001 Scope and Application
002 Definitions
003 Registration of Lobbyists
004 Application for Registration as a Lobbyist
005 Amendment to Applications for Registration
006 Renewals of Applications for Registration
007 Filing of Quarterly Reports
008 Contents of Nebraska Registered Lobbyists Quarterly Report
009 Contents of Nebraska Principal Quarterly Report
010 Exemptions to Quarterly Reports
011 Reports by Lobbyist of Activities During a Legislative Session
012 Termination of Registration
013 Gift Limitations
014 Record Keeping
015 Late Filing Fees for Lobbyist Quarterly Reports, Lobbyist Special Reports and Statements of Activity
016 Method of Filing Applications, Reports and Statements by Principals and Lobbyists
017 Statutory Authority

TITLE 4 - NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

CHAPTER 6 - RULES AND REGULATIONS FOR LOBBYING

(Adopted 12/18/81 and amended 12/16/83; 11/4/88; 7/26/91, 9/30/94, 10/20/00, 1/23/09 and October 16, 2015)

001 **SCOPE AND APPLICATION.** This rule interprets the provisions of the Nebraska Political Accountability and Disclosure Act pertaining to Lobbying Practices as set forth in Sections 49-1480 to 49-1492.01, *Neb. Rev. Stat.* Its purpose is to define terms and delineate requirements for the registration of lobbyists, reporting of receipts and expenditures by principals and lobbyists, reporting legislation acted upon by lobbyists and record keeping.

002 **DEFINITIONS.** For the purposes of this Rule, unless the context otherwise requires, the definitions found in the following subsections shall be used.

.01 Lobbyist means a person who is authorized to lobby on behalf of a principal, and shall include an officer, agent, attorney or employee of the principal whose regular duties include lobbying. Section 49-1434(2), *Neb. Rev. Stat.*

.01A Principal means a person who authorizes a lobbyist to lobby in behalf of that principal. Section 49-1434(1), *Neb. Rev. Stat.*

.02 Person means a business, individual, proprietorship, firm, partnership, limited liability company, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly. Section 49-1438, *Neb. Rev. Stat.*

.02A For the purposes of sections 49-1480 to 49-1492.01, a "person" shall also include a government body as defined in Section 49-1424, *Neb. Rev. Stat.*

.03 Lobbying means the practice of promoting or opposing for another person the introduction or enactment of legislation or resolutions before the Legislature or the committees or the members thereof, and shall also include the practice of promoting or opposing executive approval of legislation or resolutions. Section 49-1433, *Neb. Rev. Stat.*

.03A Lobbying includes, but is not limited to, communication in person or by telephone with an official in the legislative or executive branches of state government, as defined in Sections 49-1436 and 49-1437, *Neb. Rev. Stat*, to influence legislative action, as defined in Sections 49-1429 and 49-1431, *Neb. Rev. Stat.*

.03A1 Executive Branch Lobbying. The practice of promoting or opposing executive approval of legislation or resolutions includes communication with officials of the executive branch of state government as defined in Section 49-1436, *Neb. Rev. Stat*, to take or refrain from taking any action or position in support of or in opposition to proposed legislation or resolutions. It includes influencing an executive branch official to make or refrain, or cause others to make or refrain, from making appearances before legislative committees or contacting members of the Legislature.

.04 Lobbying activity or lobbying purpose means any act, including the solicitation of receipts or the making of expenditures, to influence legislative action as defined in Sections 49-1429 and 49-1431, *Neb. Rev. Stat.*

.05 Receipt means an advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, which is received by a lobbyist or principal directly or indirectly for the purpose of carrying on lobbying activities, to include compensation for such activities or reimbursement for expenses.

.06 Expenditure means an expenditure as defined in Section 49-1419(4), *Neb. Rev. Stat*, made directly or indirectly for the purpose of carrying on lobbying activities.

> .06A Expenditure does not include payments for transportation by lobbyists or the cost of communicating positions from a principal to a lobbyist or from a lobbyist to a principal. Reference: Section 49-1419(4), *Neb. Rev. Stat.*
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> > .06A1 "Payments for transportation by lobbyists" means payments made solely for the benefit of a lobbyist for his or her own travel expenses, including lodging and meals, if not incurred in connection with providing or paying for the travel of others.
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> > .06A2 "Cost of communicating positions" is limited to (1) expenses directly related to communication with such principal or lobbyist or agents thereof, (2) compensation reasonably attributable to bill reading and (3) compensation reasonably attributable to conferring with such principal or lobbyist or agents thereof if no public official, public employee or other principals or lobbyists of other principals or agents thereof are present.

.07 Miscellaneous expenses means any expenditure by a lobbyist, principal, or anyone acting on behalf of either, including an expenditure which is made for the benefit of a public official in the executive or legislative branch of state government or the official's staff or immediate family members which does not otherwise fall within the categories of entertainment expense, lodging expense, travel expense, gifts, gifts of admissions, lobbyist reimbursement, extraordinary office expense, or lobbyist compensation. Miscellaneous expenses include expenditures of money loaned, promised or paid to any official, or staff of an official in the executive or legislative branch of state government, including a business with which the official or staff member is associated if the payment is made to influence legislative action.

.08 Entertainment means expenditures including expenses for food and drink, incurred by a principal or a lobbyist for entertainment as a lobbying activity, even if a public official, a member of his or her immediate family or a public employee is not present, such as the entertainment of constituents or other lobbyists or principals to influence legislative action.

.09 Lobbyist compensation means all compensation paid to a person for being a lobbyist, lobbying activities or to influence legislative action. When a principal retains the services of a person who shall have only part-time lobbyist duties, only the compensation paid which is reasonably attributable to influencing legislative action constitutes lobbyist compensation.

> .09A When a lobbyist is an employee of the principal, part of the lobbyist's salary attributable to lobbying activities constitutes lobbyist compensation if the lobbyist engages

in any lobbying activity.

.09B When a person engages the service of a lobbyist or a principal for consulting or management services which services include engaging in lobbying activities, part of the lobbyist's or principal's compensation for such services constitutes lobbyist compensation.

.010 Money loaned, promised or paid includes any payment of money to an official or staff of an official in the Legislative or Executive Branches of State Government, except for money loaned, promised or paid to such official or staff in exchange for goods or services provided by the official or staff in connection with his or her outside employment or business provided the transaction is commercially reasonable and not entered into for the purpose of influencing legislative action.

.010A Money loaned, promised or paid shall not include a loan by a principal in the business of making loans which is commercially reasonable and in accordance with regular lending rules and regulations; transactions involving a principal which are performed in the ordinary course of business pursuant to the terms of an insurance contract; a dividend paid by a principal on publicly traded stock; interest paid by a principal on bonds offered to the public; or any transaction involving a principal which is deemed confidential under the laws or regulations of the United States of America or the State of Nebraska.

.011 An honorarium means a payment for speaking at an event, participating in a panel or seminar, or engaging in any similar activity. An honorarium paid directly or indirectly to an official in the Legislative or Executive Branch of State government or the staff of such official is a gift subject to the limitation provided in Section 49-1490, *Neb. Rev. Stat,* unless it is clear from all surrounding circumstances that the services provided by the official or staff represent equal or greater value than the payment received. The principal or lobbyist shall maintain records to substantiate that the official or staff gave consideration of equal or greater value than the honorarium.

.012 Compensation means anything of monetary value received or to be received from a person, whether in the form of a fee, salary, forbearance, forgiveness, or any other form of recompense.

.013 Calendar quarter means the first day of January through the thirty-first day of March, the first day of April through the thirtieth day of June, the first day of July through the thirtieth day of September, and the first day of October through the thirty-first day of December.

.014 Lobbyist expense reimbursement means any expenditure made by a lobbyist which is reasonably attributable to the influencing of legislation and for which the lobbyist receives reimbursement, either in whole or in part, from a principal.

.015 Office expenses means the expenses reasonably related to operating an office, including rent, utilities, supplies, and salaries of support personnel.

.016 Extraordinary office expense means a) an office expense directly related to lobbying activity for which a lobbyist is reimbursed by a principal; or b) an office expense by a lobbyist or principal directly related to lobbying which is other than the normal overhead and operating office expenses of the lobbyist or principal. Reference: Section 49-1483(2).

.017 Relative means any person related to another by blood or marriage to the third degree of consanguinity, including a foster parent, foster child, stepparent, stepchild, and adopted children and their adoptive parents. Reference: Section 49-1443.01.

003 **REGISTRATION OF LOBBYISTS.** Every person employed, retained or authorized as a lobbyist shall, before commencing any lobbying activity, file an application with the Clerk of the Legislature for registration as a lobbyist. Reference: Section 49-1480, *Neb. Rev. Stat.*

.01 Every person authorized to lobby, whether compensated or not, who communicates with a public official or employee as provided in section 002.03A of this rule, must be registered as a lobbyist.

.02 Every lobbyist who receives or will receive compensation shall pay a two hundred dollar ($200) registration fee for each principal for whom the lobbyist registers. Reference: Section 49-1480.01 *Neb. Rev. Stat.*

.02A Except as provided in Section 003.04 and Section 49-1434, *Neb. Rev. Stat,* a lobbyist who receives compensation shall include an individual who is an employee or member of a principal whose duties of employment, office, or membership include engaging in lobbying activities.

.03 Every lobbyist who does not receive compensation and who does not anticipate receiving compensation at the time of application for registration shall pay a fifteen dollar ($15) registration fee for each principal for whom the lobbyist registers.

.03A Any lobbyist who receives compensation who did not anticipate receiving such compensation at the time of application for registration shall, within five days of the receipt of any compensation, file an amended registration form with respect to such principal, which amended registration form shall be accompanied by an additional fee of one hundred eighty-five ($185) for such year.

.03B An officer or member of a principal is not a compensated lobbyist if the officer or member receives no compensation from the principal for any of the activities or duties performed for the principal.

.04 A person does not have to be registered as a lobbyist if his or her only lobbying activities consist of his or her being (1) a public official or employee of a branch of state government (except the University of Nebraska) or an elected official of a political subdivision who is acting in the course or scope of his or her office or employment; (2) a publisher, owner or working member of the press, radio, or television while disseminating news or editorial comment to the general public in the ordinary course of business; (3) an employee of a principal or lobbyist whose duties are strictly of a clerical nature; (4) a person who makes appearances before legislative committees and advises the committee at the time of his or her appearance whom he or she represents; (5) a person who writes letters or furnishes written materials to individual members of the Legislature or to the committees thereof; (6) an individual who does not engage in lobbying for another person; or (7) an employee of a political subdivision whose regular employment duties do not ordinarily include lobbying activities as long as such employee is not additionally compensated for such lobbying activities, other than his or her regular salary, and is not reimbursed for any lobbying expenditures except his or her travel, lodging, and meal expenses and the meal expenses of members of the Legislature. Reference: Section 49-

1434(3).

.04A The provisions of section 003.04(7) of this rule do not exempt from registration those employees of political subdivisions who engage in lobbying activities more than on an occasional basis or those who have been assigned by the political subdivision to engage in lobbying activities even if these lobbying activities are not normally a part of the duties of the employee.

.04B An employee or member of a principal whose regular duties of employment, office or membership do not ordinarily include engaging in lobbying activities and a person who responds to a solicitation to communicate with a public official in the legislative or executive branches of state government, may communicate therewith to influence legislative action and not be registered as a lobbyist if such individual (a) is not compensated for doing so in any way in addition to his or her regular salary or for otherwise engaging in lobbying activities; and (b) is not reimbursed for any lobbying expenditure, except his or her own travel, lodging and meals.

004 APPLICATION FOR REGISTRATION AS A LOBBYIST.

.01 The requirement of Section 49-1480(3), *Neb. Rev. Stat,* and the lobbying registration form that the lobbyist disclose the "amounts or sums given or to be given the lobbyist as compensation or reimbursement for lobbying" refers to any amounts paid by the principal to the lobbyist prior to such registration and not otherwise reportable in a quarterly report, except amounts excludable pursuant to Sections 002.06A and 002.09 of this rule, and a description or synopsis of the terms and conditions of his or her understanding or agreement with the principal for his or her lobbying compensation and reimbursement, including any known dollar amounts thereof. Cross Reference: sections 005.01A and 010 of this rule.

.02 The requirement of Section 49-1480(8), *Neb. Rev. Stat*, that the lobbyist registration ~~form~~ set forth the name and address of any official in the legislative or executive branch and of any members of any such official's staff or immediate family who is employed by the lobbyist or any person acting on behalf of such lobbyist, includes individuals employed in clerical and non-policy making capacities and individuals employed by the Executive Board of the Legislative Council.

.03 The requirement of Section 49-1480(2), *Neb. Rev. Stat,* that the lobbyist on his or her registration set forth the name and address of the principal requires the lobbyist to set forth the usual street address of the principal and not the address of the lobbyist.

005 AMENDMENTS TO APPLICATION FOR REGISTRATION.

.01 Amending an application for registration as a lobbyist. The quarterly reports of the lobbyist, but not the principal, shall set forth changes or corrections to the information contained in the lobbyist's application for registration as a lobbyist so as to reflect the correctness of such information as of the end of the calendar quarter or other period for which such statement is required. Reference: Section 49-1483(4), *Neb. Rev. Stat.*

.01A This provision as it relates to the requirement of the lobbying registration ~~form~~ that the lobbyist disclose the "amounts or sums given or to be given the lobbyist as compensation or reimbursement for lobbying" refers only to any changes in the terms and conditions of his or her agreement or contract for lobbying. It does not require the

lobbyist to show an accumulation of such amounts or sums given per calendar quarter.

.01B This provision as it relates to names and addresses requires that the lobbyist shall provide notice using the electronic filing system established by the Clerk of the Legislature of any change in his or her address, the address of his or her principal, and of any change in the name of the official to whom the lobbyist is accountable and of any change in the names and addresses of the officers of the principal.

006 **RENEWALS OF APPLICATIONS FOR REGISTRATION.** The requirement of Section 49-1480.01 that a lobbyist renew his or her registration by paying the appropriate fee to the Clerk of the Legislature before December 31st of each calendar year does not require the lobbyist to complete and file a new Application For Registration as a Lobbyist if such application has been amended as required on the lobbyist's quarterly reports. Reference: section 005. A lobbyist renewing his or her registration shall provide the Clerk of the Legislature with the name of the principal for which the registration is being renewed and such other information as the Clerk of the Legislature may require.

007 **FILING OF QUARTERLY REPORTS.** Every registered lobbyist for each of his or her principals and every principal having a registered lobbyist shall file a separate statement of lobbying receipts and expenditures for each calendar quarter. Such statements shall be filed with the Clerk of the Legislature within 30 days after the end of each calendar quarter. Reference: Section 49-1483, *Neb. Rev. Stat.*

.01 A principal shall file only one quarterly report regardless of the number of lobbyists it has.

.02 A lobbyist or principal may file an exemption to quarterly reports as provided in section 010 of this rule.

008 **CONTENTS OF NEBRASKA REGISTERED LOBBYIST QUARTERLY REPORT.** Each report shall show the total amount received or expended directly or indirectly for the purpose of carrying on lobbying activities, with the following categories of expenses each being separately itemized: (a) Miscellaneous expenses, (b) entertainment, including expenses for food and drink, (c) lodging expenses, (d) travel expenses, (e) lobbyists compensation, (f) lobbyist expense reimbursement, (g) admissions to a state-owned facility or a state-sponsored industry or event, and (h) extraordinary office expenses directly related to the practice of lobbying. Each report shall also include a detailed statement of any money which is loaned, promised, or paid by a lobbyist or anyone acting on his or her behalf to an official or staff of an official in the executive or legislative branch of State Government. The detailed statement shall identify the recipient and the amount and terms of the loan, promise, or payment. Additionally, each report shall disclose the total amount of money expended for gifts other than admissions to a state-owned facility or a state-sponsored industry or event. Section 49-1483(2), *Neb. Rev. Stat.* (Reference: 002.10)

.01 Receipts need be reported only in total and not itemized.

.02 Lobbyist compensation as a receipt by the lobbyist. Except for lobbyist reimbursement as described in section 008.03 of this rule, the lobbyist must report all payments received from the principal and from others on behalf of the principal in a given calendar quarter, except amounts excludable pursuant to sections 002.09 and 002.06A of this rule. When a lobbyist is an employee of the principal, part of the lobbyist's compensation must be reported as lobbyist compensation if the lobbyist engaged in any lobbying activity during the reporting period. When an employer of a lobbyist is engaged by the principal of the lobbyist to provide consulting or management services which include lobbying activity, part of the lobbyist compensation or

wages must be reported as lobbyist compensation if the lobbyist engages in any lobbying activity during the reporting period even if the lobbyist is not directly compensated by the principal.

.02A Compensated time reasonably attributable to influencing legislative action must be reported. Section 49-1483 of the Nebraska Political Accountability and Disclosure Act provides that lobbyists shall report the total amount received or expended directly or indirectly for the purpose of carrying on lobbying activities and specifically lobbyist fees for lobbyist services. When a principal retains the services of a person who has only part-time lobbying duties, only the compensation paid which is reasonably attributable to influencing legislative action need be reported.

The test to determine whether a given activity constitutes influencing legislative action is one of fact, i.e., the principal purpose of the activity. If the purpose of the activity is to promote, support, influence, modify, oppose or delay any legislative action, then the activity is within the definition. A lobbyist normally is not employed merely to communicate with officials in the legislative or executive branches of state government but is also expected to perform a number of other activities which assist both the lobbyist and the principal in promoting or defeating legislative action. To the extent payments received by a lobbyist are only partially in consideration for his or her duties and services for influencing legislative action, the lobbyist may apportion the payments based on the percentage of the lobbyist's compensated time which is reasonably attributable to influencing legislative action and report the apportioned dollar amount.

.02A1 If an individual is otherwise required to be registered as a lobbyist, the lobbyist must include time attributable to appearances before legislative committees and writing letters or furnishing written materials to individual members of the Legislature or the committees thereof.

03 Receipts for lobbyist reimbursement. The lobbyist must report all amounts received during the calendar quarters for reimbursement of expenses from a principal or from a third person, regardless of the calendar quarter in which the expenditure for which reimbursement is made actually occurred.

.04 Total and individually categorized items of expenditures should reflect expenditures incurred, although not necessarily paid by the lobbyist during the calendar quarter. Reference: Section 49-1419(4), *Neb. Rev. Stat.* Provided, however, so long as there is no arrangement for or willful late billing by a vendor, the same may be reported in the calendar quarter of the receipt of a bill or invoice therefor.

.05 A lobbyist must report and itemize all expenditures which are made to influence legislative action, including but not limited to, payments to vendors for goods and services, transactions with or for the benefit of a public official, a member of his or her immediate family or a member of his or her staff, including money loaned, promised or paid to an official or staff of an official in the legislative or executive branches of state government or anyone on his or her behalf, including a business with which the official or staff is associated, the forgiveness of a loan, a preferential interest rate and forbearance on the collection of an obligation. The expenditures by the lobbyist referred to above shall not be deemed to have been made to influence legislative action if they are done in the normal course of business, are clearly reasonable and there was an exchange of equal consideration between the parties.

.06 Expenditures must be itemized pursuant to the categories set forth in this Section.

.06A Miscellaneous expenses. Miscellaneous expenses means any expenditure by a lobbyist or anyone acting on behalf of such lobbyist, including an expenditure which is made for the benefit of a public official in the executive or legislative branch of state government or the official's staff or relatives which does not otherwise fall within the categories of entertainment expense, lodging expense, travel expense, lobbyist compensation, lobbyist expense reimbursement, admissions to a state-owned facility or a state-sponsored industry or event, or extraordinary office expenses. Miscellaneous expenses include expenditures of money loaned, promised or paid to any official, or staff of an official in the executive or legislative branch of state government, including a business with which the official or staff member is associated if the payment is made to influence legislative action.

.06A1 Campaign contributions need not be reported by a lobbyist as lobbying expenditures, unless the principal reimburses the lobbyist therefor. In such case, the lobbyist shall report the campaign contribution as a miscellaneous expense. In addition, the lobbyist shall report the reimbursement as a receipt.

.06B Entertainment, including expenses for food and drink. The total expenditure of the lobbyist must be reported if made while engaged in a lobbying activity, direct or indirect, or otherwise to influence legislative action and not just the amount expended for food and drink for a public official, a member of his or her immediate family or a public employee. Expenses reported under this category shall disclose the aggregate expenses for each of the following two categories of elected officials: (1) Members of the Legislature, and (2) officials of the executive branch of government. Cross Reference: section 013.02A

.06B1 For the purpose of reporting aggregate expenses for entertainment for members of the Legislature, the amount reported shall be the actual amount attributable to entertaining members of the Legislature. (Reference: §49-1483(3)(b)

.06B2 When the nature of the event makes it impractical to determine actual cost, the cost of entertainment shall be the average cost per person multiplied by the number of members of the Legislature in attendance. (Reference: §49-1483(3)(b))

.06B3. For the purpose of reporting aggregate expenses for entertainment for officials in the executive branch, the amount reported shall be the actual amount attributable to entertaining members of the executive branch. (Reference: §49-1483(3)(b))

.06B4 When the nature of the event makes it impractical to determine actual cost, the cost of entertainment shall be the average cost per person multiplied by the number of officials in the executive branch in attendance. (Reference: §49-1483(3)(b))

.06B5 In all cases where a lobbyist claims reimbursement from his or her principal, the total amount of such entertainment expense must be reported where any part of the same was for food and drink for a public official, a member of his or her immediate family or a member of his or her staff. In addition, the reimbursement

received from the principal must be included in total receipts.

.06C Lodging expenses. Payments made by a lobbyist solely for the lodging of the lobbyist or the specific reimbursement therefor by the principal need not be reported. If lodging expenses are incurred for the purpose of carrying on other lobbying activities, such as providing lodging to, or paying the lodging expenses of others to influence legislative action, then the total expenditure by the lobbyist shall be reported including the lodging expense of the lobbyist. Cross Reference: section 013.02B

.06D Travel expenses. Payments made by a lobbyist solely for the transportation of the lobbyist or the specific reimbursement therefor by the principal need not be reported. If travel expenses are incurred for the purpose of carrying on other lobbying activities, such as providing travel to, or paying the travel expenses of others to influence legislative action, then the total expenditure by the lobbyist shall be reported including the travel expense of the lobbyist. Cross Reference: section 013.02C

.06D1 If a public official accompanies such lobbyist, the total cost or value of the trip, and not just the value of the benefit to the public official, must be reported. If such trip is by private airplane the amount reported shall be the fair value of the cost to operate such airplane for that trip. If such trip is by automobile, the amount to be reported shall not be less than the highest reimbursement rate per mile allowed pursuant to Section 81-1176, *Neb. Rev. Stat*, as the same may be amended from time to time. If such trip is by commercial transportation, the amount to be reported shall be the actual fares paid by the lobbyist, including the fare of the lobbyist and all other persons on such trip.

.06E Lobbyist compensation as an expenditure by the lobbyist. All amounts paid by a lobbyist to others, as salary or other compensation, pursuant to section 002.09 of this rule, whether or not the recipient is, or is required to be, a registered lobbyist for the same principal as the paying lobbyist, shall be reported by the paying lobbyist as an expenditure for lobbyist compensation. Amounts paid as general overhead for typing, filing or other types of clerical office work do not have to be reported as compensation, unless the persons receiving the same are compensated additionally or separate and apart from their regular salaries for engaging in other lobbying activities.

.06F Lobbyist expense reimbursement as an expenditure by a lobbyist. Any amounts expended by a lobbyist to reimburse others for activity reasonably attributable to the influencing of legislation shall be reported.

.06G Admissions to a state-owned facility or to a state-sponsored industry or event shall disclose the aggregate amounts given to each of the following two categories of elected officials: (1) Members of the Legislature, and (2) officials in the executive branch of government.

.06H Extraordinary office expenses. Only extraordinary office expenses must be reported. An office expense by a lobbyist directly related to lobbying activity which is other than the normal overhead and operating expense of the lobbyist is an extraordinary office expense. An office expense directly related to lobbying activity for which the lobbyist is reimbursed by the principal is an extraordinary office expense and shall be reported. (Reference: 002.016)

.07 Money loaned, promised or paid by a lobbyist or anyone acting on his or her behalf. In addition to the provisions of sections 002.07 and 008.06A of this rule for reporting the amount of money loaned, promised or paid as a miscellaneous expense, the quarterly report of a lobbyist must contain a detailed statement of any money loaned, promised or paid by the lobbyist, or anyone acting on his or her behalf, to an official or staff of an official in the executive or legislative branches of state government. The detailed statement should include money loaned, promised or paid to a third party for the benefit of an official or staff of an official in the executive or legislative branch of state government, including a business with which the official or staff member is associated.

.07A The detailed statement shall identify the recipient and the amount and terms of the loan, promise, or payment. The terms shall include the date of the loan, promise, or payment and the reason for such payment. If the loan, promise or payment is made to a third party for the benefit of an official in the executive or legislative branch of state government or a member of the official's staff, the detailed statement shall also identify the beneficiary.

.08 Gifts. The total amount expended for gifts, other than admissions to a state owned facility or a state-sponsored industry or event, shall disclose the aggregate amounts given to each of the following categories of elected officials: (1) Members of the Legislature, and (2) officials in the executive branch of government.

009 CONTENTS OF NEBRASKA PRINCIPAL QUARTERLY REPORT.

Each report shall show the total amount received or expended directly or indirectly for the purpose of carrying on lobbying activities, with the following categories of expenses each being separately itemized: (a) Miscellaneous expenses, (b) entertainment, including expenses for food and drink, (c) lodging expenses, (d) travel expenses, (e) lobbyist compensation, (f) lobbyist expense reimbursement, (g) admissions to a state-owned facility or a state-sponsored industry or event, and (h) extraordinary office expenses directly related to the practice of lobbying. Each report shall also include a detailed statement of any money which is loaned, promised, or paid by a principal or anyone acting on behalf of such principal to an official or staff of an official in the executive or legislative branches of state government. The detailed statement shall identify the recipient and the amount and terms of the loan, promise, or payment. Additionally, each report shall disclose the total amount of money expended for gifts other than admissions to a state-owned facility or a state-sponsored industry or event. (Reference: Section 49-1483, *Neb. Rev. Stat.,* and sections 002.10 and 002.10A)

.01 Receipts must be reported in total and need not be itemized.

.02 Receipts by a principal of over $100. The quarterly reports of a principal shall contain the name and address of every person from whom the principal has received more than $100 in any one month for lobbying purposes. Reference: Section §49-1483(7), *Neb. Rev. Stat.*

.02A Such names and addresses must be reported with respect to receipts designated or received as a result of a solicitation, for lobbying purposes.

.02B The quarterly reports of a principal shall identify the month of receipt of all amounts in excess of $100.

.03 Receipts for lobbyist reimbursement. The principal must report all amounts received from any third person during the calendar quarter which are used to reimburse a lobbyist for expenses, regardless of the calendar quarter in which the expense for which reimbursement is received actually occurred.

.04 A principal's receipt of lobbyist compensation. The principal shall report all funds received in the calendar quarter which are designated, treated or have been solicited for lobbying purposes, including lobbyist compensation, as a part of its total receipts.

.05 A principal must report and itemize, not only its expenditures to compensate and reimburse its lobbyist, but such principal must report all expenditures it makes to influence legislative action, including but not limited to, payments to vendors for goods and services, transactions with or for the benefit of a public official, a member of his or her immediate family or a member of his or her staff, including money loaned, promised or paid to an official or staff of an official in the legislative or executive branches of state government, including a business with which the official or staff is associated, the forgiveness of a loan, a preferential interest rate and forbearance on the collection of an obligation. The expenditures by the principal referred to above shall not be deemed to have been made to influence legislative action if they are done in the normal course of business, are clearly reasonable and there was an exchange of equal consideration between the parties.

.06 Expenditures must be itemized pursuant to the categories set forth in this section.

.06A Miscellaneous expenses. Miscellaneous expenses means any expenditure by a principal or anyone acting on behalf of such principal, including an expenditure which is made for the benefit of a public official in the executive or legislative branch of state government or the official's staff or immediate family members, which does not otherwise fall within the categories of entertainment expense, lodging expense, travel expense, lobbyist compensation, lobbyist expense reimbursement, admissions to a state-owned facility or to a state-regulated industry or event, or extraordinary office expenses. Miscellaneous expenses include expenditures of money loaned, promised or paid to any official, or staff of an official in the executive or legislative branch of state government including a business with which the official or staff member is associated if the payment is made to influence legislative action.

.06A1 Campaign contributions need not be reported by a principal as lobbying expenditures, unless the principal reimburses the lobbyist therefor, in which case the principal shall report such reimbursement as a miscellaneous expense.

.06B Entertainment, including expenses for food and drink. The total expenditure of the principal must be reported if the expense is incurred while engaged in a lobbying activity, direct or indirect, or otherwise to influence legislative action and not just the amount expended for food and drink for a public official, a member of his or her immediate family or a public employee. Expenses reported under this category shall disclose the aggregate expenses for each of the following two categories of elected officials: (1) Members of the Legislature, and (2) officials of the executive branch of government. Cross Reference: section 013.02A

.06B1 For the purpose of reporting aggregate expenses for entertainment for

members of the Legislature, the amount reported shall be the actual amount attributable to entertaining members of the Legislature. (Reference: §49-1483(3)(b))

.06B2 When the nature of the event makes it impractical to determine actual cost, the cost of entertainment shall be the average cost per person multiplied by the number of members of the Legislature in attendance. (Reference: §49-1483(3)(b))

.06B3 For the purpose of reporting aggregate expenses for entertainment for officials in the executive branch, the amount reported shall be the actual amount attributable to entertaining members of the executive branch. (Reference: §49-1483(3)(b))

.06B4 When the nature of the event makes it impractical to determine actual cost, the cost of entertainment shall be the average cost per person multiplied by the number of officials in the executive branch in attendance. (Reference: §49-1483(3)(b))

.06B5 In all cases where a lobbyist claims reimbursement from his or her principal, the total amount of such reimbursement must be reported as an entertainment expense by the principal where any part of the same was for food and drink for a public official, a member of his or her immediate family or a member of his or her staff.

.06C Lodging expenses. Payments made by a principal solely for the lodging of its lobbyist or the specific reimbursement therefor need not be reported. If lodging expenses are incurred for the purpose of carrying on other lobbying activities, such as providing lodging to, or paying the lodging expenses of, others to influence legislative action, then the total expenditure by the principal shall be reported including the lodging expense of the lobbyist. Cross Reference: section 013.02B

.06D Travel expenses. Payments made by a principal solely for the transportation of its lobbyist or the specific reimbursement therefor need not be reported. If travel expenses are incurred for the purpose of carrying on other lobbying activities, such as providing travel to, or paying the travel expenses of others to influence legislative action, then the total expenditure by the principal shall be reported including the travel expense of its lobbyist. Cross Reference: section 013.02C

.06D1 If a public official accompanies a lobbyist, the total cost or value of the trip, and not just the value of the benefit to the public official, must be reported. If such trip is by private airplane the amount reported shall be the fair value of the cost to operate such airplane for that trip. If such trip is by automobile, the amount to be reported shall not be less than the highest reimbursement rate per mile allowed pursuant to Section 81-1176, *Neb. Rev. Stat*, as the same may be amended from time to time. If such trip is by commercial transportation, the amount to be reported shall be the actual fares paid by the principal or lobbyist, including the fares of the lobbyist and all other persons on such trip.

.06E Lobbyist compensation as an expenditure by a principal. All amounts paid by a principal to a lobbyist or others, as salary or other compensation, pursuant to Section 002.09 of this rule,

whether or not the recipient is, or is required to be, a registered lobbyist for such principal, shall be reported by the principal as an expenditure for lobbyist compensation. Amounts paid as general overhead for typing, filing or other types of clerical office work do not have to be reported as lobbyist compensation unless the person receiving the same is compensated additionally or separate and apart from his or her regular salary for engaging in other lobbying activities.

.06E1 When a lobbyist is an employee of the principal, part of the lobbyist's compensation must be reported as an expenditure for lobbyist compensation if the employee engaged in any lobbying activity during the reporting period.

.06E2 When a principal engages a lobbyist or the employer of a lobbyist for management or consulting services which include lobbying activity, part of amount paid for such services must be reported as lobbyist compensation if the lobbyist engages in any lobbying activity during the reporting period.

.06E3 Compensated time reasonably attributable to influencing legislative action must be reported. Section 49-1483 of the Nebraska Political Accountability and Disclosure Act provides that principals shall report the total amount received or expended directly or indirectly for the purpose of carrying on lobbying activities and specifically lobbyist compensation. When a principal retains the services of a person who has only part-time lobbying duties, only the compensation paid which is reasonably attributable to influencing legislative action need be reported. The test to determine whether a given activity constitutes influencing legislative action is one of fact, i.e., the principal purpose of the activity. If the purpose of the activity is to promote, support, influence, modify, oppose or delay any legislative action, then the activity is within the definition. A lobbyist normally is not employed merely to communicate with officials in the legislative or executive branches of state government but is also expected to perform a number of other activities which assist both the lobbyist and the principal in promoting or defeating legislative action. To the extent payments made to a lobbyist are only partially in consideration for his or her duties and services for influencing legislative action, the principal may apportion the payments based on the percentage of the lobbyist's compensated time which is reasonably attributable to influencing legislative action and report the apportioned dollar amount.

.06F Lobbyist expense reimbursement as an expenditure by a principal. Any amounts expended by a principal to reimburse a lobbyist for activity reasonably attributable to the influencing of legislation shall be reported.

.06G Admissions to a state-owned facility or to a state-sponsored industry or event shall disclose the aggregate amounts given to each of the following two categories of elected officials: (1) Members of the Legislature, and (2) officials in the executive branch of government.

.06H Extraordinary office expenses. Only extraordinary office expenses must be reported. An office expense by a principal directly related to lobbying activity which is other than the normal overhead and operating expense of the principal is an extraordinary office expense.

.07 Money loaned, promised or paid by a principal or anyone acting on behalf of such

principal. In addition to the provisions of Sections 002.07 and 009.06A of this rule for reporting the amount of money loaned, promised or paid as a miscellaneous expense, the quarterly report of a principal must contain a detailed statement of any money loaned, promised or paid by the principal, or anyone on its behalf, to an official or staff of an official in the executive or legislative branches of state government. The detailed statement should include money loaned, promised or paid to a third party for the benefit of an official or staff in the executive or legislative branches of state government, including a business with which the official or staff member is associated. (Reference: sections 002.10 and 002.10A)

.07A The detailed statement shall identify the recipient and the amount and terms of the loan, promise, or payment. The terms shall include the date of the loan, promise, or payment and the reason for such payment. If the loan, promise or payment is made to a third party for the benefit of an official in the executive or legislative branch of state government or a member of the official's staff, the detailed statement shall also identify the beneficiary.

.08 Gifts. The total amount expended for gifts, other than admissions to a state owned facility or a state-sponsored industry or event, shall disclose the aggregate amounts given to each of the following categories of elected officials: (1) Members of the Legislature, and (2) officials in the executive branch of government.

.09 Any lobbyist or principal who receives or expends more than $5,000 for lobbying purposes during any calendar month in which the Legislature is in session shall, within fifteen (15) days after the end of such calendar month, file a special report disclosing for that calendar month all the information required in a quarterly report. All information disclosed in a special report shall also be disclosed in the next quarterly report required to be filed. The requirement to file a special report shall not apply to a receipt or expenditure for lobbying fees for lobbying services which have otherwise been disclosed in the lobbyist's application for registration.

.09A If an application for registration as a lobbyist discloses that lobbying fees for lobbying services will exceed $5,000 per month, no special report is required because of the expenditure or receipt of these lobbying fees for lobbying services.

.09B If an application for registration as a lobbyist discloses that lobbying fees for lobbying services will be paid at a stated hourly rate, and if the number of hours worked by the lobbyist in a month results in lobbying fees for lobbying services in excess of $5,000, no special report is required because of the payment or receipt of these lobbying fees for lobbying services.

010 EXEMPTIONS TO QUARTERLY REPORTS.

.01 If a lobbyist does not expect to receive lobbying receipts from or make lobbying expenditures for a principal, other than the lobbyist's registration fee, the quarterly reports as to such principal need not be filed by the lobbyist if the principal and lobbyist both certify such facts using the electronic filing system established by the Clerk of the Legislature. A lobbyist exempt from filing a quarterly statement shall:

.01A File a Statement of Activity pursuant to §49-1488,*Neb. Rev. Stat,* and section 011 of

this rule; and

.01B Resume or commence filing quarterly statements with regard to such principal starting with the calendar quarter during which the lobbyist receives lobbying receipts or makes lobbying expenditures for such principal and file all reports due thereafter. The lobbyist must show in his or her report for that quarterly period a change or correction to his or her application for registration as a lobbyist to reflect the terms and conditions of compensation or reimbursement, if any, given or to be given to him or her.

.02 If a principal does not expect to receive lobbying receipts or make lobbying expenditures, the quarterly reports required pursuant to §49-1483 need not be filed by the principal if the principal and lobbyist both certify such facts using the electronic filing system established by the Clerk of the Legislature. A principal exempt from filing a quarterly statement pursuant to this Section, shall commence or resume filing a quarterly statement starting with the calendar quarter during which the principal receives lobbying receipts or makes lobbying expenditures.

011 REPORT BY LOBBYIST OF ACTIVITIES DURING A LEGISLATIVE SESSION.

Within 45 days of the completion of each regular or special session of the Legislature, each registered lobbyist shall submit to the Clerk of the Legislature a statement for each of his or her principals listing the legislation upon which such lobbyist acted, including identification by number of any bill or resolution and the position taken by such lobbyist. Reference: Section 49-1488, *Neb. Rev. Stat.*

.01 Every registered lobbyist must file an activity report regardless of whether he or she is required to file quarterly receipts and expenditures reports.

.02 Such statement need not include bills or resolutions merely monitored by the lobbyist but must include all bills or resolutions for which the lobbyist was authorized to lobby by his principal and for which he engaged in any other lobbying activity or made any expenditure to influence legislative action.

.03 In the event that a lobbyist supports or opposes an amendment or a procedural matter pertaining to a bill or resolution upon which the lobbyist has not otherwise acted, the lobbyist shall show on his or her statement of activity his or her support or opposition to the bill or resolution to which the amendment or procedural matter pertains.

In the alternative the lobbyist shall show on his or her statement of activity the number of the amendment or procedural matter, if any, and a brief description which shall include the number of the bill or resolution to which the amendment or procedural matter pertains.

.04 A lobbyist who engages in no lobbying activity in connection with a special session of the Legislature is not required to file a Statement of Activity for that special session. (Reference: sections 002.03 to 002.06)

012 TERMINATION OF REGISTRATION.

.01 The termination of a lobbyist's registration and his or her duty and the duty of his or her principal to file quarterly reports will be permitted after (1) the principal and the lobbyist cease to receive or expend lobbying funds, (2) the lobbyist ceases to engage in lobbying activities; (3) a

final report is filed by the lobbyist and his or her principal disclosing all the information required by quarterly reports; (4) a Statement of Activity is filed listing the legislation upon which such lobbyist acted as required by section 011 of this rule; and (5) upon the Clerk of the Legislature receiving a written statement from the lobbyist stating that he or she has ceased lobbying or such a statement from the principal stating that the lobbyist's authority to lobby has been terminated.

.01A In cases where the principal has other registered lobbyists, the requirement that it cease to receive or expend lobbying funds is not applicable. Such principal is not required to file a final report and must continue to file quarterly reports.

.02 After such termination, the lobbyist may not engage in lobbying activities nor receive or expend funds for lobbying purposes without a new registration.

.03 All registrations terminate on December 31 of each calendar year unless renewed as provided in 006 of this rule. Once a lobbyist registration has terminated, it may only be renewed by the filing of a new application for registration as a lobbyist and the payment of a registration fee as provided in Section 003 of this rule.

013 **GIFT LIMITATIONS.**

.01 No principal, lobbyist, or person acting on behalf of either shall within one calendar month give any gifts with an aggregate value of over fifty dollars to any of the following:

.01A An official or a member of the official's staff in the executive branch of government;

.01B An official or a member of the official's staff in the legislative branch of state government; or

.01C A member of the immediate family of an official in the executive or legislative branch of state government. (Reference Section 49-1490), *Neb. Rev. Stat.*

.02 Gift shall mean a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is given therefor. Gift shall not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, a gift received from a relative, a breakfast, luncheon, dinner, or other refreshments consisting of food or beverage provided for immediate consumption, or the occasional provision of transportation within the State of Nebraska. Reference: Section 49-1423, *Neb. Rev. Stat.*

.02A Entertainment, including expenses for food and drink. The lobbyist or a representative of the lobbyist or a principal must be present on the immediate premises at the time expenditures are incurred for food and drink for a public official, a member of his or her immediate family, or a member of his or her staff. If such an individual is not present, such furnishing of food and drink shall constitute evidence of a violation of Section 49-1490, if the amount thereof exceeds $50, along with other gifts in a calendar month. The providing of a breakfast, luncheon, dinner or other refreshments consisting of food and beverage to a public official, a member of his or her immediate family or a member of his or her staff must be for immediate consumption. Such persons may not be given nor may they solicit or accept food or beverages by charging the same to an

account of the lobbyist or principal without the lobbyist or principal being present and each expenditure therefor being authorized by the lobbyist or principal at the time it is incurred. The authority of the lobbyist or principal to authorize such expenditures may not be delegated to a vendor.

.02B Lodging expenses for the benefit of a public official, a member of his or her immediate family, or a member of his or her staff of more than $50, along with other gifts in a calendar month, are prohibited unless consideration of equal or greater value is given therefor. Reference: Section 49-1490, *Neb. Rev. Stat.*

.02B1 The attendance at an event does not, in and of itself, constitute consideration of equal or greater value.

.02B2 Only lodging expenses which are reasonable and necessary under the circumstances and are not otherwise reimbursed may be paid.

02C Transportation provided to a public official, a member of a public official's immediate family, or staff outside the State of Nebraska of a value of more than $50 is prohibited unless consideration of equal or greater value is given therefor. Reference: Section 49-1490, *Neb. Rev. Stat.*

.02C1 The attendance at an event out of state does not, in and of itself, constitute consideration of equal or greater value.

.02C2 Only transportation expenses which are reasonable and necessary under the circumstances and are not otherwise reimbursed may be paid.

.02D An honorarium given or money loaned, promised or paid to an official in the executive or legislative branch of state government, or his or her staff, by a principal, lobbyist, or anyone acting on behalf of either for the official's or the staff's participation in, appearance at, or speaking at an event at the request of the principal or lobbyist does not constitute an exchange in the normal course of business for which equal or greater value is given and is required to be reported.

.02E Money loaned, promised or paid shall not include a loan by a principal in the business of making loans which is commercially reasonable and in accordance with regular lending rules and regulations; transactions involving a principal which are performed in the ordinary course of business pursuant to the terms of an insurance contract; a dividend paid by a principal on publicly traded stock; interest paid by a principal on bonds offered to the public; or any transaction involving a principal which is deemed confidential under the laws or regulations of the United States of America or the State of Nebraska.

.02F An admission to a state-owned facility or a state-sponsored industry or event of a value of more than $50 shall not be given by a principal, lobbyist, or person acting on behalf of either unless consideration of equal or greater value is given therefor. Any sponsoring agency, political subdivision, or publicly-funded postsecondary educational institution may give such admissions regardless of value but must report them pursuant to Section 49-1492.01, *Neb. Rev. Stat.*

.02F1 Any agency, political subdivision, or publicly-funded postsecondary educational institution that is a lobbyist must also report admissions pursuant to section 008.06G of this rule.

.02F2 Any agency, political subdivision, or publicly-funded postsecondary educational institution that is a principal must also report admissions pursuant to section 009.07G of this rule.

014 **RECORD KEEPING.** Each lobbyist and principal shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the statements required to be made pursuant to Section 49-1483 for three years after the report containing those items is filed. These records shall be made available for inspection upon request by the commission after reasonable notice. Nothing in this Section shall require that a receipt for any food and drink expenditure be kept if such expenditure is in an amount of less than $25. Reference: Section 49-1489, *Neb. Rev. Stat.*

.01 A principal is subject to audit pursuant to the provisions of Section 49-14,122, *Neb. Rev. Stat.,* and furnishing additional details pursuant to Section 49-1484, *Neb. Rev. Stat,* with respect to matters which are or should be included in such statements.

.02 The provisions of Section 49-1489, *Neb. Rev. Stat,* providing that a receipt for food and drink of less than $25.00 need not be kept means that such a receipt need not be obtained and kept.

015 **LATE FILING FEES FOR LOBBYIST QUARTERLY REPORTS, LOBBYIST SPECIAL REPORTS AND STATEMENTS OF ACTIVITY.**

.01 Every lobbyist who fails to file a quarterly report or a statement of activity with the Clerk of the Legislature shall pay to the Commission a late filing fee of $25 for each day any of such statements are not filed in violation of such Sections but not to exceed $750 per statement. Every lobbyist who fails to file a special report shall pay to the Commission a late filing fee of $100 for each of the first ten days the report remains not filed. After the tenth day, the lobbyist shall pay, for each day the report remains not filed, an additional late filing fee of one percent of the amount of the receipts and expenditures which were required to be reported, not to exceed ten percent of the amount of the receipts and expenditures which were required to be reported. As to any late filing fee, interest shall accrue on all late filing fees and civil penalties imposed at the rate specified in Section 45-104.02, *Neb. Rev. Stat,* as such rate may from time to time be adjusted. Reference: Sections 49-1463.02; 49-1483.03(2); and 49-1488.01, *Neb. Rev. Stat.*

.01A The interest shall begin to accrue thirty days after the Commission sends notice to the person of the assessment of the late filing fee or civil penalty.

.01B. A written request filed with the Commission for relief from late filing fees shall stay the accrual of interest on a late filing fee until such time as the Commission grants or denies the relief.

.01C. Interest on an unpaid late filing fee or civil penalty shall be simple interest.

.01D. The daily accrual of interest shall be calculated by dividing the amount of the annual interest by 365.

.01E. At the time of payment interest may be rounded down to the nearest dollar.

.01F. When the interest rate changes in accordance with the provisions of Section 45-104.02, *Neb. Rev. Stat,* the new interest rate shall be applied to any unpaid late filing fees and civil penalties including those late fees and civil penalties previously assessed.

.01G. Payment of late filing fees, civil penalties and interest shall be applied first to the interest and then to the principal of the late filing fees and civil penalties.

.02 A lobbyist required to pay a late filing fee and interest, if applicable, may apply in writing to the Commission for relief.

.02A The Commission by order may reduce the amount of the late filing fee and interest, if applicable, imposed upon such lobbyist if he or she shows the Commission that:

.02A1 the circumstances indicate no intent to file late;

.02A2 the lobbyist has not been required to pay a late filing fee for two years prior to the time the filing of the statement was due;

.02A3 the late filed statement shows that less than $5,000 was raised, received or expended during the reporting period; and

.02A4 a reduction of the late fee or interest, if applicable, would not frustrate the purpose of the Nebraska Accountability and Disclosure Act.

016 **Method of Filing Applications, Reports and Statements by Principals and Lobbyists**

.01 The application for registration as a lobbyist required pursuant to §004 of this rule, the amendment to registration as a lobbyist required pursuant to §005 of this rule, and the renewal of registration as a lobbyist required pursuant to §006 of this rule shall be filed using the electronic filing system established by the Clerk of the Legislature.

.02 The quarterly report required to be filed by a lobbyist pursuant to §007 and §008 of this rule shall be filed using the electronic filing system established by the Clerk of the Legislature.

.03 The special report required to be filed by a lobbyist pursuant to §009.09 of this rule shall be filed.

.04 The quarterly report required to be filed by a principal pursuant to §007 and §009 of this rule shall be filed using the electronic filing system established by the Clerk of the Legislature.

.05 The special report required to be filed by a principal pursuant to §009.09 of this rule shall be filed using the electronic filing system established by the Clerk of the Legislature.

.06 The statement of activity required to be filed by a lobbyist pursuant to §011 of this rule shall be filed using the electronic filing system established by the Clerk of the Legislature.

.07 The exemption statement which may be filed by a lobbyist or principal pursuant to §010 of this rule shall be filed using the electronic filing system established by the Clerk of the Legislature.

.08 The termination statement which may be filed by a lobbyist or principal pursuant to §012 of this rule shall be filed using the electronic filing system established by the Clerk of the Legislature.

017 **STATUTORY AUTHORITY.** This rule is adopted pursuant to the provisions of Sections 49-14,123(1) and (2), and 49-1484, *Neb. Rev. Stat.*

CERTIFICATE OF ADOPTION

I, Frank J. Daley, Jr., Executive Director of the Nebraska Accountability and Disclosure Commission, herby certify that the attached is a true and correct copy of Title 4, Chapter 6, Rules and Regulations for Lobbying, with amendments adopted by the Nebraska Accountability and Disclosure Commission on October 16, 2015.

Dated this 19th day of October 2015

Frank J. Daley, Jr.
Executive Director