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# Common Cause Nebraska

NEWSLETTER / JUNE 2006

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## THE CAMPAIGN FINANCE LIMITATION ACT LIVES!



Chris Beutler

From a Newsletter, February, 1977, written by board member Frances Mendenhall:

We are the first state to enact campaign finance reform that is not "front loaded", as laws heavily dependent on public financing are described. In states such as Connecticut, they call our law "The Nebraska Plan"...It

proved itself in the last election, keeping spending down without one dollar of public expenditure.

When, on April 3rd, LB188 was passed on final reading, cheers of victory --and sighs of relief were heard from Common Cause. Not only was the bill out of danger; it was probably safe for awhile, for its greatest adversary, Kermit Brashear, would be gone from the legislature.

Senator Beutler's bill would make corrective changes in the Campaign Finance Limitation Act. Senator Brashear's bill would kill it. There had been good reason to worry.

Unexpected CFLA publicity came from the Hergert affair. By now, anyone interested should know that public funds do *not* come from taxes, that it has not been too complicated for candidates to follow through eight years of primary and general elections, that the law, while voluntary, has rules that all must follow, and that there are penalties to be paid if the law is broken.

We thank everyone who supported the bill with calls and e-mails to senators. Personal messages are powerful, and when they come from constituents, they are heard. Common Cause in Washington helped us with an e-mail petition that hundreds of people

returned. A group of members of the League of Women Voters personally visited every senator. And, of course, Jack Gould was on top of the situation start to finish.

## Senator Brashear's Generous Act



Kermit Brashear

LB188 passed on General File 30-10. When, very near the end of the session, it came up on Select File, the vote reached only 22 of the 25 needed to pass. Speaker Kermit Brashear, in a most generous move, noted that four or five of Senator Beutler's solid votes were not in the chamber. He said that he would vote for the bill and asked others to do the same. The bill passed.

We offer Senator Brashear our sincere thanks for his generous act. We admit we are relieved, however, that he won't be back to join the fight next year.

The Board of Governors of Common Cause Nebraska presented Senator Chris Beutler with a plaque for his new office wall, wherever that may be, thanking him for his original sponsorship of campaign finance limitation and his support through all the years since. Senator Beutler in turn thanked Common Cause and the League of Women Voters, saying the bill would not have passed without the two organizations' help.

We wish Senator Beutler all the best in his future endeavors.

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*The Salvation of the State is Watchfulness in the Citizen*

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## THE PERFECT IRONY

Senator Brashear was not on the floor of the senate for Final Reading of LB188 and so did not vote.

**Therefore, after years of trying to repeal it, his final vote on the Campaign Finance Limitation Act was Aye.**

## COMMON CAUSE NEBRASKA BOARD OF GOVERNORS

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## CONTROL OF THE INTERNET

In the first session of the Nebraska 99th Legislature in 2005, Senators passed LB645, a bill prohibiting public subdivisions, (for example, the Lincoln Electric Company and the Omaha Public Power District), from providing broadband telecommunication service. It allowed the existing phone and cable companies to expand their high-speed computer services and to keep the competition out—for six years.

The short-term cost to the telecommunication companies was a lobbying bill for \$300,000. The long-term gain: six years for the big companies to establish control and cut out public subdivisions.

## The Long-Term Cost To The Public?

“The United States is rapidly falling behind the rest of the world when it comes to broadband Internet penetration. Since 2001, the U.S. has dropped from 4th to 16th in the world in broadband use per capita. Canada, China, South Korea, Finland and other countries across the globe all offer their citizens faster Internet connections at lower costs than what is available to the typical American consumer. The problem in the U.S. is even worse: in rural and low-income urban areas that are not particularly attractive to profit-driven Internet providers the communities remain not merely “underserved”, but “un-served.” (This excerpt is from a Common Cause memo, published in the last Newsletter. It warrants repeating).

## Two-Year Study

Attached to the final version of LB645 was provision for a two year study of the issue. The lieutenant governor presides over an appointed 18-member task force. Greg Ast was hired as the facilitator. **The committee was to meet seven times in the two years. The first meeting was held in April, 2006, over a year after the bill was passed.** Six monthly meetings will follow, but the work must be finished by December 12, 2006.

A coalition of organizations that includes CCNE submitted to the task force a “white paper”. Prepared by the Brennan Center for Justice at the NYU School of Law, it recommended that local governments and public utilities be allowed to offer broadband so that **all Nebraskans** would have access to **inexpensive service**. The report found that 43% of rural Nebraskans and 7.4% of those living in a city or town lacked access to broadband services.

Not so, said Eric Carstenson, representative of the Nebraska Telecommunications

*Cont. on page 3*

## Control of the Internet *cont.*

Association. Every Nebraskan has access to some kind of broadband internet service. He suggested, that for those who cannot get broadband, there is WildBlue, a satellite service.

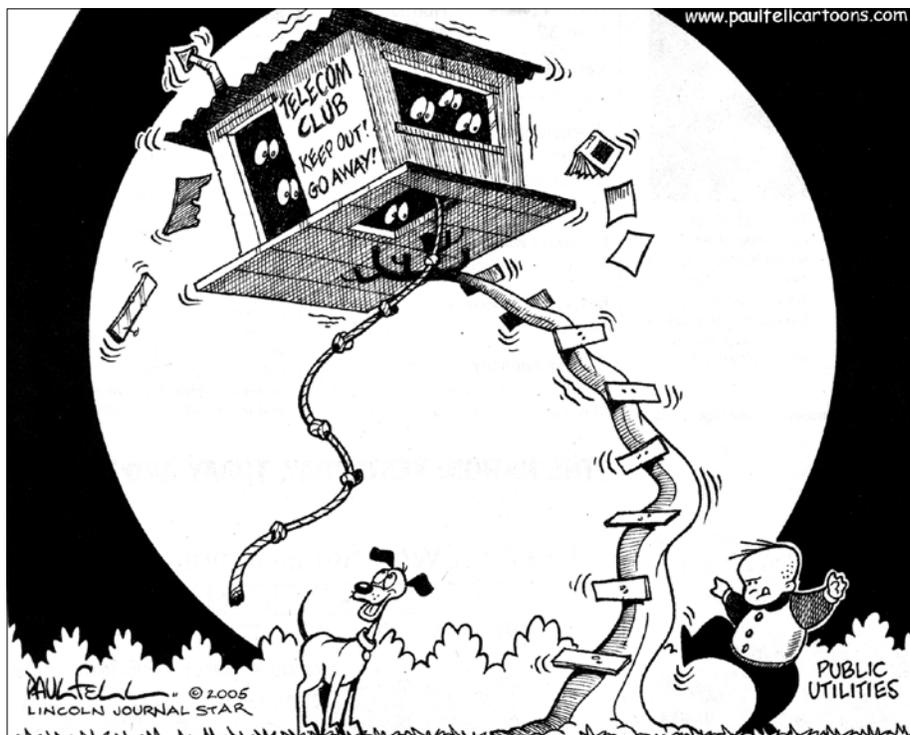
Jack Gould, Common Cause Issues Chair, lives four miles from Valpariso, a town which is served by Cox Cable. Cox will not provide Gould with cable TV service or broadband computer service. He can buy WildBlue, slower than broadband, for \$49.00 a month.

## An Alternative: Community Wireless Networks

Cost is an issue raised by the Brennan Center and the coalition. In cities where broadband is available, it is too expensive for many users. **Our airways are owned by the public.** Cities and towns can set up their own community wireless networks if given the option. Many, like Lincoln and Omaha, already have broad-band availability. These networks provide high-speed internet access to neighborhoods, colleges and towns—not just small towns: the city of Philadelphia already has a plan in place for a wireless network. **The cost to users is usually lower than that of major cable companies, as low as \$10.00 a month.**

Common Cause believes that broadband access should be available to all Americans, not just to those who live in areas deemed as profitable by the major cable companies, or those wealthy enough to pay high monthly costs to internet service providers.

Jack Gould has attended the first two meetings of the committee, and has found the proceedings pretty discouraging. As the committee meets, the table is surrounded by lobbyists. One can surmise that Jack is the only unpaid lobbyist there.



## CONFLICT OF INTEREST

When you are paid \$12,000 a year as a legislator, you must have personal wealth, a good retirement income, or another job if you plan to stay alive.

Conflict of interest arises when the outside employment of a senator can influence his or her vote on legislation. In that situation, senators must sign a statement listing conflict(s) of interest.

Example: In 2000, Speaker of the Legislature Curt Bromm, previously Chair of the Transportation and Communications Committee, introduced legislation prohibiting public subdivisions from use of broad band telecommunication service. The bill passed but was thrown out by the courts as unconstitutional. However, a year later the Supreme Court declared that the state should make the broad band decision, throwing the question back to the legislature.

Early in the 2005 session Speaker Kermit Brashear introduced LB645. One of attorney Brashear's clients is Cox Cable. Brashear signed a conflict of interest statement on February 5, 2004, several days after filing LB645. (Senator Brashear is an old hand at this. In 2001, for example, as an attorney he filed a suit for his client, Regent Ferlic, to have the Campaign Finance Limitation Act declared unconstitutional. As a senator he sponsored a bill to repeal the act).

Example: In the meantime, almost immediately after leaving his \$12,000 a year job as state senator in 2004, Bromm returned to the capitol in 2005 as a lobbyist, employed by—guess who?—Cox Cable. That year Mr. Bromm made \$82,000.

Senators passed LB645, a bill prohibiting public subdivisions from providing broadband telecommunication service. \$300,000 in lobbying money paid for LB645, which passed and was signed by the governor.

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## IMPEACHMENT

Immediately after the general election of 2004, Common Cause Nebraska filed a complaint with the Nebraska Accountability and Disclosure Commission about newly-elected Regent David Hergert's failures to report campaign expenditures.

Regent Hergert paid a \$33,000 fine for failing to file campaign expenditures, but did not admit wrong-doing. One statement, he said, was "lost in the mail".

In the ensuing two-and-a-half years the Hergert Affair took on soap opera dimensions. Stories, cartoons and editorials continued in the press. The public and UNL students never let it drop.

### The Public Is Heard

In November of 2005, CCNE board member Roger Holmes spoke directly to Mr. Hergert at a meeting of the regents, asking for Hergert's resignation. Student Senator Matt Schaefer, representing the UNL Student Senate, spoke at the same meeting, asking "First of all, we want to know why you cheated... We want to know why you are still on the board."

The UNL Student Senate voted unanimously for Hergert's resignation, as did the UNL Faculty Senate. The Faculty and Student Senates of the Universities of Nebraska at Omaha, Kearney and the Medical College did not.

UNL students from Hergert's district formed "Husker's Against Hergert". The Daily Nebraskan raised enough money to hire a Lincoln company to poll voters in Hergert's district, providing

evidence that Hergert's claim that his constituents were behind him was wrong: Of those polled 78 % said he should resign because he is dishonest.

Late in 2005 the legislature adopted LR98. It asked Hergert to resign from office, then formed a special legislative committee to examine options for addressing the issue. The committee met in 2006 and voted 8-3, recommending impeachment. Following that, the Executive Board voted 5-3 to draft articles of impeachment and forward them to the full legislature.

LB449, which contained the articles of impeachment, was passed on a 25-22 vote on April 12th, the day before the legislature was scheduled to adjourn. Senators Beutler and Chambers were appointed managers of the case.



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## Legislature Impeaches Hergert

Impeachment is not an easy process, nor should it be. After asking Hergert to resign, a special committee looked at options, then recommended impeachment. The Executive Board then voted to draft impeachment article and forward them to the full legislature. Finally, after a day of debate, the articles of impeachment were passed. This was serious business, and all the votes were close.

Now a decision must come from the Nebraska Supreme Court. A two-thirds majority is required to convict. The

court has said it will not announce its decision for several weeks. So the saga continues.

While it was an unintended consequence of his election, Regent Hergert provided a great learning experience for anyone who paid attention. The trial was telecast by NET across the state. The press kept the story on page one.

Nebraska students—especially those courageous students who from the beginning played an active part—had one terrific course in government.

## THE REVOLVING DOOR

The revolving door story which has been around longer than the Regent Hergert story.

Ex-Senators have been slipping directly through the capitol door to return as lobbyists since, it seems, early times.

Curt Bromm was by no means the first Speaker of the Legislature to return as a lobbyist. Ron Withem quit in mid-

term to become chief lobbyist for the University of Nebraska. Speaker Baack did the same, accepting a lobbying job with the Community Colleges Association. Many of the current lobbyists were once state senators.

But Bromm does stand out. In 2003 he co-sponsored a “revolving door” bill. The Lincoln Journal Star quoted him

“There needs to be some kind of break between service in a body like this and coming back in and trying to influence the legislation that is passed...”

*cont. on page 6*



## THE REVOLVING DOOR cont.

as saying, “There needs to be some kind of break between service in a body like this and coming back in and trying to influence the legislation that is passed...”

In 2003-2004 Bromm was chair of the Transportation and Telecommunication Committee, so it is not surprising that, a year later when he left the legislature, the Nebraska Communication and the Nebraska Telecommunications Associations jumped to hire him as a lobbyist—at \$82,000+ a year. A substantial raise.

Then he said, “I decided that probably whatever knowledge or experience I have is best used as soon as it can be...” And probably just what the hiring firms had figured, too.

## Why It Matters

Common Cause has sought sponsors and lobbied for a revolving door bill that would require a senator to wait one year before becoming a lobbyist. Congress requires a two year interval. When legislators leave the unicameral, they take with them useful information: they know the senators and relationships, they chaired or were members of committees, they know the important issues. In a year, committees change, as do chairs, issues and relationships. Knowledge that senators took away is no longer current. As Curt Bromm said, “...whatever knowledge or experience I have is best used as soon as it can be.”

But the 100th Legislature is a new ball game. In the first session there will be 21 new senators, and two years later there will be 28 more. No one with experience, no one with history, and no one to turn to for guidance.

Enter lobbyists. The term limit has provided opportunities that lobbyists dream of. No one knows yet whether senators newly out of a job will turn to lobbying. \$8 million a year is spent on lobbying the legislature. Whether they become lobbyists or not, there should be enough to go around

## OPEN MEETINGS LAW CHANGED, TIGHTENED

### A History Lesson

In 1975 Common Cause Nebraska formed a Coalition for Open Government to launch an initiative petition campaign. In May, a state membership meeting wrote letters to senators asking for passage of an open meetings bill. A Sunshine Initiative Petition was drafted by attorneys and was mailed statewide in August.

In January, 1976, LB987, substantially the CCNE initiative petition, was introduced. The legislature held public hearings. In March, to get some action, Common Cause decided to open petition-gathering offices (members' homes) across the state.

Senators, apparently recognizing that the Sunshine Act had taken on momentum, gave it first round approval and priority status. **LB987 passed, and was signed by governor Exon. It became effective in 1977.**



Sen. Don Prister

There were many nightly meetings at the Greenwood truck stop (a half-way point between Omaha and Lincoln) to hammer out the state plan. Meetings were held with political parties to work out the final petition. And for years, in each legislative session after the bill passed, **the legislature tried to kill the act.**

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## Senator Preister's Bill Tightens Open Meetings Law

The laws apply to all meetings of all state employees, from the governor and the legislature down to school boards and town council meetings. The importance of open meeting laws, or even of their existence, may be overlooked—until the law is broken. A few years ago, the University of Nebraska was in the process of hiring a new president and tried an end run, going to Kansas City to meet with prospective candidates—secretly, they thought. The furor that created assures us that they won't try it again.

This year Senator Don Preister's LB898 changed provisions relating to the Open Meetings Law. There had been complaints from across the state of secret meetings held either by intention or through ignorance of the law. LB898 tightened the law. Jack Gould spoke in favor of the bill at a committee meeting. One of his suggestions, that a prominent statement of the law be published in every meeting place and attention called to it by the committee chair, is now part of the law.

Jack received a letter from Senator Preister thanking him for his help. Common Cause Nebraska thanks the senator

## A MEETING WITH SENATOR SCHIMECK

Common Cause Board members Jack Gould, Roger Holmes and Charlotte Manton met with Senator DiAnna Schimeck and aid Christy Abraham to talk about the future. We thank them for their time and expertise.



Sen. DiAnna Schimeck

## Voting Machines

A bill allowing a hand count of ballots in a contested race if paid for by the contesting party did not get out of committee this year. At this time the same electronic counting machine recounts the original ballots. While electronic counting machines have been used successfully for several years in many parts of Nebraska, all machines can be rigged. Are the machines checked thoroughly each time before they are used? The Secretary of State assures her that they are. We think this needs watching.

Every polling place must now have at least one touch-screen voting machine to accommodate voters who are unable to vote in the usual manner. Common Cause has been lobbying nation-wide for machines that provide a "paper trail". **On Nebraska's machines, votes are cast by touching the machine; the machine records the vote, and a paper ballot is returned for the voter to place in the ballot box.** Senator Schimeck said that all had gone well in this first use of the machines in Nebraska.

## Redistricting

In 1991, citizens took no part in and had no knowledge of the redistricting plans for Nebraska Congressional Districts. The law, as passed by the legislature, was declared unconstitutional by the Nebraska Supreme Court. In 2001, senators were sure they didn't want a replay of that fiasco.

In 2001 Common Cause lobbied for an independent commission of citizens *not holding office* to devise the plan for redrawing legislative districts. Senator's did not want that. However, Senator Bromm's successful bill provided that, for the first time, at least one public hearing would be held in each congressional district for purposes of soliciting citizen's input.

**Senator Schimeck's was a strong voice in the 2001 redistricting. Unfortunately, she will be gone in 2011. Plans for redistricting need to begin now. In 2010 there will be no one in the legislature who has had experience with redistricting. We hope to talk with her again—soon,**

# Common Cause Nebraska

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## THE NEWSLETTER OF **Common Cause Nebraska**

# Join Us!

We are looking for people to join Common Cause Nebraska who value ethics in government. Now in our 37th year, we will continue in our nonpartisan, nonprofit and completely volunteer way to work for good government – and the good life – in Nebraska and nationally.

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*Questions, comments:*  
Charlotte Manton, Editor

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