that the committee is interested in moving this bill, certainly there's some things that it could do and that could reduce significantly the fiscal impact. Senator Haar mentioned one very, very good one, and that is if regardless of the duration of these types of contracts they were required to file at approximately the same time each year, that would be something that would be very good. To the extent that the contracts go for multiple years, if on the second year the same contract is still in effect, they could file some short, simple statement that says the contract I filed last year is still in effect, no changes. Things such as that would tend to bring the costs of administering this program down. And with that, I have nothing further but thanks for the opportunity to testify today. [LB143]

SENATOR PRICE: Well, thank you, Mr. Daley. Are there any questions? Seeing none,

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thank you for your testimony. [LB143]

FRANK DALEY: Thank you. [LB143]

SENATOR PRICE: Are there any other individuals for neutral? Yes, sir. Come on up. [LB143]

JOHN BONAIUTO: (Laugh) Jumping right up. [LB143]

SENATOR PRICE: Welcome. [LB143]

JOHN BONAIUTO: (Exhibit 2) Thank you. Senator Price, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, Executive Director of the Nebraska Association of School Boards. I'm appearing more as a resource trying to help understand where we're headed with this bill. I appreciated Mr. Daley's comment. I was really intrigued by the death-by-fiscal-note concept, but since that's not going to happen (laughter) I will just say that for our organization we want to make sure that we are very much supporting full disclosure, transparency of salaries, benefits for all school district employees. One of the things that we talk about regularly with school boards and school administrators is this is public information and if you have any problem with that, what part of public information don't you understand. So we're very much supportive of this. Now having said that, all of this information is available. Now I have a handout here for you. And so here's all of the salaries, all of the compensation and benefits of all of your school administrators by site. So this will give you an opportunity to see what everyone makes in your legislative district. One of the things that we're very cautious about is the foundation issue. And I know that that can be a real concern and it's a concern for us. Not that foundations are supplementing salaries, but we do not want to have foundations be in a position where if they are funding any portion of salaries or positions or programs--we've had this discussion in the Education Committee--at what point do these foundation dollars become accountable receipts and then subtract it from state aid. I mean, we don't want to help the state out that much. (Laughter) And we appreciate that, you know, foundations are great for scholarships and doing a number of things in schools districts, but to get involved in funding programs, I think we have issues of equity where you have opportunities for some communities to have very aggressive foundations and others maybe not. So I think that's very dangerous. As far as dealing with the General Fund, we would hope that would be only school district dollars for those salaries for teachers, for administrators, for programs, and we would have no problem as an organization that works with boards and virtually every school district in the state to take a look at a policy that would really deal with gifts and make sure that boards have a proper policy identified. But I guess that my conclusion would be, if you need more information than is available from the Nebraska Department of Education, they collect this and if we're not asking the right questions, then we should give the department some different direction. They're very cooperative. We sat down

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with the department as an association and said, instead of us collecting this, you deal with districts and districts submit annual financial reports, annual personnel reports, so all of this information is there. I probably could have gone into more detail on the categories but I didn't want to make this a 50-page document for you, so I just used district name, position, whether it's a full FTE, salary, additional salary--which I did not define, it could be a car, it could be an annuity, it could be something of that nature--and then the benefit. But, again, there is a department collecting this information and it is available. We ask the department annually for a PDF of all of this, and then we can organize it and we use it for superintendent searches or administrative searches that we perform for districts. With that, I would conclude my testimony and be happy to answer any questions. [LB143]

SENATOR AVERY: Right on time, sir. I like to see that. [LB143]

JOHN BONAIUTO: (Laugh) I'm being very cautious here because I have three members of the Education Committee that are keeping a pretty good eye on me. [LB143]

SENATOR AVERY: Yes, you do. Thank you for your testimony. Questions from the committee? That's rare. We don't have any questions. [LB143]

JOHN BONAIUTO: I'm happy to get by with that. Thank you. [LB143]

SENATOR AVERY: Thank you for your testimony. Any other neutral testimony? I have a...yes, Senator Haar...oh, you're here to close, right? [LB143]

SENATOR HAAR: I'm here to close. [LB143]

SENATOR AVERY: Okay. Come forward. [LB143]

SENATOR HAAR: I'd like to thank the committee and also the people who testified here today. This bill is about full disclosure and transparency. It says nothing about what should be a benefit and what shouldn't. That's up to local control. I'm more than happy to work with the committee, except I am not so sure of Senator Sullivan's suggestion that we increase the size and salary of the...(laugh) You missed that, Senator Avery. So with that, if...I appreciate your consideration of this bill and... [LB143]

SENATOR AVERY: I take it I missed the discussion of salaries, right, (laughter) but it's all in this document. [LB143]

SENATOR HAAR: It's all in that document. [LB143]

SENATOR AVERY: Thank you for your testimony. Anybody have questions? I don't see

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any. [LB143]

SENATOR HAAR: Thank you very much. [LB143]

SENATOR AVERY: Thank you very much. I have a letter to be read into the record. (Exhibit 3) This is a letter expressing a neutral position on this legislation by James McClurg of the Board of Regents, Chair of the Audit Committee. All right. That ends the hearing on LB143. We'll now move to LB412 and invite Senator Karpisek to come to the table. [LB143]

SENATOR KARPISEK: Thank you, Senator Avery, members of the Government, Military and Veterans Affairs Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I am from Wilber, W-i-l-b-e-r, Nebraska. I'm here today to introduce LB412. LB412 kind of has three parts. The first part on page 2 would say that any unexpended funds from a committee, any of our campaign committees would not be able to give that to any candidate committee or a political party committee but only to a tax exempt institution. In sub (2) there, could not...says how it could not give it to the political party again. Then probably the meat of the bill, a committee or...excuse me, "A committee, other than a candidate committee, which is established or controlled by a person holding a state elective office or for which a person holding a state elective office is the treasurer or officer shall not make a contribution or expenditure to any candidate or candidate committee of a candidate for a state elective office or to any political party committee." I'm going to cut right to the chase on this one. I'm tired of seeing state officers having PACs giving money to candidates for state office. We've seen it from the Governor, from the Attorney General, from a sitting senator a couple of years ago. We all get here and you take that money and you've got the thumb on you. I don't think it's right and I'm really tired of seeing it. We get on the floor and we're not so much debating issues but we're debating who gave who more money. I've just had it. I don't think it's the way that things should be done. Now I realize there's ways to skirt this. Already there's ways that you're not supposed to do it and it gets skirted. And I understand that and we've got people that give a lot of money outside of the people who are having...holding state office and it could be the state officeholder calling them and asking them to contribute to a candidate. But that is the bottom line of this bill. I don't think that while we are sitting as state officeholders we should be raising funds for someone else running for a state office. I'd be glad to try to answer any questions. [LB412]

SENATOR AVERY: I have one and I think only one. A candidate committee would be able to make a contribution, say, to an officeholder who had a debt, perhaps, from a campaign under this bill or would not? I think you're only trying to get at PACs, political action committees. [LB412]

SENATOR KARPISEK: I am. [LB412]

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SENATOR AVERY: Leadership PACs they're called. [LB412]

SENATOR KARPISEK: Well, I am, but I also don't think...I mean, I don't have a PAC, Senator. I just have my campaign account. I could...and I'm not real sure on this yet, I wouldn't be able to give any from my campaign to your campaign, however, we could...I could form a PAC, transfer that money over, and then that PAC could write a check to your campaign. [LB412]

SENATOR AVERY: So what are you trying to stop? [LB412]

SENATOR KARPISEK: The money that... [LB412]

SENATOR AVERY: The independent committees that are formed by officeholders? [LB412]

SENATOR KARPISEK: Yes. [LB412]

SENATOR AVERY: So you're not really trying to stop, say, me or my campaign... [LB412]

SENATOR KARPISEK: Well, I'm trying to... [LB412]

SENATOR AVERY: ...committee from contributing to yours if, say, you're trying to pay off a campaign debt. [LB412]

SENATOR KARPISEK: Well, I think that that is already not allowed, Senator, and we would have to talk to committee counsel a little more on that, but I am just trying to... [LB412]

SENATOR AVERY: I think it is allowed. [LB412]

SENATOR KARPISEK: Okay. Well, I am trying to get at any state officeholder giving anyone running for state office any money. [LB412]

SENATOR AVERY: Okay. I see a question over here. (Laughter) [LB412]

SENATOR KARPISEK: I see a couple. [LB412]

SENATOR AVERY: Senator Price. [LB412]

SENATOR PRICE: Chairman Avery, thank you. Senator Karpisek, I think I understand half of what you're trying to get at or two-thirds, whatever way you want to go. But the

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part where you say they can't...if your committee is retiring, you're not running anymore and you have funds left over, you're going to limit them and say they can't give it to any other political officeholder or party. [LB412]

SENATOR KARPISEK: Correct. [LB412]

SENATOR PRICE: You're done, you have money left over and you can't give it to anybody, you have to give it to a charity. [LB412]

SENATOR KARPISEK: Or you can give it back to the people that gave it to you, which is already in statute. Correct. [LB412]

SENATOR PRICE: And what drives this? [LB412]

SENATOR KARPISEK: When I could be done here, I could have upwards of whatever the limit is, turn it over to the party, and then they use it to try to run people to get in here. And I don't think that's right. It'd go out and make your own money not on the money that I made. [LB412]

SENATOR PRICE: Okay. I was just thinking, I think at one point in time some money was turned over to the NE G.O.P. and they bought a building, you know, that type of thing. So would you limit to what they can give it to or...I mean, I can understand where you'd say about giving to other parties, but buying a building or any real properties or stuff like that, all of it'd be... [LB412]

SENATOR KARPISEK: If they're a nonprofit organization, then I suppose they could. [LB412]

SENATOR PRICE: All right. Thank you. [LB412]

SENATOR KARPISEK: Sure. [LB412]

SENATOR AVERY: Senator Janssen. [LB412]

SENATOR JANSSEN: Thank you, Chairman Avery, Senator Karpishek...sek. Sorry. [LB412]

SENATOR KARPISEK: It's all right. [LB412]

SENATOR JANSSEN: I got in trouble in my first year for that. [LB412]

SENATOR KARPISEK: (Laugh) Yeah, I know. [LB412]

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SENATOR JANSSEN: I'm going to touch on the first part. Sometimes I know what you're trying to get at, don't necessarily agree with it, but I know where you're trying to go. But I think you... [LB412]

SENATOR KARPISEK: And I can understand that, Senator. [LB412]

SENATOR JANSSEN: ...but I think you kind of hit an unintended consequence here with page 2. I'm just looking...it's lines 3, it goes probably through 9. Read that, that your part you took out, which you alluded to, another candidate committee or political committee, political party committee or a tax exempt charitable, which you got rid of the candidate committee. Something that we can both relate to, I can literally relate to, you just pretty much excluded my good old uncle Ray from donating money to me in the next election. So there's transparency for you, but that's probably not your consequence...that's probably not the intended consequence. And Ray probably wouldn't give me money next time anyway, but (laughter) I'm just saying I'm not certain that that's...and maybe it is, but it seems to not be what you're going after in this. [LB412]

SENATOR KARPISEK: Well, Senator Janssen, Ray could give you personal money but not his campaign money. I don't think that was intended for you when it was given to him. [LB412]

SENATOR JANSSEN: Well, Senator Karpisek, you're familiar with the meat industry, aren't you? [LB412]

SENATOR KARPISEK: Yes. [LB412]

SENATOR JANSSEN: Well, then you know he can't give me many personal dollars. (Laughter) [LB412]

SENATOR KARPISEK: Well, and I understand that's...we'll leave it at that. [LB412]

SENATOR JANSSEN: Well, and getting into it, though, I do believe I'm...okay, in this situation I'll get away from the Janssen because he was a Democrat and I'm a Republican and we're all a nonpartisan, happy family. But in many cases though like what Senator Price was talking about, the donation of money to a building, it could be said that many people, most indeed, at least argued that gave that money to a, in this case, G.O.P. candidate because they believe in the ideals of the G.O.P. candidate and the base of their platform. So in that case would it not seem an appropriate way to funnel the money? Funnel sounds like a bad word, but very openly... [LB412]

SENATOR KARPISEK: No, I think you hit it right on the head. (Laugh) [LB412]

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SENATOR JANSSEN: ...actually very openly give the money to and donate to this case. [LB412]

SENATOR KARPISEK: They sure could, right out of their checkbook again and do that. I don't, again, think that that is what is intended when someone writes you a campaign check. [LB412]

SENATOR JANSSEN: In this case I could...it says you could donate the money back to the people that donated it. [LB412]

SENATOR KARPISEK: Um-hum. [LB412]

SENATOR JANSSEN: How's that parsed out? Is that...do I have to go back to dollar for dollar, Aunt Mildred (phonetic) \$10 or how does that work or is that in the statute buried...? [LB412]

SENATOR KARPISEK: Well, that is in statute now, so. [LB412]

SENATOR JANSSEN: I'm just curious if I could...donated a little bit of money to myself but say there's...it gets down to that amount left, there's \$15,000 left in your campaign and you say, well, I put...we'll say \$500, you say, well, I put \$500 in, so I'm paying myself back first. And that could be quite significant for some people, could be several hundred thousands of dollars. Is that something that we would intend for this or...? [LB412]

SENATOR KARPISEK: No, Senator, I don't think so. And, again, that's already in statute that...but right now you can give it to another candidate committee, a political committee, or a charitable institution, or may return it to the contributors of the funds. [LB412]

SENATOR JANSSEN: But in this case I was a contributor of my own campaign,... [LB412]

SENATOR KARPISEK: Well, then you... [LB412]

SENATOR JANSSEN: ...so I could decide I'm going to pay myself back first. [LB412]

SENATOR KARPISEK: Well, then I think Mr. Daley would be better one to answer that. In my opinion, which is probably usually wrong when it comes to what I think we can do with our campaign money that you could as long as you had a record of that, that you gave it. [LB412]

SENATOR JANSSEN: Oh, yeah. I'm doing financial research here, so this is real...this

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is helpful to me. That's all. I was just kind of curious. I mean, as often we always agree to disagree on many points... [LB412]

SENATOR KARPISEK: Sure. [LB412]

SENATOR JANSSEN: ...but we agree on more than some. [LB412]

SENATOR KARPISEK: Sure. [LB412]

SENATOR JANSSEN: But I was just wondering if that was something that was intended or not, and I certainly understand where you're going in the other area. Thanks. [LB412]

SENATOR KARPISEK: Thank you. [LB412]

SENATOR AVERY: Senator Brasch. [LB412]

SENATOR BRASCH: Thank you, Chairman, and thank you, Senator Karpisek. I just wanted to just elaborate just a tiny bit here in Senator Janssen's train of thought. Now what if you had given that political candidate a contribution, say, in a couple of elections? But that would still prohibit that candidate's PAC from contributing to your candidacy if one had done that. [LB412]

SENATOR KARPISEK: Yes. [LB412]

SENATOR BRASCH: So the rule doesn't matter who the candidates contributed in the past, their past history, it's just a clean-cut, no exceptions to the rule. [LB412]

SENATOR KARPISEK: That is how I would like it to read if it doesn't. [LB412]

SENATOR BRASCH: I see. Thank you. [LB412]

SENATOR KARPISEK: Thank you. [LB412]

SENATOR AVERY: I'm looking for others. Senator Janssen. [LB412]

SENATOR JANSSEN: Senator Schumacher is not here so I'm taking over. (Laughter) [LB412]

SENATOR PRICE: Yikes. [LB412]

SENATOR JANSSEN: Now you made me forget what I was going to ask. I know what I was going to ask. We can move this around and shift mirrors, do what we want. There's still going to be the same amount of money spent and there's going to be...now we'll talk

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funnel, it's going to be funneled somewhere else and we'll be down here chasing another...chasing something else. And this system is in place. It is transparent. So do you think that the money won't go somewhere else to some other agency? In this case, money is donated to a church. They get politically active once in a while. Say all of a sudden the money starts coming from that. You're still answering...I mean, getting back to what you're saying, you're on the floor. Well, the, you know, XYZ Church gave me money so I've got to be pro-life on this or I can't be pro-life on this. I mean, by the same...I think it's a lot of work to do nothing because the money is still going to be spent, most likely I'm still writing a campaign check, it's going somewhere. Do you see that? [LB412]

SENATOR KARPISEK: I do, Senator. I just think that it moves it into a different situation when I'm on the floor with you and I have contributed from my PAC to your PAC and we don't agree and I come over and remind you of that \$500 check I cut you. [LB412]

SENATOR JANSSEN: I wish you would remind me of that \$500 check because I don't remember it. (Laughter) But, no, that's just something I just thought we sit...and you know that, we hear a lot of bills that's like, move it here, they should have control, and it just always seems that it's still...and maybe I agree with you on that point and we had a very similar...well, we had that happen on the floor. [LB412]

SENATOR KARPISEK: We did have that happen. We did have that happen, but I see it no different coming from the Governor either, so. And I don't...this is nonpartisan in my opinion because it's...we've seen it both ways, so. [LB412]

SENATOR JANSSEN: Well, yeah, I'm still waiting for the Governor's check and yours for that matter. (Laughter) [LB412]

SENATOR KARPISEK: Right, right. So that's why I brought this bill. [LB412]

SENATOR JANSSEN: Okay. All right. Thank you. [LB412]

SENATOR AVERY: Let me ask you, this would not limit your use, say, of your campaign funds for staff development or for job-related travel? There are a lot of ways we can use campaign funds. [LB412]

SENATOR KARPISEK: Correct. That is not my intention with the bill. My intention with the bill is that it's... [LB412]

SENATOR AVERY: Just the transfer to another committee. [LB412]

SENATOR KARPISEK: ...it's been donated to you for use by you, not to help your friends. [LB412]

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SENATOR AVERY: Um-hum. Thank you. I don't see any more questions. Thank you. [LB412]

SENATOR KARPISEK: Thank you. [LB412]

SENATOR AVERY: Proponent testimony? Mr. Kennedy, I thought you were waiting for opponent testimony. [LB412]

BARRY KENNEDY: Oh, no. (Laughter) Fooled you. Chairman Avery, members of Government Committee, my name is Barry Kennedy, it's B-a-r-r-y, Kennedy, K-e-n-n-e-d-y. I serve as president of the Nebraska Chamber of Commerce and Industry, and in that capacity I'm also the secretary/treasurer of our segregated fund referred to as the State Chamber-PAC, and we are here to testify in support of LB412. And want to thank Senator Karpisek for introducing this legislation. I think there's just two primary reasons that I would share with you here today. First...and the first may be very selfish and may only pertain to us, I don't know. Our separate segregated fund and our fund is governed by a completely separate board of directors other than away from the Nebraska Chamber of Commerce. But ours is, first of all, a state-only fund or state-only PAC, so we cannot participate in federal races. And then we limit it further ourselves. We self-impose further limitations in that the only thing we get involved in are Nebraska legislative races. We do not get involved through our PAC in any other statewide races, in any other city races, county races, anything else. So it's because of that when we see contributions being made from a candidate committee to some other candidate committee, a federal race, city race, county race, that is bothersome to us. We give resources. We give funds to elections and reelections of state senators, and that's all we want to participate in. So when those funds are taken from us, given somewhere else, that's bothersome to us. The second general opposition point kind of comes under the broad topic perhaps of unintended consequences in that we believe that a bit of self-control might prevent overcontrol. We are a very open state in Nebraska. You can do a lot of things in Nebraska you cannot do in other states as long as you report it. And we as a contributor report it; you as a candidate report it. It's a very transparent system. I think it operates very well. Frank Daley, I believe, is still in the room, does an excellent job running that department, and that's not the case in other states. And typically the stringent rules in other states have come from abuses of some kind where things that happened causes people to say: That's just not right, let's tighten it up more and more and more. I have counterparts in other states who cannot buy a state senator a cup of coffee. Now I don't think anybody, any senator is going to compromise their philosophy over a cup of coffee. There are counterparts of mine in other states who, if one of you walked out of the Embassy Suites in a day like we had a couple of weeks ago with a blizzard going on and zero-degree weather and I came driving by in a nice warm car, I couldn't stop and offer you a ride because it's a value. And I don't think any of you will compromise your philosophy based on a ride from Point

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A to Point B. But there are rules in place in other states that are that stringent. And I really believe a bit of self-control of moving money from committee to committee, organization to organization perhaps will prevent overregulation or overcontrol in the future. With that, Mr. Chairman, I would stop and try to answer any questions that you might have. [LB412]

SENATOR AVERY: I have a comment. You're absolutely right that other states have probably overreacted, and they've done it when... [LB412]

BARRY KENNEDY: Absolutely. [LB412]

SENATOR AVERY: ...as in the case of North Carolina, their speaker went to federal prison. [LB412]

BARRY KENNEDY: That's exactly right. [LB412]

SENATOR AVERY: And then they just ratchet down on everything and overreact. [LB412]

BARRY KENNEDY: Yeah. Exactly. [LB412]

SENATOR AVERY: Yeah [LB412]

BARRY KENNEDY: Our neighboring state of Iowa is much more stringent than we are. Tennessee is...I have my very close friend that runs the Tennessee Chamber, they just can't do anything. North Carolina, just came from a meeting with my counterpart there and they're all kind of envious of us. I mean, they respect the fact that we are able to contribute to candidates and hopefully work with you both during your election process and after, but it gets very burdensome. [LB412]

SENATOR AVERY: Questions from the committee? Senator Janssen. [LB412]

SENATOR JANSSEN: Thank you, Chairman Avery, Mr. Kennedy. [LB412]

BARRY KENNEDY: Sure. Barry. (Laughter) [LB412]

SENATOR AVERY: We don't do that in this committee. [LB412]

SENATOR JANSSEN: I don't want to get in trouble here. [LB412]

BARRY KENNEDY: Oh, okay. [LB412]

SENATOR JANSSEN: I'll save that for later. But do you worry, though, that like you're

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talking about here, I mean, relatively I guess we get low pay as far as... [LB412]

BARRY KENNEDY: Absolutely. [LB412]

SENATOR JANSSEN: ...state legislatures. And the cost of running an election are becoming more and more. [LB412]

BARRY KENNEDY: Um-hum. [LB412]

SENATOR JANSSEN: And there's many different interest groups, Chamber included, that want a say in those. Do you worry that stuff like this continually continuing to restrict how we spend money, where we spend money could really, especially in a time of term limits, just really turn people away? I can only speak to my treasurer who is my CFO, my company in Fremont. [LB412]

BARRY KENNEDY: Sure. [LB412]

SENATOR JANSSEN: I mean, he's not being paid to be my treasurer, but I can make him do stuff. He's paid to do other stuff, and that's an incredibly difficult task as it is right now. That's why I always cringe when we have these hearings. It's just it's tough to run. Do you...and you recruit candidates a little bit. Aren't you worried where you're going to get...I talked to a guy in Missouri that one of their caucuses is one of our counterparts. We'll go to people...and they get like \$24,000 a year there, double pay and they get health benefits, he said, we'll go to a person, Candidate A doesn't want to do it. We have term limits, doesn't want to do it, cost too much to run for the seat in the house, two years. Candidate B, Candidate C. If we get to Candidate D, he said, so as long as you want to have these types of restrictions and term limits--I'm not taking a stand here but--you're going to get Candidate D sometimes on one side of the...in their partisan elections. And then you might be getting Candidate E on the other side of them, where if you turn them over, you're getting I guess less and less...I guess you're getting...you're almost kind of giving more power to these special interest by doing that. I don't even know if there was a question in there that you could respond to. [LB412]

BARRY KENNEDY: Well, didn't hear one, but (laughter) with the Chairman's permission I'll still respond. [LB412]

SENATOR AVERY: Sure. [LB412]

BARRY KENNEDY: I fully agree term limits has changed the dynamic here completely. I guess what I would respond...and, yes, we do try to recruit candidates that have a business philosophy. I don't really...this bill deals...I think LB412, what we're talking about here are elections and reelections. And I don't believe this bill inhibits in any way contributions to elections and reelections. What this bill does is puts better control on

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money that some entities such as us or others have contributed to an election or to a reelection and from that campaign committee, whatever it may be, contributing it someplace where we really didn't intend it to go. They may, in fact, contribute it someplace we may be opposed to or a race that we probably just wouldn't be involved in, as I mentioned earlier: a federal race, a city race, the parties, whatever. So I don't...I guess I'm having trouble...I understand all the things you indicated about the challenge to get people to run. I commend each and every one of you. I have a high level of respect for each and every one of you for doing it, for serving, even running, especially with the pay level that Nebraska has. But I don't think this bill really goes to that. I think that's...we've got...there's other legislation that needs to come forward dealing with pay and benefits and like that, and we'll be there to support that as well. [LB412]

SENATOR JANSSEN: Well, that was an extremely long answer to no question. [LB412]

BARRY KENNEDY: Yeah, well, that was an extremely long no question. (Laughter) [LB412]

SENATOR JANSSEN: But it's not done yet, so we get to keep going. [LB412]

BARRY KENNEDY: Okay. [LB412]

SENATOR JANSSEN: I'm picking up slack here for the committee. We don't ask many questions on this side, so. The party...you talked about party sometimes, shouldn't we...I guess if we're going to live in this utopia, shouldn't we have...we can say it's nonpartisan. I know what everybody's political affiliation is in this certainly. Well, I don't know what legal counsel is and committee clerk are, but every elected person in here, I know what party they're in and where they stand on issues. Wouldn't the general public, not necessarily Mr. Barry Kennedy of the Chamber of Commerce, State Chamber which I'm a member, wouldn't we rather have ideologies of parties for the general public instead of maybe...you know, for me I'd be fine if you guys picked all the candidates because I'm on board with your platform, but maybe not everybody is. And whereas you're out recruiting candidates, wouldn't we rather...why would we limit the actual parties for which the political process is established in being able to recruit financially, talking about finances, limit who they can recruit and how they can recruit as far as candidates to run? It just seems to me that we're actually limiting the people that are the main cog in the political process when you talk Republican, Democrat, Libertarians. The other day, in fact, I'm sure they would love to be infused by some money from any candidate committee or whatnot. So shouldn't...the question is, shouldn't the political parties pick the candidates? Now what if it's another organization I'm not a big fan of and I won't name them because I'm a fan of everybody, but there could be an organization that they want to go out and pick candidates, so they're going to pick and choose now? I still think we're just changing money around. And who's in charge of who gets to be in? [LB412]

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BARRY KENNEDY: With the Chairman's permission being as I don't really think the question deals with the topic that we are on, but I will respond. I will respond to it. [LB412]

SENATOR JANSSEN: I certainly think it does. Actually...well, no, let me elaborate then. [LB412]

BARRY KENNEDY: I don't believe, I mean, there's not an R., D., or an I. behind anybody's name here. [LB412]

SENATOR JANSSEN: But there is. [LB412]

BARRY KENNEDY: And...well, we know that, but I think the Nebraska Legislature does a pretty good job of keeping...yeah, we all know. I know for a fact that there's 34 Republicans in the body and there's 14 Democrats. In any other state in the nation... [LB412]

SENATOR AVERY: 15. [LB412]

BARRY KENNEDY: Pardon me? [LB412]

SENATOR AVERY: 15. [LB412]

BARRY KENNEDY: Fifteen. In any other state in the nation, there would not be one single chair that has a D. behind their name. I'm looking at one and I think there's four others I think that's nonpartisan. I think the Nebraska Legislature does a pretty good job of being nonpartisan,... [LB412]

SENATOR JANSSEN: But the question, again, was... [LB412]

BARRY KENNEDY: ...and especially when it comes to organization, and I think in a lot of other respects, and I hope that that respect for that nonpartisan banner, I hope that continues, I really do. [LB412]

SENATOR JANSSEN: The question still is, shouldn't the parties be the ones...I've never actually...I've never gotten anything from the G.O.P. that said...I haven't seen it. There was a public thing that was put out that said this is how Senator Price voted on all these topics and this is the grade we give them. I've never seen that. I've seen it in other organizations. I've seen it used against people. It just...that comes back to my question is, shouldn't the political parties pick... [LB412]

BARRY KENNEDY: Yeah, and I don't know that I can answer that question. I don't have

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a strong feeling about...our arena is the legislative arena. That's what...as I mentioned, that's the only place we, our PAC or our segregated committee, that's the only thing we focus on. And I think over the years we've worked with people of all parties. And I really can't...in all honesty, I can't look at you and say that the parties should be more involved in that process. I really don't...maybe in other statewide races where party is a part of it, it seems to work okay. But I really can't say that it should be at the legislative level.

[LB412]

SENATOR JANSSEN: Thanks, Barry. [LB412]

BARRY KENNEDY: Um-hum. [LB412]

SENATOR AVERY: No, we don't do that. We discourage people from using first names with our witnesses. [LB412]

BARRY KENNEDY: That's fine. [LB412]

SENATOR AVERY: Okay. Senator Sullivan. [LB412]

BARRY KENNEDY: Yeah. And I... [LB412]

SENATOR JANSSEN: Now you got me in trouble. [LB412]

BARRY KENNEDY: And I appreciate that... [LB412]

SENATOR SULLIVAN: I didn't realize. Thank you, Senator Avery. I guess I didn't realize this, so (laughter) I'll have to refer to you as Mr. Kennedy. [LB412]

SENATOR AVERY: Oh, it was in the memo you got the first day. [LB412]

BARRY KENNEDY: Okay, Senator. [LB412]

SENATOR SULLIVAN: Okay, okay. The phrase that keeps running through my mind is, follow the money. [LB412]

BARRY KENNEDY: Um-hum. [LB412]

SENATOR SULLIVAN: And I think that's what we're trying to do with this perhaps. So it begs the question because for legislative races, the spending in some respects has really just quite frankly gotten out of hand. Do you think that this will increase or decrease or not make any difference at all in terms of the amount of money that's involved in legislative races? [LB412]

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BARRY KENNEDY: Oh, I don't think it has any impact at all on the amount of money that's spent in a legislative race. That's still going to come down to the effectiveness of the candidate to go out and sell themselves to the entities that...as mentioned, we have a very open state here. As long as you report it, any entity can contribute to campaigns. There's obviously some restrictions on cash and some of those kinds of things, but we have a very open state. I like that. I think that's good. I don't think that has any impact at all on though...the good candidates are still going to attract the resources they need to run a good campaign. [LB412]

SENATOR SULLIVAN: Okay. Thank you. [LB412]

SENATOR AVERY: Senator Brasch has a question. [LB412]

SENATOR BRASCH: Thank you, Chairman. Thank you, Mr. Kennedy. [LB412]

BARRY KENNEDY: You're welcome. [LB412]

SENATOR BRASCH: I do agree with what you just said here, and I was hoping to hear that the primaries pick the candidates. The money is sometimes a means to an end because races can be won by candidates who are terribly outfunded. Many PACs, not all of them, do not support a candidate that could be running against an incumbent, for example. But it does go down back to the candidate, and when a PAC does support...and I see your argument very strongly where you've picked a candidate and then perhaps they're contributing. But when you pick a candidate because they align with the business mind and everything, that candidate more than likely aligns with your mission, your belief. And then perhaps that next giving forward as well goes... [LB412]

BARRY KENNEDY: Um-hum. [LB412]

SENATOR BRASCH: ...into someone who's also business-minded. What I'm hoping to hear is it's not always the worst-case scenario, you know, when you give and it gives forward because I agree with Senator Karpisek that you want to earn your money... [LB412]

BARRY KENNEDY: Um-hum. [LB412]

SENATOR BRASCH: ...every candidate wants to do that regardless of whether it comes from your fellow political party, your neighbors, your community, or district, or counties. But basically you did just say something that I think is very important. The people pick the candidate and not the funding. [LB412]

BARRY KENNEDY: Absolutely. And it's not always the worst-case scenario. There are times when candidates have given money to other candidates that we're fully supportive

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of. But there's also times...and it isn't so much...from our perspective, it isn't so much going to candidates either we're supportive of or not supportive of; more often than not it's going to races that we just wouldn't be involved in. As I mentioned, this might be a bit of a selfish testimony because it's going to city council races, to county board races, to other statewide races, it's to races that we just don't get involved in. So we've tried to keep ours pretty focused but more often than not, those are...they're good people and they have, you know, laudable goals just like you do, and that's not really the concern. [LB412]

SENATOR BRASCH: Thank you, Mr. Kennedy. Thank you, Chairman. [LB412]

SENATOR AVERY: Senator Janssen has one more question, just one. [LB412]

BARRY KENNEDY: He can have as many as he wants. [LB412]

SENATOR JANSSEN: (Laughter) Oh, no. We're not playing by those rules now. [LB412]

BARRY KENNEDY: Must not be much going on in Fremont tonight, huh? [LB412]

SENATOR JANSSEN: Look, it's cold out, nobody wants to get out of here. We've got all day long. [LB412]

SENATOR PRICE: Sixty-five degrees. [LB412]

SENATOR JANSSEN: I'm never one to leave early. You clarified it, I just wanted to point it out that state money that, in fact full disclosure, I believe your PAC gave me money, so just saying. [LB412]

BARRY KENNEDY: Sure did. [LB412]

SENATOR JANSSEN: May not get it next time. But just you can't give like what you gave to me, you don't know, I could give it to a city council candidate but I couldn't give it to say, you know, whatever, Karpisek for state...or U.S. Senate. I couldn't give it to a federal...I can't give my money to a federal campaign out of my own. [LB412]

BARRY KENNEDY: Well, I don't know. [LB412]

SENATOR JANSSEN: I don't think so. [LB412]

BARRY KENNEDY: That's a question that better be asked to some...because I...last year, there were some campaign committees that I think were able to move money to a federal race. I don't know how that was done. I guess I did not think it could be done. I

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don't think we, as a incorporation, can give...could give money...I mean, if we had a federal PAC, we could through a federal PAC, but we don't have a federal PAC. Our PAC is state-only. But I don't think we, as a corporation, could write a check to a federal race either. But there's...to be honest with you, I don't study the federal campaign laws as closely as I maybe should because we're just not involved. [LB412]

SENATOR JANSSEN: Well, I think Mr. Daley will get up here. I think our... [LB412]

BARRY KENNEDY: Yeah. [LB412]

SENATOR JANSSEN: I think it's prohibited from us to give to a federal campaign. [LB412]

BARRY KENNEDY: Okay. [LB412]

SENATOR JANSSEN: So I just... [LB412]

BARRY KENNEDY: I would hope so. [LB412]

SENATOR AVERY: I think we have one more question. [LB412]

BARRY KENNEDY: Sure. [LB412]

SENATOR AVERY: Senator Price. [LB412]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Mr. Kennedy. I am crystal clear on your message. But as I ponder it, if the monies that are provided to a candidate are to help them spread their message and work within their communities, they go to community events, some of the community events might be a chamber event. [LB412]

BARRY KENNEDY: Um-hum. [LB412]

SENATOR PRICE: So they go to the chamber event and they purchase a ticket to the event. Then the chamber takes those dollars or could they be taking those dollars and putting into their PAC account? And then that money then gets redistributed by...I'm not trying to be difficult, I'm just saying that... [LB412]

BARRY KENNEDY: No, I understand. [LB412]

SENATOR PRICE: ...if I go to a local community and they raise their money, and then they intend...they're not a political organization, but then they take their money and support with that...a PAC. [LB412]

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BARRY KENNEDY: Um-hum. [LB412]

SENATOR PRICE: I mean, how far do we do this division of hairs here because I understand what you're saying, but then I just thought about it within the chamber structure you have, local events... [LB412]

BARRY KENNEDY: Um-hum. [LB412]

SENATOR PRICE: ...and you pay for a ticket and you go there to...so any... [LB412]

BARRY KENNEDY: And as far as who can contribute to the...it's only our members... [LB412]

SENATOR PRICE: Okay. [LB412]

BARRY KENNEDY: ...that can contribute to our PAC. [LB412]

SENATOR PRICE: Sweet. I'm good. [LB412]

BARRY KENNEDY: And I think that would hold true with other PACs as well, so. I mean, there are some restrictions. I can't take a check... [LB412]

SENATOR PRICE: I gotcha. I understand it now. Thank you. [LB412]

BARRY KENNEDY: Senator Janssen is...(laugh) his business...I can take a corporate...his business check into our PAC because he's a member of our...I couldn't take a check from you into our PAC because you're not a member of ours. So there are some other things that need to be considered. [LB412]

SENATOR PRICE: Thank you for helping me. [LB412]

BARRY KENNEDY: Sure. [LB412]

SENATOR AVERY: Thank you, Mr. Kennedy. Any other proponent testimony to LB412? Don't see any. Any opposition testimony? [LB412]

SENATOR JANSSEN: I'm done. [LB412]

SENATOR AVERY: (Laugh) You're finished. Any neutral testimony? Mr. Daley. [LB412]

FRANK DALEY: Thank you, Senator Avery and members of the committee. My name is Frank Daley, D-a-l-e-y. I serve as the Executive Director of the Accountability and Disclosure Commission. I guess I wasn't really planning on testifying, but there are

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questions, so let me see if I can answer them. First of all, there was some discussion about candidate committee to candidate committee contributions. Under current law, one candidate committee may not contribute to another candidate committee with the exception that one candidate committee may buy a ticket to the fund-raising event of another candidate committee. And I think the rationale behind that is that there's a campaign purpose for the candidate buying that ticket, that is, I want to be there because the potential donors to me are going to be there, the people I need to contact, and so there is a bona fide campaign purpose for the paying candidate to attend. So that's current law. Secondly, when one candidate committee is dissolving, that is one of the other exceptions by which the dissolving candidate committee may give funds to another candidate committee. Under current law, it may also give money to a political party committee or to a charitable institution of some sort. As a practical matter, what often happens with dissolving candidate committees, they may be running for something else and they've started a new candidate committee for the new office and they dissolve the old one and transfer the funds, which is permissible under state law currently. There was some discussion about returning contributions to the contributors, which is permissible at the time that the candidate committee is dissolving. The statutes contain no formula by which this is done and no restrictions, and so the commission has always taken the position that it can be done in any way that the candidate wants as long as the contributor doesn't end up with more than he or she contributed. So you can pick your favorite contributors and reimburse them fully and not give anything to other contributors. You can do it on a pro-rata basis. You can decide that you are your favorite contributor and you can reimburse yourself first, again, perfectly okay under current law. The questions about contributions from state committees to federal committees, generally speaking the problem there is really with the federal election commission because, as you're probably aware, on the federal level there are more restrictions on the type of money that can get into the federal election system. Because Nebraska allows corporations and unions and entities like that to contribute to Nebraska candidates and because there are no limits on contributions from so-called permissible sources, a lot of your campaign money is considered tainted by the Federal Election Commission, and so they don't allow dollar-for-dollar transfers. There are some instances where I think some arrangements have been made when you can show, I got this many dollars from individuals and that's what I transferred. But, again, the primary impediment to those transfers are the federal election law. And that's all I have. I hope I've answered your questions. [LB412]

SENATOR AVERY: Let me...you may not want to answer this or may not be prepared to because you're not actually here to speak about the bill but to answer some questions that came up related to that. But my reading of the bill is that this would eliminate the practice of a dissolving committee transferring its funds to another candidate committee. This would eliminate that option. [LB412]

FRANK DALEY: It would do that. That's correct. [LB412]

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SENATOR AVERY: Yes. Okay. I just wanted to make sure that we were clear on that. Any questions from the committee? Thank you for that clarifying neutral testimony. [LB412]

FRANK DALEY: Thank you. [LB412]

SENATOR AVERY: Mr. Gould, welcome. [LB412]

JACK GOULD: I will be brief. Senator Avery, members of the committee, my name is Jack Gould, G-o-u-l-d, and I represent Common Cause. I want to, first of all, just thank Senator Karpisek for his concern on this issue because it's something that I think is very important. We have a lot of concerns about how campaign money is spent and how it's used, particularly in this case. I think the question of what's the donor's intent, and that is a question that Senator Karpisek raised and think that's the question that really lies behind a lot of this. I would also like to make a proposal that there be an amendment added here because I think that all of this extra campaign money would satisfy Frank Daley. If you would all donate that money to the Accountability and Disclosure (laughter) Commission. [LB412]

SENATOR AVERY: Thank you, Mr. Gould. [LB412]

JACK GOULD: You're welcome. [LB412]

SENATOR AVERY: Any other neutral testimony? Seeing none, Senator Karpisek is going to make sense of all this testimony now, right? [LB412]

SENATOR KARPISEK: (Laughter) I think I'm the one that started the whole mess. I think...I don't know. Senator Janssen and I will talk off mike. I didn't intend that we would probably agree on this but I don't know that we're on the same page. My primary concern really is undue influence in meddling in other races and votes on the floor, not about building buildings. That really is not my concern. If you think about it, when we talk about special interest, parties are special interest in here. And who are their lobbyists? Their lobbyists are either the people that got you here. And, again, I think that it's not far enough removed for another senator or the Governor or the Attorney General or the State Treasurer or whoever to be involved in that race. Now if I had it my way, they wouldn't have their face on your flier either. I'm not trying to go that far. But I've seen some fliers that have the Governor's picture on it but it's for a legislative candidate without that person's picture on it. I'm overstepping where I'm trying to go with this. I just want to say, Senator Janssen, good job pointing out your membership in the (laughter) chamber. Good move. But I think that it goes to show that, you know, I hear this a lot out in the Rotunda. I appreciate Mr. Kennedy coming forward because I have heard this. Somebody...the money doesn't stay where they think it should go. That is, to me, a

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little chip of this iceberg. My main concern is, you talk to someone and it's: Oh, God! I don't know. The Governor wouldn't like that. Oh, I don't know. So-and-so won't like that. Again, we hear it about the lobbyists, same thing. And I know people have to run in and out of the glass doors to go talk to their lobbyist. I feel it's a whole different level. This does not say anything about parties not being able to contribute, doesn't say anything about that. The party can still contribute to the candidate; the candidate can't contribute back to the party. If there's a concern about saying you dissolve your legislative committee to run for Congress or whatever else you want to do, I don't know--I'd like to talk to Mr. Daley later--how that would work for Senator Janssen in his behalf, but. (Laugh) It's getting a little punchy this late in the day, isn't it? But I don't know, then you could dissolve it and start it again for yourself is what I'm saying. I don't know how that works right now. But my intention is not to take the money that you would want for you, but not to give it back to or to a party or anyone else other than a nonprofit organization. Churches I think would have to be very careful, too, about their giving for their nonprofit status, but. With that, I would try to clear up any clearer than I haven't. [LB412]

SENATOR AVERY: Let me clear this up. With respect to dissolving committees, now let's say you have \$15,000 in your campaign account. You're not going to run for anything again and you want to dissolve the committee. You want to know what to do with it. Current law allows you to give that money to a charity or you can transfer it to another campaign committee or you can give it to a political party. [LB412]

SENATOR KARPISEK: Correct. [LB412]

SENATOR AVERY: What you want to do is to limit it just to charities. [LB412]

SENATOR KARPISEK: Yes. [LB412]

SENATOR AVERY: Okay. That's clear. Any other questions or clarifications or obfuscations? We've done enough obfuscating. [LB412]

SENATOR KARPISEK: I think so. Thank you. [LB412]

SENATOR AVERY: Thank you. That completes the hearing on LB412, and that completes our hearing for today. [LB412]