

# Lobbying Rules for Nebraska Nonprofits!

**The rules, definitions, and reporting requirements for nonprofits that lobby are different for the state and the federal government.**

- A. For the federal government, there is a **LIMIT** – that is, you can't go over an amount of lobbying.
- B. For the state government, there is a **TRIGGER** – that is, when you have done a certain amount of lobbying, you have to tell them.

## **A. Federal Rules for Nonprofit Lobbying:**

- 1) What's Reportable?
  - a. An attempt to influence a federal, state, or local individual who will be casting a vote (city councilmember, state legislator, citizen for a ballot initiative), or has the ability to impact those who vote (i.e., legislative staff or a governor).
- 2) Nonprofit Lobbying **LIMIT**
  - a. Under the insubstantial rule which states that a nonprofit's lobbying activities (money and volunteers) must be an insubstantial part of its total work as a nonprofit. What makes up "Lobbying" is not well defined and there is no definition of insubstantial.
  - b. Nonprofits can "elect" to do lobbying under the 501h which provides for an expense only limit and clearly defines two types of lobbying: grassroots and direct. File IRS Form 5768 (just a half a sheet of paper) to be able to report lobbying this way.
- 3) Nonprofit lobbying Reporting
  - a. For both insubstantial rule and 501h elected orgs, reporting of lobbying is done annually on the organization's 990 tax return.

## **B. Nebraska State Rules for Nonprofit Lobbying**

- 1) What's Reportable?
  - a) Nebraska lobbying laws and regulations relate strictly to trying to affect matters before the Nebraska Legislature. They have no application to city councils, county boards and the like. Those entities may have their own registration and reporting requirements.
- 2) Nonprofit Lobbying **TRIGGER**
  - a) The chart below explores which activities are lobbying vs. non-lobbying activities, any lobbying triggers registration and reporting.
    - i) Lobbyist: According to state law, "every person employed, retained or authorized as a lobbyist shall, before commencing lobbying activity, file an application with the Clerk of the Legislature for registration as a lobbyist." The cost of registering is \$200.
    - ii) Principal: According to state law, "Principal means a person who authorizes a lobbyist to lobby in behalf of that principal." In other words, if a nonprofit has a paid staff person (or a volunteer) lobby on their behalf, they must register as a principal.
- 3) Nonprofit Lobbying Reporting
  - a) Both the principal and the lobbyist must file online quarterly reports and other reports as indicated.

Please Note: Great effort has been taken to accurately translate federal and state lobbying laws and regulations in clear, easy to use language by exploring common advocacy actions. The list of actions is not exhaustive so should not be construed as to mean other actions are NOT lobbying because they are not listed. Our interpretation of what is or isn't lobbying should be confirmed through your own due diligence including seeking legal opinions.

ACTIVITY	NEBRASKA LOBBYING RULES	FEDERAL LOBBYING RULES UNDER 501h	
		DIRECT LOBBYING	FEDERAL GRASSROOTS LOBBYING
<p><b>Written Communication (email or letter) directly to a Legislator expressing a view about legislation</b></p>	<p>NO REGISTRATION OR REPORTING REQUIRED!</p> <p><i>Except, if already registered as a lobbyist, report it!</i></p>	<p>Writing a letter to a legislator expressing a view about a specific bill.</p> <p><b>Report in 990:</b> Staff time, other expenses directly related.</p>	<p>Not Grassroots Lobbying</p>
<p><b>Testimony in Committee</b></p>	<p>NO REGISTRATION OR REPORTING REQUIRED!</p> <p><i>Except, if already registered as a lobbyist, report it!</i></p>	<p>Giving testimony expressing a view about a bill, including preparing others to give testimony (unless asked by the Committee to provide testimony) is reportable.</p> <p><b>Report in 990:</b> Staff time to prepare testimony, travel to and from the legislature, time at the legislature to provide testimony, other expenses not usually incurred except for the lobbying activity.</p>	<p>Not Grassroots Lobbying</p>

ACTIVITY	NEBRASKA LOBBYING RULES	FEDERAL LOBBYING RULES UNDER 501h	
		DIRECT LOBBYING	FEDERAL GRASSROOTS LOBBYING
<b>Making and sending email alerts with a position on legislation and a call to action.</b>	<p>Registration and reporting is not required if you only explain your position and encourage others to make their own opinion known to legislators.</p> <p>Registration and reporting is required if you tell an elected official how to vote on a particular bill, (i.e., “Tell your Senator “X” to vote No on LB 113”)</p> <p><b>Report in Online Quarterly Form:</b> staff time, proportional cost of system.</p>	<p>A communication to members is considered direct lobbying, and reportable, when you are asking members to contact their legislators directly.</p> <p><b>Report in 990:</b> staff time, proportional cost of system.</p>	<p>A communication to members is considered grassroots lobbying when you are asking your members to contact their networks to contact their legislators is reportable.</p> <p>A communication to the general public (non-members) is considered grassroots lobbying and is reportable.</p> <p><b>Report in 990:</b> staff time, proportional cost of system.</p>
<b>Membership meetings or calls where legislation is discussed, plans for lobbying are made</b>	<p>Not reportable if no staff or legislator is present.</p> <p>If staff or legislators are present, and discussion includes drafting, promoting, or expressing a view about legislation, then it’s reportable.</p> <p><b>Report in Online Quarterly Form:</b> Staff time preparing for and hosting the meeting/call. Reasonable expenses related to the meeting/call including phone line do not need to be reported.</p>	<p>If discussion includes drafting, promoting, or expressing a view about legislation or a communication to those present to communicate with their legislators directly.</p> <p><b>Report in 990:</b> Staff time preparing for and hosting the meeting/call, expenses related to the meeting/call including phone line.</p>	<p>A communication to members is considered grassroots lobbying when you are asking your members to tell their members/networks to contact their legislators.</p> <p><b>Report in 990:</b> Staff time preparing for and hosting the meeting/call, expenses related to the meeting/call including phone line.</p>

ACTIVITY	NEBRASKA LOBBYING RULES	FEDERAL LOBBYING RULES UNDER 501h	
		DIRECT LOBBYING	FEDERAL GRASSROOTS LOBBYING
<b>Meetings (phone or in-person) with Legislators</b>	<p>Lobbying (expressing a view) on a specific bill, or idea to create a bill, while talking directly to a legislator (by phone or in person) is reportable.</p> <p>If with a registered lobbyist as part of a “show &amp; tell” visit, initial meeting with senators/staff, somewhat casual, no need to report if you are not registered.</p> <p><b>Report in Online Quarterly Form:</b> Staff time, travel, other expenses directly related.</p>	<p>Lobbying (expressing a view) on a specific bill while talking directly to a legislator, staff member, or government representative (by phone or in person) is reportable.</p> <p><b>Report in 990:</b> Staff time, travel, other expenses directly related.</p>	Not Grassroots Lobbying
<b>Educational events for/with legislators and staff (i.e. Lunch and Learns)</b>	<p>If legislation, or an idea for legislation, is discussed and you are sharing a view about the legislation, it is reportable.</p> <p><b>Report in Online Quarterly Form:</b> Staff time at the educational event, expenses related to the event (i.e., meals, copying, etc.). Meal costs for legislator.</p>	<p>If legislation, or an idea for legislation, is discussed and you are sharing a view about the legislation.</p> <p><b>Report in 990:</b> Staff time preparing for and while providing the educational event, expenses related to the event (i.e., meals, copying, etc.)</p>	Not Grassroots Lobbying
<b>Events</b>	<p>If legislators are present and positions on legislation are expressed, <i>registered lobbyist must report.</i></p> <p><b>Report in Online Quarterly Form:</b> Staff time at the educational event, expenses related to the event (i.e., meals, copying, etc.) Meal costs for legislator.</p>	<p>If discussion with members only and includes drafting, promoting, or expressing a view about legislation, whether legislator is present or not.</p> <p><b>Report in 990:</b> Staff time preparing for and while providing the educational event, expenses related to the event (i.e., meals, copying, etc.)</p>	<p>If non-members are present and are encouraged to speak with legislators, staff, or government officials about specific legislation.</p> <p><b>Report in 990:</b> Staff time preparing for and while providing the educational event, expenses related to the event (i.e., meals, copying, etc.)</p>

ACTIVITY	NEBRASKA LOBBYING RULES	FEDERAL LOBBYING RULES UNDER 501h	
		DIRECT LOBBYING	FEDERAL GRASSROOTS LOBBYING
<b>Lobby Days</b>	<p>Individuals should register if representing an organization. However, if individuals attend meetings with Legislators/staff and a lobbyist is “managing” the meeting, the individual does not need to register report.</p> <p>If individuals participate in a lobby day and give their own personal opinion (not a script from the organization holding the lobby day) during a meeting with legislators, it is not reportable.</p> <p><b>Report in Online Quarterly Form:</b> Organization holding lobbying day costs to hold/host lobby day.</p>	<p>If only members are present, and legislation, or an idea for legislation, is discussed and you are sharing a view about the legislation.</p> <p><b>Report in 990:</b> Staff time preparing for and while providing the lobby day, expenses related to the event (i.e., meals, copying)</p>	<p>If non-members are present and are encouraged to speak with legislators, staff, or government officials about specific legislation.</p> <p><b>Report in 990:</b> Staff time preparing for and while providing the educational event, expenses related to the event (i.e., meals, copying, etc.)</p>
<b>General Public Media (i.e., Nebraska News Service)</b>	<p>Not lobbying if no action urged (and organization is not registered)</p> <p>If action urged, reportable if lobbyist is registered.</p> <p><b>Report in Online Quarterly Form:</b> Staff time preparing for and sending out to the media materials to publish, expenses related to creating and submitting the media (i.e. contract)</p>	<p>Not Direct Lobbying</p>	<p>If news encourages the general public to speak with legislators, staff, or government officials, expresses a position about specific legislation, and gives a call to action.</p> <p><b>Report in 990:</b> Staff time preparing for and sending out to the media materials to publish, expenses related to creating and submitting the media (i.e. contract)</p>

ACTIVITY	NEBRASKA LOBBYING RULES	FEDERAL LOBBYING RULES UNDER 501h	
		DIRECT LOBBYING	FEDERAL GRASSROOTS LOBBYING
<b>Facebook Posts</b>	<p>If the post says something like “contact your legislators and tell them X” or provides a link to a member’s webpage that tells them to contact their legislators or to a mechanism to contact their legislators, the Facebook post itself would count lobbying.</p> <p><b>Report in Online Quarterly Form:</b> Staff time preparing for and posting to Facebook, expenses related to Facebook including promotional costs.</p>	Not Direct Lobbying	<p>If the post takes a position on legislation and provides a way for someone to contact their legislator, it would count as a grassroots lobbying communication.</p> <p><b>Report in 990:</b> Staff time preparing for and posting to Facebook, expenses related to Facebook including promotional costs.</p>
<b>Blogs about legislation.</b>	<p>If not registered as a lobbyist and the blog post is educational in nature, then it is not reportable.</p> <p>If registered as a lobbyist, then some portion of the blog post is reportable if it takes position on legislation or shares another organizations position (directly or through link to their position).</p> <p><b>Report in Online Quarterly Form:</b> Staff time preparing for and posting blog, expenses related to distribution platform.</p>	Not Direct Lobbying	<p>If the post takes a position on legislation and provides a way for someone to contact their legislator, it would count as a grassroots lobbying communication.</p> <p><b>Report in 990:</b> Paid time preparing the blog, and posting to webpage, expenses related to webpage.</p>