

**OPEN SESSION**  
**MINUTES OF THE MEETING OF THE**  
**NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION**

**Friday, January 15, 2016**

**State Capitol, Room 1510**

**Lincoln, Nebraska**

**Call to Order** – Chairman Schulz called the meeting to order at 9:02 a.m. and announced the location in the meeting room of a copy of the Public Meetings Law.

Roll Call –

Sean Conway – Present

Matthew Enenbach – Excused for late arrival

John Gale – Present

Andrew Loudon - Present

Jeffrey Peetz - Present

Timothy Schulz - Present

Brad von Gillern – Excused

James Ziebarth – Present

**Approval of the Open Session Minutes of the December 4, 2015 Meeting** – Chairman Schulz referred the Commissioners to their copies of the Open Session Minutes of the previous meeting.

**Motion by Conway, second by Gale, that the Open Session Minutes as of the December 4, 2015 meeting be approved as presented** - Roll Call Vote: Commissioners Conway, Gale, Loudon, Schulz and Ziebarth voted yes. Commissioner Peetz abstained. Motion carried (5-0-1).

**Report on late filing fees and requests for relief:** The Executive Director indicated that there were no requests for relief.

**Executive Director's Report (includes personnel activity, budget status, budget process and litigation status)** – The Executive Director indicated that a vacancy still exists on the Commission. The appointee must be a resident of the 3<sup>rd</sup> Congressional District. Mr. Daley reported that the Commission had provided names to the Governor who will make the appointment.

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Executive Director Daley referred the Commissioners to their packets for information on the current budget status.

Commissioner Enenbach was present at 9:05 a.m.

The Executive Director continued on budget matters. He explained that LB 956 is essentially the Governor's budget bill. LB 956 appears to shift unencumbered money that was previously appropriated fiscal year 2016/17 back to the State General Fund. This appears to be a move by the Administration to address the projected revenue shortfall. Mr. Daley noted that this is an unusual move since the state functions on a two year budget cycle. The money appropriated for use in the 2015/2016 fiscal year typically would carry over and be re-appropriated for the next fiscal year. LB 956 would move unencumbered money from both the NADC General Fund and the Cash Fund back to the State General Fund. Mr. Daley pointed out that this would be significant, as the NADC is currently in the middle of a \$600,000 electronic filing project. The agency pays the contractor based upon the receipt and approval of the deliverables specified in the contract.

Discussion followed.

**Legislative Update** - The Executive Director next reported on the Legislative update.

LB 689 is a bill by Senator Bloomfield which would eliminate the sales and use tax exemption on food and food ingredients sold at political events by a committee formed under the Nebraska Political Accountability & Disclosure Act. Mr. Daley noted that LB 689 would be taking away an exemption he hadn't known existed. LB 689 would not directly affect the Commission and the Executive Director recommended that the Commission take a position of neutral on LB 689.

LB 792 is a bill by Senator Kuehn that would amend the Accountability & Disclosure Act and prohibit the Governor, Lt. Governor, Attorney General and other constitutional officers from engaging in lobbying for two years after leaving office. This bill would also prohibit certain public employees who are employed by these public officials from lobbying for one year after leaving their positions. The Executive Director recommended that the Commission support LB 792.

LB 821 is the workplace privacy act introduced by Senator Larson. This bill would prohibit employers and state agencies from requiring employees or job applicants to provide access to their social networking sites. LB 821 would also prohibit employees from posting on social networking sites proprietary information of their employers. The Executive Director recommended that the Commission take no position on LB 821.

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LB 830 is a bill by Senator Burke Harr. This bill would require the head of a state agency to provide state employees with a reasonable opportunity to use rather than forfeit vacation time. It would also provide that if an employee made a reasonable request for vacation and was denied, that employee would receive a cash payment of the value of the denied vacation time. The Executive Director recommended that the Commission take no position on LB 830.

LB 850 is a bill by Senator Crawford. It would provide paid family medical leave for a variety of reasons. These would include a newly adopted child, caring for a family member with a serious medical condition and certain issues that rise out of a family member's military service. The program would be funded by payroll deductions. The Executive Director recommended that the Commission take no position on LB 850.

LB 867 is a bill introduced by the Legislative Performance Audit Committee. This bill would amend the Administrative Procedures Act. The APA governs the process by which state agencies adopt rules and regulations. It includes the process by which contested cases are handled. Mr. Daley indicated that the bill appears intended to improve the provisions of LB 606 that was introduced last year. Many state agencies, including the Commission, opposed LB 606. The Executive Director recommended that the Commission support LB 867.

LB 896 is a bill by Senator Hansen that would provide automatic pay increases to state employees for specified years of service. The Executive Director recommended that the Commission take no position on LB 896.

LB 166 is a bill introduced by Senator Crawford last year. It requires political committees, except political party committees, to submit a bank statement or other statement from the bank or financial institution which would show the balance of the account as of December 31<sup>st</sup>. This statement would allow the Commission staff to reconcile the difference between the campaign statement and the balance on the bank account statement. Additionally, this bill would prohibit that a candidate committee may not make loans, it would increase maximum civil penalties from \$2,000 to \$5,000 and it would authorize the Commission to order restitution in cases where it was appropriate.

Discussion followed.

Jack Gould appeared for Common Cause of Nebraska and addressed the Commission as to legislation.

Discussion followed.

**Motion by Conway, second by Enenbach, that the Commission authorize the Director and all staff to support LB 792 - Roll Call Vote: Commissioners**

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Conway, Enenbach, Peetz, and Ziebarth voted yes. Commissioners Gale, Loudon and Schulz voted no. Motion failed (4-3-0).

Discussion followed.

**Motion by Conway, second by Peetz, that the Commission take a position of neutral on LB 792** – Roll Call Vote: Commissioners Conway, Enenbach, Gale, Loudon, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).

**Motion by Peetz, second by Enenbach, that the Commission accept all positions recommended by staff on all bills except LB 867 and LB 792** – Roll Call Vote; Commissioners Conway, Enenbach, Gale, Loudon, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).

Discussion followed.

**Motion by Loudon, second by Peetz, that the Commission take a position of neutral on LB 867** – Roll Call Vote: Commissioners Conway, Enenbach, Gale, Loudon, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).

**Consideration of Petition for Declaratory Ruling: Scott Japp and K.C. Engdahl** – General Counsel Danberg advised the Commission members that K.C. Engdahl is present at the meeting.

Mr. Danberg reported that Mr. Japp had initially given his consent to waive the confidentiality provisions of NPADA as to the investigation against him. The General Counsel indicated that the question before the Commission was whether Mr. Japp had also waived the confidentiality of records developed during the course of an investigation and whether the Petition filed to protect that confidentiality of those records based upon attorney-client privilege should be granted. Mr. Danberg reminded the Commissioners that in Open Session during the December 4<sup>th</sup> meeting the Commission found no probable cause to believe that Mr. Japp used his public office for personal financial gain.

Discussion followed.

**Motion by Gale, second by Enenbach, that the Executive Committee's action to advance or schedule the amended petition for declaratory ruling to this meeting of the Commission on January 15, 2016 without making any decision upon the merits of said amended petition was correct and proper and that the full Commission hereby ratifies and agrees with that procedural action of the Executive Committee** - Roll Call Vote: Commissioners Conway, Enenbach, Gale, Loudon, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).

Discussion followed.

**Motion by Conway, second by Peetz, that the Commission based upon the language of Nebraska Revised Statute 49-14,124.01 grant the petition for declaratory ruling with the effect of keeping the documents and investigative materials confidential in case # 14-01 – Roll Call Vote: Commissioners Conway, Enenbach, Gale, Loudon, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).**

**Report of Conflicts Committee** – Chairman Schulz indicated that Commissioner von Gillern was absent and that there were no challenges to report.

**Report of Executive Committee** – Chairman Schulz indicated that there are no issues to report at this time.

**Closed Session - Motion by Conway, second by Enenbach, that the NADC go into Closed Session pursuant to the confidentiality provisions of the NPADA - Roll Call Vote: Commissioners Conway, Enenbach, Gale, Loudon, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).**

The NADC went into Closed Session at 10:00 a.m.

The NADC returned to Open Session at 10:16 a.m.

**Action on or Announcement of Closed Session matters** – The Executive Director advised that there were no announcements of actions taken during closed session.

**Adjournment – Motion by Peetz, second by Enenbach, that the NADC adjourn.** Roll Call Vote: Commissioners Conway, Enenbach, Gale, Loudon, Peetz, Schulz and Ziebarth voted yes. Motion carried (7-0-0).

Chairman Schulz declared the meeting adjourned at 10:17 a.m.