

PRACTICAL GUIDANCE

What Nonprofits Need to
Know About Lobbying in

NEBRASKA

Inside This Guide:

This Practical Guidance resource is designed to help your nonprofit organization determine if lobbying rules in Nebraska might apply to your state or local work. It includes:

- Summary of registration and reporting triggers
- Key takeaways for nonprofit organizations
- FAQs
- Case study for a hypothetical small student voting rights organization
- List of helpful additional resources

What Lobbying Activities Trigger Registration Requirements in Nebraska?

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	For your employees: Promoting or opposing legislative action on behalf of another as part of their regular duties triggers registration and reporting unless it falls under a statutory exception.
State Executive Branch Officials	Yes, but only on legislative matters	For your employees: Promoting or opposing executive approval of legislation action on behalf of another as part of their regular duties will trigger registration and reporting. Executive branch rulemaking is not covered.
Local Legislators or Local Executive Branch Officials	Maybe	Local lobbying is not covered by the state lobbying statute, but some local jurisdictions, including Omaha, have their own lobbyist registration ordinances.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN NEBRASKA:

- **There is a “regular duties” trigger for employee lobbyists:** Employees who lobby only on behalf of their employers will not need to register unless lobbying is one of their “regular duties.” The Nebraska Accountability and Disclosure Commission has not given detailed guidance for what “regular duties” means, but organizations only occasionally lobbying should not have to register. This carve out applies to both direct lobbying and to grassroots lobbying (calling on the public to contact public officials about a legislative action).
- **Executive branch rulemaking lobbying is not covered:** Executive branch lobbying is covered under the Nebraska lobbying statute only to the extent that executive branch public officials are weighing in on legislative actions. Executive rulemaking lobbying is not regulated in Nebraska.
- **Potential donor disclosure:** If your organization has a registered lobbyist, then Nebraska requires you to disclose donations of \$100 or more in any one month given for the specific purpose of lobbying. Many nonprofit organizations and their donors are sensitive about potential donor disclosure, which can be avoided here by soliciting and accepting contributions only for general operating purposes, or for programming that includes other activities besides lobbying.
- **Some state resources are out of date:** The state’s “Lobby Guidelines” were published in 2009. For the most part they still properly reflect the substance of the current statute and rules, but they do not reflect more recent changes related to the move to online registration and reporting.

This resource is current as of February 2023. We do our best to periodically update our resources and welcome any comments or questions regarding new developments in the law. Please e-mail us at advocacy@afj.org or at info@democracycapacity.org with any comments.

This resource is meant to convey the basic principles of sections of state law that are most relevant for nonprofit advocacy and does not cover all aspects or all details of the state statutes. Please refer to the full text of the law for more details. This resource also does not cover details of federal lobbying disclosure law, IRS regulations related to lobbying, or any separate county or municipal regulations that may apply to lobbying-related activities. In some states there is an ongoing movement towards the enactment of additional local county and municipal level lobbying regulations, and organizations are urged to check with the appropriate local jurisdiction before undertaking local lobbying activity.

Q: How should we think about using this Practical Guidance resource?

This Practical Guidance – What Nonprofits Need to Know About Lobbying resource is designed to help your nonprofit organization determine if state or local regulations might apply to your existing or proposed advocacy work. The answer is surprisingly often – **YES!** – but there are also often many advocacy activities that do not require state lobbyist registration or reporting.

This Guide will help you identify which of your state or local activities might trigger registration and reporting, and also give you potential alternative program design ideas that would allow your program to be in compliance with the regulations but not require registration and reporting.

If you do need to register and report with the state, this Guide will also give you practical tips about what information needs to be included in your reports, and how to try to minimize your operational burden while remaining in compliance with the rules.

While this Guide does provide some information about the federal IRS rules that apply to nonprofit lobbying, it is designed to cover state and local regulations. Links to resources containing more information about federal IRS rules can be found in the federal lobbying FAQ below.

We also hope that this Guide will prove useful to legal counsel and other advocacy advisors who are working to assist nonprofit advocacy organizations, as well as the funders who generously support this work. Advisors and funders are invited to use the free Bolder Advocacy Technical Assistance Hotline and the written legal resources available in Bolder Advocacy’s resource library at <https://bolderadvocacy.org/>

Q: What activities count as lobbying?

In Nebraska, **lobbying** means promoting or opposing **legislative action** on behalf of an organization (or another person), and is regulated by the Nebraska Accountability and Disclosure Commission (“NADC”).

Legislative action means the introduction, sponsorship, support, opposition, consideration, debate, voting, passage, defeat, approval, veto, delay or an official action by an official in the legislative or executive branch on a bill, resolution, amendment, nomination, appointment, report, or any other matter pending or proposed in a committee of the Legislature.

Attempting to influence executive branch actions that do not relate to legislative actions (for example, executive branch rulemaking) and attempts to influence procurement decisions, are not lobbying in Nebraska.

Preparing for future lobbying communications with public officials also does not count as lobbying, nor do meetings with public officials that are more social and do not address legislative action (e.g., “meet and greet” opportunities).

Q: What triggers lobbyist registration and reporting with the state?

Promoting or opposing legislative action on behalf of another as part of your **regular duties** triggers registration and reporting unless it falls under a statutory exception.

The NADC has not provided detailed guidance for what “regular duties” means, but organizations that only occasionally lobby (for example, attending a few meetings) should not have to register. This carveout applies to both direct lobbying and grassroots lobbying (calling on the public to contact public officials about a legislative action). It may be harder to judge the scope of the carveout for grassroots activities for organizations that only occasionally do grassroots lobbying activities but who spend heavily on a grassroots campaign with a call to action.

You may contact local legal counsel or the NADC at the contact information set forth in the Additional Resources section in this Guide for additional guidance on this point.

FAQS

Note that general education campaigns without calls to action, and executive branch rulemaking communications will not trigger registration.

Q: How does the trigger threshold work if we are a fiscally sponsored project?

You will need to be sure you are communicating transparently and in a timely fashion with your fiscal sponsor if you plan to undertake activities that might potentially count as lobbying activities!

Each fiscal sponsor will have its own ways of working with projects who wish to take on lobbying activities.

In general, for fiscally sponsored projects that do not have their own legal entity and the fiscal sponsor engages all of the project's independent contractors or employees, your lobbyist registration trigger must be analyzed together with all of the projects housed at the fiscal sponsor who are doing lobbying activities in the state.

Your account manager at your fiscal sponsor will be able to help you understand how they track the registration threshold.

IMPORTANT NOTE: In states where registration is required prior to lobbying, or very shortly after the registration threshold is reached, or periodic lobbyist disclosure is due shortly after the end of a reporting period, special procedures may need to be worked out in order to process your project's registration or reporting on time. You should connect with your account manager as soon as you begin planning any potential lobbying strategy!

Q: Are there exceptions to what counts as lobbying?

Yes! Certain types of lobbying activities do not trigger lobbyist registration, though they may be reportable if you are already registered. Many of the exceptions in Nebraska concern activities by public employees, and won't be relevant for nonprofit organizations. The exceptions that might be relevant to your organization are:

- **Regular duties:** As discussed above, if your staff lobbyist is not regularly engaged in lobbying activities as part of their regular job duties, then registration is not triggered.
- **Clerical support:** An individual who is employed by an organization with a registered lobbyist but whose duties are confined to typing, filing, and other types of clerical office work will not need to register, even if they provide clerical support for the lobbyist.
- **Direct written communications to legislators:** Writing letters or e-mail, or otherwise providing written material to a legislator or legislative committee, does not by itself trigger registration. However, if your organization already has a registered lobbyist, you will need to report any related expenses.
- **Committee testimony:** Appearing before a legislative committee does not trigger registration if you tell the committee who you are representing. If your organization already has a registered lobbyist, you will need to report any expenses related to committee testimony.

Q: How does this work together with federal IRS lobbying regulations?

All tax-exempt organizations must follow both federal tax law (regulated by the IRS) **and** any state and local lobbying laws that apply to their work.

The IRS rules regulate how much lobbying a nonprofit organization can do, while state and local regulations are transparency rules designed to help the public understand what funds are being spent to influence decision making and by whom. As a result, federal tax law rules related to lobbying and state lobbying regulations are quite different, and state lobbying regulations also vary greatly state to state.

In general, the IRS requires 501(c)(3) organizations to report on their annual Form 990 legislative lobbying at the federal, state, and local levels, but does not count as lobbying

advocacy activities relating to executive branch or administrative officials at any level. There is no additional requirement for organizations or individuals to “register” with the IRS to report lobbying activities.

Nonprofits that are public charities under IRS exemption 501(c)(3), including grantmaking public charities like community foundations, can lobby within the generous limits allowed by federal tax law. The amount of lobbying is determined by either using the insubstantial part test or the 501(h) expenditure test.

See <https://bolderadvocacy.org/resource/public-charities-can-lobby-guidelines-for-501c3-public-charities-2/>

Organizations that are tax-exempt under 501(c)(4) (social welfare organizations), 501(c)(5) (labor organizations), and 501(c)(6) (trade associations) can do unlimited lobbying. See <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>

Your organization will need to ensure that you are keeping track of your lobbying staff time and your expenses in a way that works for both your IRS reporting, and for any required state or local reporting, since the information required in each regime will be different.

Note that there is also a federal law called the Lobbying Disclosure Act that requires some organizations to register and report their federal level lobbying activities. Organizations that have only occasional contacts at the federal level (having occasional meetings with members or staff or sending occasional letters to Congress) will not need to register under the LDA. The thresholds are designed to require only those organizations with substantial lobbying activities and expenses to file. For more information see https://bolderadvocacy.org/wp-content/uploads/2018/06/Understanding_the_Lobbying_Disclosure_Act.pdf

Q: Does supporting or opposing a ballot measure count as lobbying?

Nebraska voters are empowered to initiate state constitutional amendments, statutes, and veto referendums by petition. The State legislature can also refer measures to the voters as referendums. Advocating for or against the legislature referring a measure to the public should be analyzed as a potential lobbying registration trigger, but once a measure is on the ballot, supporting or opposing the ballot measure will be regulated under the state’s campaign finance laws (but note that the IRS does still count it as a lobbying activity).

Nonprofit organizations considering working on ballot questions in Nebraska should seek additional advice on how to comply with any applicable state or local campaign finance reporting requirements.

Q: If we are required to register, how does the process work?

Lobbyists register by filing an online application (Form A) with the Clerk of the Legislature by navigating to the Legislature’s “For Lobbyists” website, using the instructions available here, <https://nebraskalegislature.gov/feature/lobbyists.php>, and then selecting “Create New Account” on the menu on the left side of the page here: <https://nebraskalegislature.gov/lobbyist/auth.php>

The registration fee for paid lobbyists is \$200, and for unpaid lobbyists (who are lobbying as part of their regular duties) is \$15. Any lobbyist who initially registers as unpaid but who later starts getting paid must amend their application and pay the additional \$185 fee within five days of first receiving payment.

Lobbyists should use business contact information for all requests for contact information since the registration and reporting forms are made publicly available.

All lobbyist registrations expire on December 31 and must be renewed if you are going to lobby again the following year.

Q: When are periodic lobbying reports due?

	Individual Lobbyists	Organization
Quarterly Reports	Form B is due within 30 days after the end of each calendar quarter	Form C is due within 30 days after the end of each calendar quarter
Statement of Activity	Form D is due within 45 days of the end of a legislation session.	N/A
Special Report	Form B-B is due within 15 days after end of any month in which the lobbyist received or spends more than \$5,000 for lobbying purposes.	Form C-C is due within 15 days after end of any month in which the lobbyist received or spends more than \$5,000 for lobbying purposes.

Late fees

Failure to file quarterly reports or Statements of Activity on time is sanctioned by a late fee of \$25 per day, up to a maximum of \$750.

Failure to file a special report on time is sanctioned by a late fee of \$100 per day for the first 10 days. If the special report is still not filed after that, the NADC may impose an additional fee of 1% of the reportable amount per day, up to a maximum of 10% of the reportable amount.

Exemptions

If your organization does not expect to receive funds or make expenditures for lobbying purposes for the remainder of a lobbying registration year, your organization and your lobbyists that represent you may file a Statement of Exemption (using online Form E) asking to exempt your organization from having to file organizational and individual quarterly reports.

An exempt lobbyist must still continue to file Statements of Activity after every legislative session (even if they have nothing to report).

Q: What information do the periodic lobbying reports include?

Quarterly reports

- **Lobbyists:** Your staff lobbyists report expenditures they made on lobbying activities, all reimbursements they received for such expenditures, and any compensation or anything else of value they received from your organization for doing the lobbying work. They also report any money or gifts given, promised, or loaned to a state legislative or executive official (or the official's staff), if any.
- **Organization:** Your organization (called a "principal" by the State) reports your expenditures on lobbying activities, including prorated compensation and lobbying related reimbursements paid to your employee lobbyists, and any money or gifts given, promised, or loaned to a state legislative or executive official (or the official's staff), if any. Other than staff compensation, your organization will not have to prorate internal office expenses for these reports. You will only need to report expenses on public officials, and any office expenses that you would not have incurred but for your lobbying activities.
 - **Potential donor disclosure in your organizational reports:** Organizations must report the name and address of every individual or organization who contributed more than \$100 in any one month **for lobbying purposes**. Many donors and organizations are sensitive about donor disclosure. This disclosure can be avoided by soliciting and accepting only contributions for general operating purposes, or for broader programming than solely lobbying.

Statements of activity

Statements of Activity identify each piece of legislation that was the subject of lobbying activity by your lobbyist, including the bill or resolution number and the position your lobbyist took.

Special reports

Special reports disclose expenditures or receipts of more than \$5,000 in a single month that were not previously disclosed. The information in a special report should also be reported in the next quarterly report. You can think of these reports as accelerated quarterly reporting if you are spending a lot of funds on lobbying in a short period of time.

Recordkeeping

Both your lobbyist and your organization are required to keep records that support the totals in your reports for **three years** after reporting, other than receipts for expenses on food and drink that are less than \$25.

Q: What is considered a reportable “expenditure”?

When filing quarterly reports, both your lobbyists and your organization will need to report total expenditures (i.e., not individually itemized) in the following categories:

- **Expenses for entertaining public officials** (or staff or family members), including paying for food and drinks. Spending for legislators and spending for executive officials are reported separately in this category.
- **Lodging expenses for public officials** include only lodging for someone other than your lobbyist or your organization. Lodging payments for your lobbyist or your organization get reported in lobbyist reimbursement or miscellaneous expenses (if paid directly) instead.
- **Travel expenses for public officials** include only travel for transporting someone other than your lobbyist or other staff, volunteers or members of your organization. Travel payments for your lobbyist or your organization get reported either in lobbyists reimbursement or in miscellaneous expenses (if paid directly) instead.
- **Gifts for public officials** other than “gifts of admissions” (see next bullet below). Aggregate totals for gifts to legislative officials and executive officials are reported separately.
- **Gifts of admissions for public officials** means payments for government officials’ admission to a state-owned facility or state-sponsored industry or event. Spending for legislators is reported separately from spending for executive officials.
- **Lobbyist compensation expenses.** Your organization must report prorated compensation paid to your registered lobbyist employee for lobbying, as well as any lobbying related compensation you pay to other employees who are not registered, but helped with your lobbying efforts. Lobbyist employees will generally have nothing to report in this expenditure category, unless they paid someone out of pocket for assistance with their lobbying activity.
- **Lobbyist reimbursement expenses.** For lobbyists, this category means reimbursements paid to other people, so your staff lobbyists will not likely have any such expenses to report on their own form. For your organization, as principal, this means reimbursements paid to your lobbyists.
- **Extraordinary office expenses** means those office expenses beyond ordinary overhead or operating expenses. In general, you should think of these kinds of expenses as expenditures you would not have made but for your lobbying activities.

FAQS

- **Miscellaneous expenses** are any lobbying related expenditure that doesn't fit into one of the other categories below. This category includes travel and lodging costs for your own lobbyists that your organization pays directly.

Gift ban: It is important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with state and local ethics and "gift ban" laws. Those state and local rules often apply even if your organization has not triggered lobbyist registration, and may apply to a broader range of officials. You should be certain that you understand the intricacies of both sets of rules before giving any gifts to, or paying expenses for, any public officials at the state or local level.

Nebraska law prohibits "quid pro quo" arrangements – gifts to state officials, employees, or their family members as part of an agreement that the recipient will act or vote in a particular way because of the gift. Nebraska law also limits the total aggregate value of gifts lobbyists may give to each legislative or executive branch official (or their staff, or family member) to \$50 in a month per official. Food or drink provided for immediate consumption in the presence of a lobbyist or principal is not considered a gift, nor is the occasional provision of transportation within Nebraska. Paying an official (or their staff) for attending or participating in an event is considered a gift.

Q: Do our organization's donors need to be disclosed on any lobbying reports?

Maybe!

The name and address of any donor who provides more than \$100 in a month **specifically for lobbying purposes** must be identified in the quarterly reports filed by your organization. Many donors and organizations can be sensitive about donor disclosure. This kind of disclosure can be avoided by soliciting and accepting only contributions for general operating purposes, or for broader programming than solely your lobbying programming.

Q: How are our lobbyists required to identify themselves while lobbying?

There are no special requirements for how lobbyists must identify themselves while lobbying. When meeting with a public official for the first time, it is good practice for lobbyists to identify themselves and your organization they represent accurately.

Q: Are there any other restrictions on lobbyists that we should be aware of?

Organizations cannot make lobbyists' compensation contingent on the outcome of any administrative or legislative action.

Lobbyists must not knowingly or willfully make any false or misleading statement or misrepresentation of fact to any public legislative or executive official.

Lobbyists may not attempt to influence a legislator by promising financial support for them or by threatening to finance opposition to their candidacy at any future election.

Lobbyists must not engage in conduct that discredits the practice of lobbying or the Legislature.





Registered lobbyists are not permitted in the chamber of the Legislature.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about LB101 currently pending in the Nebraska Legislature

STUDENTS VOTE NOW IS CONSIDERING:

- Reaching out to its student constituents, via direct physical mailings, e-mails, and volunteer phone banking, in order to get the students to call their senator about the bill.
- Doing an in-person Lobby Day at the state capital about LB101 to meet with legislators, or alternatively arranging a virtual Zoom lobby event. The Lobby Day activity might potentially include renting a bus, buying T-shirts for the volunteer participants, and handing out some small swag type items from your organization to the legislators, or if done by Zoom, the purchase of an upgraded Zoom account.
- Testifying before a committee of the House of Representatives regarding the student perspective on LB101.
- Having an employee engage with the Mayor of Omaha about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Students Vote Now's student engagement includes a call to action that will trigger lobbyist registration and reporting if the activities fall under the regular duties of a staff member. The regular duties carveout is not a bright line one, and since Students Vote Now appears to be contemplating some relatively expensive programming on their grassroots campaign, it may make sense to seek local counsel or to call the NADC to discuss if registration is required for these activities.</p> <p>If the group was trying to avoid registration it could consider an educational only grassroots campaign that would not on its own trigger registration.</p>
 <p>Lobby Day</p>	<p>Participants communicating with legislators on behalf of Students Vote Now will only need to register if lobbying is one of their regular duties to the organization (whether they are paid or unpaid, although casual student volunteers will clearly not meet the regular duties carveout). If any employees do register, Students Vote Now will need to report any expenditures (such as the bus rental) that it makes for the lobby day activity.</p> <p>Students Vote Now could theoretically give small gifts worth less than \$50 to each legislator, but it would need to keep track of and report the gifts in its quarterly reports. A better practice would be to give information about the organization instead.</p>
 <p>Committee Testimony</p>	<p>Testifying before a committee of the Legislature is a statutory exception and will not trigger lobbyist registration.</p>
 <p>Mayor</p>	<p>Having an employee engage with the Mayor of Omaha will not trigger Omaha's registration requirements¹ unless the employee is paid more than \$1,000 on a prorated basis to do so. Unpaid representatives of nonprofits do not have to register to lobby in Omaha.</p>
<p>Bottom Line</p>	<p>If Students Vote Now is determined not to register, then it should carefully design its grassroots student engagement and Lobby Day activities to not trigger registration under the regular duties carveout. Redesign options might include an educational only grassroots campaign without a call to action. Lobby Day activities probably would not constitute regular duties, since it is a one day event.</p> <p>Committee testimony and the work with the Omaha Mayor do not trigger state or local registration.</p>

¹ <https://cityclerk.cityofomaha.org/lobbyist>

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL HOTLINE:

Bolder Advocacy's free Technical Assistance Hotline team is always happy to help nonprofits and advocacy attorneys with more specific questions. You can contact Bolder Advocacy's team of experts by e-mailing advocacy@afj.org, or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

NEBRASKA STATE RESOURCES:

- **Nebraska Accountability and Disclosure Commission**

The Nebraska Accountability and Disclosure Commission (NADC) is responsible for administering and enforcing Nebraska's lobbying laws. Its website is <https://nadc.nebraska.gov/>

- **Nebraska Legislature**

Lobbyists register and file reports through the Nebraska Legislature's "For Lobbyists" website, which also has links to filing instructions, deadlines, and other useful resources:

<https://nebraskalegislature.gov/feature/lobbyists.php>

The "Electronic Filing Instructions," which cover all registration and reporting procedures, are clear and thorough.

- **Full Text of Nebraska Lobbying Statutes**

The NADC's "Lobby Guidelines" document, cited below, contains most of the relevant sections of Nebraska's state lobbying statute and rules. The statute and rules have been amended since the guidelines were published, however.

The full text of the current statute (including many sections that don't concern lobbying) is at [https://nadc.nebraska.gov/sites/nadc.nebraska.gov/files/doc/2022_NPADA%28with all 2022 Amend%29_0.pdf](https://nadc.nebraska.gov/sites/nadc.nebraska.gov/files/doc/2022_NPADA%28with%20all%202022%20Amend%29_0.pdf)

The full text of the current administrative rules, which implement and interpret the statute, is at <https://nadc.nebraska.gov/sites/nadc.nebraska.gov/files/doc/Rule6%2009.pdf>

- **NADC Lobby Guidelines**

The Nebraska Accountability and Disclosure Commission's 2009 "Lobby Guidelines" contains information on the state's registration and reporting rules. It has not been updated since the state switched to electronic registration and reporting, so caution is advised in interpreting the filing procedures. <https://nadc.nebraska.gov/sites/nadc.nebraska.gov/files/doc/LobbyGuideNov09.pdf>

- **Additional Questions**

Any questions about lobbying rules and regulations can be directed to the NADC at 402-471-2522 or nadc@nebraska.gov. For help with the online lobby registration and reporting system, you can contact the Lobby Clerk at 402-471-2608 or email lobby@leg.ne.gov.

BOLDER ADVOCACY'S FEDERAL LAW RESOURCES:

While state and local laws regulate which lobbying activities require registration and reporting, the IRS also regulates how much lobbying a 501(c)(3) tax-exempt organization is allowed to do, including at the state and local levels. The way the IRS counts lobbying will almost always be different than how state and local laws count it, and organizations are urged to review Bolder Advocacy's federal law resources to ensure all IRS compliance obligations are being met. See:

<https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>



This work is licensed under a Creative Commons Attribution-Non Commercial-No Derivatives 4.0 International License, which means that you can share it widely, so long as you share it in this format and do not sell it.

The information contained in this fact sheet and any referenced links are being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal, tax, or other professional advice tailored to your specific circumstances, and may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code.

This resource was created by the Democracy Capacity Project, a special project of NEO Philanthropy, Inc., with the support of Alliance for Justice, the assistance of Nielsen Merksamer Parrinello Gross & Leoni, LLP, and with thanks to the many, many advocates and activists who do this critical work every day.