

PUBLIC HEARING

before

SENATE STATE GOVERNMENT, FEDERAL AND INTERSTATE
RELATIONS, AND VETERANS' AFFAIRS COMMITTEE

on

S-1396 and S-1397

(Amending the Legislative Activities Disclosure Act
and the Campaign Contributions Reporting Law)

Held:
October 23, 1980
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Wynona M. Lipman (Chairman)
Senator Francis X. Herbert
Senator Joseph Hirkala
Senator Donald T. DiFrancesco

ALSO:

Senator Eugene J. Bedell

James A. Carroll, Research Associate
Office of Legislative Services
Aide, Senate State Government, Federal and Interstate Relations,
and Veterans' Affairs Committee

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SENATE, No. 1396

STATE OF NEW JERSEY

INTRODUCED JUNE 26, 1980

By Senator BEDELL

Referred to Committee on State Government, Federal and
Interstate Relations and Veterans Affairs

AN Act to amend and supplement "An act to require the public disclosure of certain information by certain persons seeking to influence legislation in this State, providing penalties for non-compliance, and repealing the 'Legislative Activities Disclosure Act', approved October 16, 1964 (P. L. 1964, c. 207)," approved June 2, 1971 (P. L. 1971, c. 183).

1 *BE IT ENACTED by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1971, c. 183 (C. 52:13C-20) is amended to
2 read as follows:

3 3. Definitions. For the purposes of this act, unless the context
4 clearly requires a different meaning:

5 a. The term "person" includes an individual, partnership, com-
6 mittee, association, corporation, and any other organization or
7 group of persons.

8 b. The term "legislation" includes all bills, resolutions, amend-
9 ments, nominations and appointments pending or proposed in
10 either House of the Legislature, and all bills and resolutions which,
11 having passed both Houses, are pending approval by the Governor.

12 c. The term "Legislature" includes the Senate and General
13 Assembly of the State of New Jersey, the members and members-
14 elect thereof and each of them, all committees and commissions
15 established by the Legislature or by either House and all members
16 of any such committee or commission, and all staff, assistants and
17 employees of the Legislature whether or not they receive com-
18 pensation from the State of New Jersey.

19 d. The term "Governor or his staff" includes the Governor or
20 the Acting Governor, the Secretary to the Governor, the Counsel
21 to the Governor, and all other employees of the Chief Executive's
22 Office.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

23 e. The term "communication to the Legislature" or "to the
24 Governor or his staff" means any communication, oral or in
25 writing or any other medium, addressed, delivered, distributed or
26 disseminated to the Legislature or the Governor or his staff or
27 to any part thereof or member thereof as distinguished from the
28 general public including but not limited to the Legislature or the
29 Governor or his staff. If any person shall obtain, reproduce or
30 excerpt any communication or part thereof which in its original
31 form was not a communication to the Legislature or the Governor
32 or his staff and shall cause such excerpt or reproduction to be
33 addressed, delivered, distributed or disseminated to the Legis-
34 lature or the Governor or his staff or any part thereof or member
35 thereof, such communication, reproduction or excerpt shall be
36 deemed a communication to the Legislature or the Governor or
37 his staff by such person.

38 f. The term "legislative agent" means any person who receives
39 or agrees to receive, directly or indirectly, compensation, in money
40 or anything of value including reimbursement of his expenses
41 where such reimbursement exceeds \$100.00 in any 3-month period,
42 to influence legislation by communication, personally or through
43 any intermediary, to the Legislature or the Governor or his staff,
44 or who holds himself out as engaging in the business of influencing
45 legislation by such means, or who incident to his regular employ-
46 ment engages in influencing legislation by such means; provided,
47 however, that a person shall not be deemed a legislative agent who,
48 in relation to the duties or interests of his employment or at the
49 request or suggestion of his employer, communicates to the Legisla-
50 ture or the Governor or his staff concerning any legislation, if such
51 communication is an isolated, exceptional or infrequent activity in
52 relation to the usual duties of his employment. The Attorney Gen-
53 eral shall develop and promulgate reasonable rules and guidelines
54 for ascertaining whether a person's communication or communica-
55 tions are isolated, exceptional or infrequent within the intent
56 of this subsection, and shall include such rules and guidelines
57 in the summary and explanation of the registration and reporting
58 requirements of this act which he is required, under subsection i.
59 of section 6 of this act, to prepare and publish for the use and
60 guidance of those persons who may be required to file statements
61 under this act.

62 g. The term "influence legislation" means to make any attempt,
63 whether successful or not, to secure or prevent the initiation of
64 any legislation, [or to secure or prevent the initiation of any
65 legislation,] or to secure or prevent the passage, defeat, amend-

66 ment or modification thereof by the Legislature, or the approval,
 67 amendment or disapproval thereof by the Governor in accordance
 68 with his Constitutional authority.

69 h. The term "statement" includes a notice of representation or
 70 a report required by this act.

71 i. *The phrase "direct, express and intentional communication*
 72 *with legislators undertaken for the specific purpose of affecting*
 73 *legislation" means any communication initiated by a legislative*
 74 *agent to the Legislature or the Governor or his staff having the*
 75 *effect of transmitting information which reasonably can be said*
 76 *to be intended to influence legislation.*

1 2. (New section) Each legislative agent shall make a full
 2 quarterly report as an addendum to the quarterly reports required
 3 under section 5 of the "Legislative Activities Disclosure Act of
 4 1971" (P. L. 1971, c. 183), upon a form prescribed by the Attorney
 5 General, of those moneys, loans, paid personal services or other
 6 things of value contributed to it and those expenditures made, in-
 7 curred or authorized by it for the purpose of direct, express and
 8 intentional communication with legislators or the Governor or his
 9 staff undertaken for the specific purpose of affecting legislation
 10 during the previous quarter. The quarterly report shall include
 11 only that portion of the following expenditures which relate to
 12 direct, express and intentional communication with legislators
 13 for the specific purpose of affecting legislation; media, including
 14 advertising; entertainment; food and beverage; travel and lodging;
 15 honoraria; loans; gifts; salary, fees, allowances or other com-
 16 pensation paid to a legislative agent. The expenditures shall be
 17 reported in the aggregate by category, except that if the ex-
 18 penditures aggregate on behalf of a legislator or the Governor or
 19 his staff exceed \$50.00 per day, they shall be detailed separately
 20 as to the name of the legislator or the Governor or his staff, date
 21 and type of expenditure, amount of expenditure and to whom paid.
 22 Where the expenditure in the aggregate on behalf of any one legis-
 23 lator or the Governor or his staff exceed \$200.00 per year, the
 24 expenditure, together with the name of the legislator or the Gover-
 25 nor or his staff, shall be stated in detail including the type of each
 26 expenditure, amount of expenditure and to whom paid. Where the
 27 expenditures in the aggregate with respect to any specific occasion
 28 are in excess of \$100.00, the report shall include the date and type
 29 of expenditure, amount of expenditure and to whom paid. The
 30 Attorney General may, in his discretion, permit joint reports by
 31 legislative agents. No legislative agent shall be required to file a
 32 quarterly report unless all moneys, loans, paid personal services

33 or other things of value contributed to it for the purpose of direct,
 34 express and intentional communication with legislators or the
 35 Governor or his staff undertaken for the specific purpose of affect-
 36 ing legislation exceeds \$1,000.00 in any one quarter or unless all
 37 expenditures made, incurred or authorized by it for the purpose of
 38 direct, express or intentional communication with legislators or the
 39 Governor or his staff undertaken for the specific purpose of affect-
 40 ing legislation exceeds \$1,000.00 in any quarter.

1 3. This act shall take effect immediately, but the quarterly report
 2 required under section 2 of this amendatory and supplementary act
 3 shall be filed not later than the filing date for the quarterly report
 4 required by section 5 of P .L. 1971, c. 183.

STATEMENT

The purpose of this bill is to consolidate the responsibility for overseeing lobbying activities in the Office of the Attorney General, which traditionally has had the power to invoke certain limited reporting requirements.

The bill expands the Attorney General's existing powers by requiring legislative agents, commonly known as lobbyists, to report each quarter:

1. That portion of income received by a lobbyist to be used for direct lobbying activities.
2. All expenditures made by a lobbyist for direct lobbying activities.
3. A detailed accounting of all expenditures made by a legislative agent on behalf of a legislator or the Governor or his staff which exceed \$50.00 per day, \$200.00 per year or any one legislator, or \$100.00 per occasion.

The bill conforms to the recent New Jersey Supreme Court ruling by establishing a reasonable threshold before reporting requirements are invoked. This has the effect, as mandated by the Court, of exempting small organizations whose income or expenditures for lobbying activities do not exceed \$1,000.00 per quarter.

The existing quarterly report of lobbying activities regarding bills supported or opposed by legislative agents would continue in full force and effect.

A companion bill, Assembly No. 1610 of 1980, removes the responsibility for overseeing lobbying activities from the Election Law Enforcement Commission, whose primary responsibility is to govern campaign contributions and expenditures.

SENATE, No. 1397

STATE OF NEW JERSEY

INTRODUCED JUNE 26, 1980

By Senator BEDELL

Referred to Committee on State Government, Federal and
Interstate Relations and Veteran Affairs

AN ACT to amend "An act concerning the reporting of campaign contributions and expenditures, limiting election campaign expenditures, establishing an Election Law Enforcement Commission and prescribing its powers and duties, making an appropriation therefor, amending R. S. 19:5-5 and repealing R. S. 19:3-8, 19:34-36 and 19:34-37, chapters 40, 41, 42, 43 and 44 of the Title 19 of the Revised Statutes and chapter 152 of the laws of 1946," approved April 24, 1973 (P. L. 1973, c. 83).

1 *BE IT ENACTED by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 2 of P. L. 1973, c. 83 (C. 19:44A-2) is amended to read
2 as follows:

3 2. It is hereby declared to be in the public interest and to be the
4 policy of the State to limit the campaign expenditures by candidates
5 for public office and to require the reporting of all contributions
6 received and expenditures made to aid or promote the nomination,
7 election or defeat of any candidate for public office or to aid or
8 promote the passage or defeat of a public question in any election
9 and to require the reporting of all contributions received and ex-
10 penditures made to provide political information on any candidate
11 for public office, or on any public question~~],~~ or to influence the
12 content, introduction, passage or defeat of legislation~~].~~

1 2. Section 3 of P. L. 1973, c. 83 (C. 19:44A-3) is amended to
2 read as follows:

3 3. As used in this act, unless a different meaning clearly appears
4 from the context:

5 a. The term "allied candidates" means candidates in any election
6 who are (1) seeking nomination or election (A) to an office or offices
7 in the same county or municipal government or school district

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

8 or (B) to the Legislature representing in whole or part the same
9 constituency (C) as members of the State committee of the same
10 political party from the same county or (D) as delegates or
11 alternates to the national convention of the same political party;
12 and who are (2) either (A) nominees of the same political party
13 or (B) publicly declared in any manner, including the seeking or
14 obtaining of any ballot position or common ballot slogan, to be
15 aligned or mutually supportive.

16 b. The term "allied campaign organization" means any political
17 committee, any State, county or municipal committee of a political
18 party or any campaign organization of a candidate which is in
19 support or furtherance of the same candidate or any one or more
20 of the same group of allied candidates or the same public question
21 as any other such committee or organization.

22 c. The term "candidate" means an individual seeking or having
23 sought election to a public office of the State or of a county,
24 municipality or school district at a primary, general, municipal,
25 school or special election; except that the term shall not include
26 the office of county committeeman or committeewoman.

27 d. The terms "contributions" and "expenditures" include all
28 loans and transfers of money or other thing of value to or by any
29 candidate, political committee, committee of a political party or
30 political information organization, and all pledges or other commit-
31 ments or assumptions of liability to make any such transfer; and
32 for purposes of reports required under the provisions of this act
33 shall be deemed to have been made upon the date when such commit-
34 ment is made or liability assumed.

35 e. The term "election" means any election described in section 4
36 of this act.

37 f. The term "paid personal services" means personal, clerical,
38 administrative or professional services of every kind and nature
39 including, without limitation, public relations, research, legal, can-
40 vassing, telephone, speech writing or other such services, per-
41 formed other than on a voluntary basis, the salary, cost or con-
42 sideration for which is paid, borne or provided by someone other
43 than the committee, candidate or organization for whom such ser-
44 vices are rendered. In determining the value, for the purpose of
45 reports required under this act, of contributions made in the form
46 of paid personal services, the person contributing such services
47 shall furnish to the campaign treasurer through whom such con-
48 tribution is made a statement setting forth the actual amount of
49 compensation paid by said contributor to the individuals actually

50 performing said services for the performance thereof. But if any
 51 individual or individuals actually performing such services also
 52 performed for the contributor other services during the same
 53 period, and the manner of payment was such that payment for the
 54 services contributed cannot readily be segregated from contemporaneous
 55 payment for the other services, the contributor shall in his
 56 statement to the campaign treasurer so state and shall either (1)
 57 set forth his best estimate of the dollar amount of payment to each
 58 such individual which is attributable to the contribution of his paid
 59 personal services, and shall certify the substantial accuracy of the
 60 same, or (2) if unable to determine such amount with sufficient
 61 accuracy, set forth the total compensation paid by him to each such
 62 individual for the period of time during which the services contributed
 63 by him were performed. If any candidate is a holder of
 64 public office to whom there is attached or assigned, by virtue of said
 65 office, any aide or aides whose services are of a personal or confidential
 66 nature in assisting him to carry out the duties of said office,
 67 and whose salary or other compensation is paid in whole or part
 68 out of public funds, the services of such aide or aides which are paid
 69 for out of public funds shall be for public purposes only; but they
 70 may contribute their personal services, on a voluntary basis, to
 71 such candidate for election campaign purposes.

72 g. The term "political information organization" means any
 73 two or more persons acting jointly, or any corporation, partnership,
 74 or any other incorporated or unincorporated association,
 75 whether or not it is required to be registered pursuant to the
 76 "Legislative Activities Disclosure Act of 1971" (P. L. 1971, c. 183),
 77 which is organized for the purpose of, or which provides political
 78 information concerning any candidate or candidates for public
 79 office or with respect to any public question, or which seeks to
 80 influence the content, introduction, passage or defeat of legislation.

81 The term shall not apply to any bona fide newspaper, magazine,
 82 radio or television station or other bona fide news medium disseminating
 83 political information, advertising and comment in the
 84 normal course of its business; nor to any recognized school or institution
 85 of higher education, public or private, in conducting,
 86 sponsoring or subsidizing any classes, seminars, forums, discussions
 87 or other events in which political information or discussion
 88 thereof or comment thereon is an integral part.

89 h. The term "political information" means any statement including
 90 but not limited to, press releases, pamphlets, newsletters,
 91 advertisements, flyers, form letters, or radio or television programs

92 or advertisements which reflect the opinion of the members of the
93 organization on any candidate or candidates for public office, on
94 any public question, **or on any legislation,** or which contains facts
95 on any such candidate, or public question **or legislation** whether
96 or not such facts are within the personal knowledge of members of
97 the organization.

98 i. The term "political committee" means any two or more per-
99 sons acting jointly, or any corporation, partnership, or any other
100 incorporated or unincorporated association which is organized to,
101 or does, aid or promote the nomination, election or defeat of any
102 candidate or candidates for public office, or which is organized to,
103 or does, aid or promote the passage or defeat of a public question
104 in any election.

105-106 j. The term "public solicitation" means any activity by or on
107 behalf of any candidate, State, county or municipal party com-
108 mittee, political committee or political information organization
109 whereby either (1) members of the general public are personally
110 solicited for cash contributions not exceeding \$10.00 from each per-
111 son so solicited and contributed on the spot by the person so solie-
112 ited to a person so soliciting or through a receptacle provided for
113 the purpose of depositing contributions, or (2) members of the
114 general public are personally solicited for the purpose of items
115 having some tangible value as merchandise, at a price not exceeding
116 \$10.00 per item, which price is paid on the spot in cash by the
117 person so solicited to the person so soliciting, when the net proceeds
118 of such solicitation are to be used by or on behalf of such candidate,
119 party committee, or political committee or political information
120 organization.

121 k. The term "testimonial affair" means an affair of any kind or
122 nature including, without limitation, cocktail parties, breakfasts,
123 luncheons, dinners, dances, picnics or similar affairs directly or
124 indirectly intended to raise campaign funds in behalf of a person
125 who holds, or who is or was a candidate for nomination or election
126 to a public office in this State, or directly or indirectly intended to
127 raise funds in behalf of any State, county or municipal com-
128 mittee of a political party or in behalf of a political committee, or
129 directly or indirectly intended to raise funds for any political in-
130 formation organization.

131 l. The term "other thing of value" means any item of real or
132 personal property, tangible or intangible, but shall not be deemed
133 to include personal services other than paid personal services.

134 m. The term "qualified candidate" means:

135 (1) Any candidate for election to the office of Governor whose
 136 name appears on the general election ballot and who has deposited
 137 and expended \$40,000.00 pursuant to section 7 of this amendatory
 138 and supplementary act; or

139 (2) Any candidate for election to the office of Governor whose
 140 name does not appear on the general election ballot but who has
 141 deposited and expended \$40,000.00 pursuant to section 7 of this
 142 amendatory and supplementary act.

1 3. Section 4 of P. L. 1973, c. 83 (C. 19:44A-4) is amended to
 2 read as follows:

3 4. The provisions of this act shall apply:

4 a. ~~Whenever an attempt is made to influence the content, intro-~~
 5 ~~duction, passage or defeat of legislation;~~ *(Deleted by amendment)*

6 b. In any primary election for delegates and alternates to the
 7 national conventions of a political party;

8 c. In any election at which a public question is to be voted upon
 9 by the voters of the State or any political subdivision thereof;

10 d. In any primary, general, special, school or municipal election
 11 for any public office of the State or any political subdivision thereof;
 12 provided, however, that this act shall not apply to elections for
 13 county committeeman or committeewoman.

1 4. Section 8 of P. L. 1973, c. 83 (C. 19:44A-8) is amended to read
 2 as follows:

3 8. Each State, county and municipal committee of a political
 4 party, each political committee and each political information or-
 5 ganization shall make a full report, upon a form prescribed by
 6 the Election Law Enforcement Commission of all moneys, loans,
 7 paid personal services, or other things of value contributed to it
 8 and all expenditures made, incurred, or authorized by it in further-
 9 ance of the nomination, election or defeat of any candidate, or in
 10 aid of the passage or defeat of any public question, or to provide
 11 political information on any candidate or public question ~~for to~~
 12 ~~seek to influence the content, introduction, passage or defeat of~~
 13 ~~any legislation~~, during the period ending with the day preceding
 14 the date of the report and beginning on the date of the most recent
 15 such report filed. The report, except as hereinafter provided,
 16 shall contain the name and address of each person or group from
 17 whom moneys, loans, paid personal services or other things of value
 18 have been contributed and the amount contributed by each person
 19 or group. The report shall also contain the name and address of
 20 each person, firm or organization to whom expenditures have been
 21 paid and the amount and purpose of each such expenditure. The

22 report shall be filed with the Election Law Enforcement Commis-
23 sion on the dates designated in section 16 hereof[; provided, how-
24 ever, that any political information organization which solely seeks
25 to influence the content, introduction, passage or defeat of legisla-
26 tion shall report only on the date designated in this section]. The
27 campaign treasurer of the committee or political committee report-
28 ing or the treasurer of the political information organization re-
29 porting shall certify to the correctness of each report.

30 Each State, county and municipal committee of a political party
31 and each political information organization shall also file with the
32 Election Law Enforcement Commission, not later than March 1
33 of each year, an annual report of all moneys, loans, paid personal
34 services or other things of value contributed to it during the pre-
35 vious calendar year and all expenditures made, incurred, or au-
36 thorized by it, whether or not such expenditures were made, in-
37 curred or authorized in furtherance of the election or defeat of any
38 candidate, or in aid of the passage or defeat of any public question
39 or to provide information on any candidate or public question [or to
40 seek to influence the content, introduction, passage or defeat of any
41 legislation]. The report shall contain the name and address of
42 each person or group from whom moneys, loans, paid personal
43 services or other things of value have been contributed and the
44 amount contributed by each person or group. The report shall also
45 contain the name and address of each person, firm or organization
46 to whom expenditures have been paid and the amount and purpose
47 of each such expenditure. The treasurer of the committee or or-
48 ganization reporting shall certify to the correctness of each report.

49 In any report filed pursuant to the provisions of this section the
50 organization or committee reporting may exclude from the report
51 the names and addresses of contributors whose contributions dur-
52 ing the period covered by the report did not exceed \$100.00; pro-
53 vided, however, that (1) such exclusion is unlawful if any person
54 responsible for the preparation or filing of the report knew that
55 it was made with respect to any person whose contributions
56 relating to the same election or issue and made to the reporting
57 organization or committee or to an allied campaign organization
58 or organizations aggregate, in combination with the contribution in
59 respect of which such exclusion is made, more than \$100.00 and
60 (2) Any person who knowingly prepares, assists in preparing,
61 files or acquiesces in the filing of any report from which the identifi-
62 cation of a contributor has been excluded contrary to the provisions
63 of this section is subject to the provisions of section 21 of this act,

64 but (3) nothing in this proviso shall be construed as requiring any
 65 committee or organization reporting pursuant to this act to report
 66 the amounts, dates or other circumstantial data regarding contri-
 67 butions made to any other organization or political committee,
 68 committee of a political party or campaign organization of a candi-
 69 date.

70 Any report filed pursuant to the provisions of this section shall
 71 include an itemized accounting of all receipts and expenditures
 72 relative to any testimonial affairs held since the date of the most
 73 recent report filed, which accounting shall include the names and
 74 addresses of each contributor in excess of \$100.00 to such testi-
 75 monial affair and the amount contributed by each, the expenses
 76 incurred, and the disposition of the proceeds of such testimonial
 77 affair.

78 No State, county or municipal committee of a political party nor
 79 any political committee nor any political information organization
 80 shall be required to file reports pursuant to this section of con-
 81 tributions received or expenditures made in behalf of any candidate
 82 who is not required to file reports pursuant to section 16 of this act.

1 5. Section 13 of P. L. 1973, c. 83 (C. 19:44A-13) is amended to
 2 read as follows:

3 13. Each political information organization shall, on or before
 4 January 31 in each year, designate a treasurer and a depository
 5 and shall file the name and address thereof with the Election Law
 6 Enforcement Commission.

7 Every political information organization shall, before receiving
 8 any contribution or expending any money to provide any political
 9 information on any candidate, or public question [or to seek to in-
 10 fluence the content, introduction, passage or defeat of legislation],
 11 appoint one treasurer and designate one depository and file the
 12 name and address thereof with the Election Law Enforcement
 13 Commission. The treasurer of a political information organization
 14 may appoint deputy treasurers as may be required and may desig-
 15 nate additional depositories. Such organizations shall file the names
 16 and addresses of such deputy treasurers and additional depositories
 17 with the Election Law Enforcement Commission.

18 Any political information organization may remove its treasurer
 19 or deputy treasurer. In the case of the death, resignation or re-
 20 moval of its treasurer, the organization shall appoint a successor
 21 within 10 days and shall file his name and address with the Elec-
 22 tion Law Enforcement Commission within 3 days.

1 6. Section 14 of P. L. 1973, c. 83 (C. 19:44A-14) is amended to
2 read as follows:

3 14. No contribution of money or other thing of value, nor obli-
4 gation therefor, including but not limited to contributions, loans
5 or obligations shall be made to or received by a political informa-
6 tion organization, and no expenditure of money or other thing of
7 value, nor obligation therefor, including expenditures, loans or
8 obligations shall be made or incurred, directly or indirectly, by a
8A political information organization to provide information on any
8B candidate or public question [or to seek to influence the content,
9 introduction, passage, or defeat of legislation] except through the
10 duly appointed treasurer or deputy treasurer of the political in-
11 formation organization.

12 It shall be lawful, however, for any person, not acting in concert
13 with any other person or group, to expend personally from his
14 own funds a sum which is not to be repaid to him for any purpose
15 not prohibited by law, or to contribute his own personal services
16 and personal traveling expenses, to provide political information
17 on any candidate or public question [or to seek to influence the
18 content, introduction, passage or defeat of legislation]; provided,
19 however, that the person making such expenditure shall be required
20 to report all such expenditures and expenses except personal
21 traveling expenses if the total of the money so expended, exclusive
22 of such travel expenses, exceeds \$100.00, either:

23 a. To the treasurer of the political information organization on
24 whose behalf such expenditure or contribution was made, or to
25 his deputy, who shall cause the same to be included in his report
26 to the Election Law Enforcement Commission; or

27 b. Directly to the Election Law Enforcement Commission at
28 the same time and in the same manner as a political information
29 organization subject to the provisions of section 8 of this act.

30 Any anonymous contribution received by a treasurer or deputy
31 treasurer of a political information organization shall not be used
32 or expended, but shall be returned to the donor, if his identity is
33 known, and if no donor is found, the contribution shall escheat to
34 the State.

1 7. This act shall take effect immediately.

STATEMENT

This bill would return the responsibility for overseeing lobbying activities to the Office of the Attorney General by removing references to such activities from the purview of the Election Law Enforcement Commission.

The law creating the commission deals primarily with reporting campaign contributions and limiting election campaign expenditures. Its current oversight powers over lobbying activities are inconsistent with election law oversight and are more appropriate for the Attorney General. A companion bill, Assembly No. 1611 of 1980, would provide the Attorney General with these powers.

SENATOR WYNONA M. LIPMAN (Chairman): Good afternoon, everyone. I would like to convene this public hearing of the Senate State Government Committee. This hearing is concerned with two bills, Senate Bill 1396 and Senate Bill 1397, sponsored by Senator Eugene Bedell. Both bills deal with the financial reporting by lobbyists.

Anyone who wishes to testify at this hearing and who has not registered to speak, the Committee Aide is present and you may give your name to him.

Senate Bill 1396 amends and supplements the Legislative Activities Disclosure Act of 1971. It requires that legislative agents report certain contributions and expenditures to the Attorney General.

Senate Bill 1397 removes the responsibility for oversight of the lobbying activities from the Election Law Enforcement Commission where it is presently located.

As you know, the Election Law Enforcement Commission has adopted new rules concerning lobbying disclosure. These rules have been effective since July 30, 1980. Two Assembly Bills identical to those sponsored by Senator Bedell are also in this State Government Committee. However, the sponsor has not requested these bills for committee consideration and so we are not considering them today.

I now call the first witness on Senate Bills 1396 and 1397, Senator Eugene Bedell.

SENATOR EUGENE J. BEDELL: Thank you, Madam Chairman. I want to thank the Committee at this time for taking the time out in this brief recess of our legislative session to consider these bills. I am fully aware of the obligations under which this Committee labors, having been privileged to be chairman for some two years not too long ago.

SENATOR LIPMAN: I am glad that you know.

SENATOR BEDELL: I am not going to get into the specifics of the legislation before you. I think you have a number of people here to testify after me who will delve rather deeply into the subject matter. But I would like to say the origin of the bills comes from some of my more deep convictions in our democratic process. I resent the connotation that goes with the word "lobbyist" almost as much as I resent the connotation of the word "politician" in some quarters. I think both are unfair to the respective people whom they address. A lobbyist is a representative of a private or public interest group and, in a free society, those groups should have direct access to their government. They should have an opportunity to have their feelings and their views aired. From my experience in the nine years I have been down here in the Legislature, I know of no instance where any lobbyist or group of lobbyists in concert with legislators have been accused of any major wrongdoing or any conduct that was anything other than honorable. I think there is nothing more refreshing to the legislative process than to have lobbyists who know their subject matter provide to us research papers, criteria, and documentation, which help us make a better decision on legislation before us. There is nothing more refreshing than to have two accomplished lobbyists arguing opposite points of view before a reference committee. That is the way it should be. That is the way legislation is enacted.

All of us realize the tremendous reference span which our committees must address encompasses subject areas far beyond our abilities to be experts in all of these fields. We are told when we come down here, if you have expertise in one or two fields, stick with it and ride with the person next to you who has

expertise in other fields in making your deliberations. So we don't know - any of us - no matter how intelligent we may be --- know everything about every topic under the sun. We must depend upon the people who come before us, knowledgeable people, to scrutinize the legislation and to document either their support or their opposition.

The bills before you, ladies and gentlemen, are restrictive in nature and they are specific in nature. We haven't done an analysis of all of the legislation and the statutes in our fifty states. But our sampling, which for the most part was industrial, populous states, indicates that these bills before you are stronger, tougher, and more stringent than in any of the other states. It is a tougher piece of legislation for the conduct of lobbying than exists in the federal government at the present time.

I was motivated in introducing this legislation by the fact that the rules and regulations promulgated by the Election Law Enforcement Commission to me are far too restrictive for us to conduct government as we have known it in the past. We would be effectively denying ourselves one of the greatest assets, one of the greatest fountains of information we have at our disposal, because it would hamper the activities of lobbyists to such an extent that their role would be reduced to being meaningless.

So I think that while this bill may be a compromise or a more relaxed approach to lobbying activities in the State of New Jersey than has been promulgated in the rules and regulations, it nevertheless represents something stronger than we have ever had before and one of the strongest bills for the conduct of lobbying in the United States.

With that - and I know you have other people who want to testify - that is the premise and the origin of the legislation and I would yield the floor now to your other witnesses who wish to testify on the specifics of the bill.

SENATOR LIPMAN: Just a moment, Senator Bedell. Are there any questions by members of the Committee? (No questions.)

Thank you very much.

Mr. Lewis Thurston, Executive Director of the Election Law Enforcement Commission.

LEWIS B. THURSTON, III: Thank you, Senator Lipman and members of the Committee.

First of all, I would like to commend the Committee on its holding of this public hearing. We think this is a good thing. We think these bills are significant and we thank you for the opportunity to appear before you today.

I would like to say at the outset that the Election Law Enforcement Commission represents the legitimate and important function of lobbying in New Jersey's legislative process. I think I can speak from extensive personal experience that this is the case.

After a 7-year court battle, the New Jersey Supreme Court in February of 1980 upheld the constitutionality of that provision of the Campaign Contributions and Expenditures Reporting Act which requires those engaged in lobbying activity to file annual financial reports with the Commission. The Court directed - and I stress "directed" - the Commission to adopt implementing regulations within 90 days of that decision. The Commission then held a series of meetings and discussions with various people involved, adopted proposed regulations, held a public hearing at which 14 witnesses appeared and gave testimony and received written testimony

and comments from approximately 35 persons representing major economic and other entities during this period. I might add, in reference to the point that Senator Bedell made with regard to how onerous these regulations are, that representatives of the State of California and the State of Minnesota testified at that public hearing and indicated that they believed that these were moderate regulations and that those in California and some other states were quite a bit more onerous than the ones that we were proposing.

To ensure a thorough evaluation and review of the comments that we received, the Commission requested and obtained an additional 90-day period from the New Jersey Supreme Court to complete its work on these regulations. On August 6, 1980, the Commission adopted the implementing regulations and so informed the Court. The first reports to be filed under the statutory provisions will be March 1, 1981, covering the calendar year 1980.

When the Commission issued its proposed modified regulations in May of this year, it recommended that the Legislature review the present provisions of this Act which require annual financial disclosure by lobbyists and at the same time review the 1971 lobbyist registration and activities reporting statute now administered by the Attorney General's Office, and from that review effect an improved, comprehensive statutory basis for lobbyist registration, activities reporting and financial disclosure. So, we are pleased that this public hearing is what we would consider to be part of that review. The Commission suggested that such a review include, among other things, questions as to the scope of the legislation, the appropriate agency to administer and enforce such a statutory scheme, the requirements for a bank account and treasurer for lobbying entities, and the frequency and substance of the reports. The Commission also recommended specific elements that such a revised statutory plan should encompass. I have attached to my statement today a copy of our statement in May, which spells that out. (See page 1X for the May statement.)

Thus, while we have confidence that the present statutes and the Commission regulations provide a constitutional and workable basis for lobbyist financial disclosure, we recognize that an improved statutory basis is desirable.

These bills, Senate 1396 and 1397, and similar Assembly bills, differ from the present statutory provisions as to what information would be reported, which government agency would be responsible for administration and enforcement, and the nature of the penalty provisions for violations.

The Commission believes that the lobbying financial reporting scheme contained in these bills can and should be improved. The major areas of the legislation which we believe should be remedied by amendment are the following:

First, we believe that the cost of much of what is commonly understood to be lobbying activity would not be disclosed under these bills. Let me give some examples:

First, the overhead cost of maintaining lobbyist offices, such as rent, utilities and other fixed costs, are not specifically required to be disclosed.

Secondly, "grass roots" organizational and other indirect lobbying efforts are not specified to be reported.

Third, lobbyists could spend unlimited amounts in entertaining legislators if they did not in the process "transmit information which reasonably can be said to be intended to influence legislation." Obviously, this kind of entertainment can be a very effective means of building a relationship which would be extremely helpful in the lobbying effort. Additionally, personal benefit can accrue to a legislator

from such entertainment. I am not indicating that there is anything improper in those kinds of relationships at this time; I am simply indicating that it is an area that you may wish to consider for disclosure and which the Commission considered for disclosure in its regulations.

Fourth, lobbyist expenditures relative to legislative staff are not specified to be reported, while those involving the gubernatorial staff are.

Fifth would be that the Legislature might explore whether it is desirable to include lobbying activity relative to cabinet officers or administrative agencies, including lobbying directed at rules and regulations, in what is required to be reported. If we are going to have a comprehensive statute, you might look at that. We are not suggesting that that be the case at this point, but that that area be looked at.

Sixth, there may be some question as to the definition of what has to be reported. The bill talks about communications intending to influence legislation; whereas, the present statutory provisions of the Campaign Contributions Act talks about seeking to influence the content, introduction, passage or defeat of legislation. This may be somewhat of a fine distinction, but it may be that efforts to put together legislation before a bill is actually typed up and dropped in the hopper might not be covered by this piece of legislation.

Now, the second major area that we have concern about is that significant lobbyist expenditures which benefit legislators personally would not have to be reported. Under the bill, a lobbyist could spend up to \$50 a day, or \$200 a year, in gifts, meals, lodging or entertainment on a legislator and none of these expenditures would be itemized. We recognize that some threshold amount for such disclosures is important and appropriate. But we suggest figures of \$25 per day, or \$100 per year, as are contained in the Commission regulations. For example, under the bill a lobbyist could buy a legislator a \$20 lunch or dinner 10 times in a year and such expenditures would not be disclosed in any itemized fashion.

The third area of concern is that the overall threshold of expenditures and contributions which must be met each quarter before a report would have to be filed may be inappropriate. The bill requires the contribution to or expenditure by a legislative agent of in excess of \$1,000 per quarter before a report would be required. Now, because the reporting is done by the individual legislative agent, it is conceivable that lobbying organizations with more than one legislative agent could spend multiples of \$1,000 for each legislative agent employed before any reporting by the organization or these agents would be required. It is not uncommon, as you know, for some major organizations to have a number of legislative agents. So, we are suggesting that perhaps a better threshold criterion would be an amount applied to the organization, or an amount applied to the organization or the legislative agent.

The fourth area of concern involves enforcement. We feel that effective enforcement would be difficult because administrative remedies and civil penalties are not provided. While criminal penalties are appropriate for very serious violations, effective day-to-day enforcement of statutes such as this really requires administrative remedies and civil penalties for non-wilful, negligent violations. Without the ability to conduct administrative hearings, find negligent violations and impose fines for violations such as non-reporting or late reporting, effective enforcement is very difficult.

We believe that amendments to these bills should be adopted, therefore. The basis for reporting and the enforcement authority changes suggested, we believe

are applicable, regardless of whether it is your and the Legislature's determination that the administering agency is the Election Law Enforcement Commission, the Attorney General's Office or some other agency.

The Commission believes that it is in the public interest that significant expenditures by lobbyists and the sources of funds for such expenditures be disclosed on a regular basis. If you believe that the present statutory provisions need modification, we respectfully request that the bills under consideration be modified to reflect the considerations set forth herein.

If the Legislature wants disclosure of lobbyists' financial activities, we believe such disclosure should be comprehensive. If it is not, the disclosure can be misleading and ineffective.

Thank you very much for your consideration. I will be happy to answer any questions.

SENATOR LIPMAN: Are there any questions?

SENATOR HIRKALA: Lew, I just want to ask whether you at any time or the Commission has transmitted your suggestions to the prime sponsor of the bill, Senator Bedell?

MR. THURSTON: I spoke briefly to Senator Bedell before the hearing and orally transmitted the substance of these remarks the other day and also gave him a copy of the remarks prior to coming here. But we have not had a chance to thoroughly go through it.

SENATOR HIRKALA: Thank you.

SENATOR LIPMAN: Thank you, Mr. Thurston.

At this point, I would like to invite Senator Eugene Bedell to come and sit with us.

Now, I would like to call Mr. Lewis Applegate from the New Jersey State Chamber of Commerce.

L E W I S R. A P P L E G A T E: Thank you, Senator Lipman and fellow Sentors.

Joining me is my associate, Jim Morford. I am sure you recognize him. He is here because he spoke with your Committee on this bill at the point you initially released it.

I do not have a prepared statement, partially because I am a poor reader, but actually because it is very difficult to address this topic from the standpoint of my experience. As some of you know, I have been lobbying here for thirty years, representing both labor, at least the NJEA, which is sometimes classified as labor, and for the past eight years, representing the State Chamber of Commerce.

I think it would be helpful if we would look into the history of how lobbyists are regulated. The first Act that I could find was initiated in 1964 by the Legislature and that is Chapter 52:13C. That was amended significantly in 1971, being Public Law, Chapter 183. I would urge anyone before they look at this total lobbying picture to review that particular statute. There is a great deal of authority already granted to the Attorney General to govern, shall I say, disreputable lobbyists. The section has definitions in it, it has procedures, it has subpoena power and things of that sort - plenty of power to investigate, impound funds and other penalty sections. They also put out a simplified booklet, "Requirements for Registering and Reporting," which advises and informs lobbyists, new lobbyists particularly, as to what the regulations are. That, in a sense, is what we have been under for some time. I will tie these into the bills in question in a couple of minutes.

Let's then look for a few minutes at the history of the Election Law Enforcement Commission statute, again to me and to some of you part of this will be living history because you were here in the Senate at the time that law was established. As you will recall, that bill was introduced by Senator Schluter and seventeen other Senators and was entitled, the New Jersey Campaign Contributions and Expenditures Reporting Act. I fail to find even to this day any reference to lobbyists in that particular statute, in the title at least. Incidentally, Senator Lipman and Senator Hirkala, you were co-sponsors of that legislation, as you know, but you had some illustrious company. Senator Merlino was a co-sponsor, as also was Senator Bateman.

That legislation was to require reporting of election campaign contributions and expenditures and establish an Election Law Enforcement Commission. The final Index of the year 1973, I think, still listed it by that title. The history of that bill is rather remarkable. It was introduced July 17th, without reference and put on second reading. The bill number was S 1124. A prior bill though was introduced in February of that year and that was S 615, also by Senator Schluter. It was referred to the Judiciary Committee and absolutely no action that I could find was taken. However, the bill did become Chapter 19:44A - Chapter 83 actually - of Public Laws 1973 on April 24, 1973. It was amended several times in its course through the Legislature by the Senate and by the Assembly, back and forth. It was a very controversial piece of legislation, as I am sure you will agree.

At a late date in this process - at a very, very late date - the Assembly Judiciary Committee Chairman, Assemblyman Bill Dickey, added a slight phrase to this bill and it was designed to require lobbyists to also report their financial backing and expenditures.

To see how simple this was, if you would just look at S 1397, you will see deleted on page 1 - and, of course, we are trying to correct this addition which occurred back in 1973 --- you will see that in the second section, we are eliminating, "or to influence the content, introduction, passage or defeat of legislation." That was what was added at the very last minute back in '73. You can go right through the bill, in which on page 3, for instance, toward the bottom of the page - you see the brackets - we are deleting that which was added, "or which seeks to influence the content, introduction, passage or defeat of legislation."

Let's travel a little bit further. Up at the top of page 4, you see, "or on any legislation." Further on, they have "or public question," which was part of that law and they added "or legislation." As someone who has had some experience with drafting bills, this was one of the easiest things to accomplish in a very complex bill. You can see it illustrated here. On page 5, they added, "Whenever an attempt is made to influence the content, introduction, passage or defeat of legislation." They had to insert a full sentence in that one, you might notice. Then at the bottom of the page - "or to seek to influence the content, introduction, passage or defeat any legislation, . . ." I don't think we have to repeat them because you will see the rest of these phrases through there.

So, you see at this point, historically, at least, and emotionally, certainly, the ELEC law ran into a conflict as far as someone being in the position of a lobbyist was concerned. Naturally, the State Chamber of Commerce, whom I represent, felt this was grossly unfair. Here was a bill designed for a worthy objective - and I say that with a certain amount of trepidation - the reporting of expenditures for people running for public office. Now, if the Legislature at that time wanted us to make

that kind of reporting, they should have put through a separate bill and, we believe, included it in the existing statute which I previously referred to. So the Chamber took the legislation to court. It is one thing to have a candidate report in detail where he is getting his money. It is another thing to require the general public to report where their money is coming from if all they are going to do is petition you to vote one way or another. I think that was the premise really of our court case. As you probably all know, we were upheld in the first court. Incidentally, the first court had a judge, Judge Kmmelman, who initially as an Assemblyman was the Chairman of the Commission that recommended the ELEC. It is quite an interesting legislative story. Then the opponents to our position appealed that decision and they won. Then we appealed to the Supreme Court and the Supreme Court issued a ruling just back on February 6, 1980.

I would like to refer you to just one section of that report. I presume you don't have it in front of you. But it will be in your minutes now that I am mentioning it. The court goes into quite a bit of discussion on the breadth of the statute, as to how broad you can make it without impinging upon an individual's right to petition a government. At the top of page 33, they have this quote: "The phraseology 'to influence legislation' is that which has commended itself to other courts dealing with the same constitutional dilemma." They cite the court cases. They said, "Accordingly, we conclude that the meaning to be ascribed to this terminology is activity which consists of direct, expressed and intentional communications with legislators undertaken on a substantial basis by individuals acting jointly for the specific purpose of seeking to affect the introduction, passage or defeat of, or to affect the content of legislative proposals." They have repeated that several times. That was the court's finding. One of the reasons for revising the regulations, as far as ELEC is concerned, was to try to conform with that particular aspect of the court's decision.

In drafting the bill - that is S 1396 - you will see that the sponsor has tried to follow that mandate of the court. On page 3, you will find at line 71 - I am talking now of the other bill, not the one to take us out of ELEC and put the financial reporting of lobbyists under the Attorney General --- I am referring to 1396, Senator Bedell's bill, on page 3. You will find there under (i), line 71: "The phrase 'direct, express and intentional communication with legislators undertaken for the specific purpose of affecting legislation' means any communication initiated by a legislative agent to the Legislature or the Governor or his staff having the effect of transmitting information which reasonably can be said to be intended to influence legislation."

So, I would say on behalf of this legislation that the attempt is strongly made here to follow some direction given by the court.

The Chamber's position on financial reporting of lobbyists has been quite consistent. We believe, yes, the public and you, particularly, are entitled to know what is being spent. But we think the proper channel is through those of us that are registered agents, some 400 now. You will hear objections, I am sure, that this is not broad enough. Yet this same statute that governs our registration as legislative agents also requires that anyone who works 20 hours a year and receives compensation for doing that shall register. So, I would suggest if the criticism is that this is not covering enough people, probably then there are people who should be registered who aren't. Therefore, I would use as the first criterion whether or not there is significant legislative activity taking place. And the Chamber's position is quite clear on that.

There is a whole new section of changes and I am not going to go through those, but they bear primarily on the expenditure amount. I think the statement on 1396 delineates those quite clearly. There may be some question as to whether they are high enough or low enough. But I think, in general, they are quite fair. Very frankly, as a State Chamber lobbyist, I can recall no occasion when I spent more than \$50 a day on a member of the Legislature.

I would like to take a moment to explain my surprise when I came with the State Chamber after working for, I prefer to say, at that time at least, the State's strongest lobby group, the NJEA. We had great difficulty raising funds. At the NJEA, they had then established a political action committee. I came with the Chamber and I started to get invitations to dinners. I called up my boss and I said, "Where do I get the money?" He said, "What are you talking about? We have no such funds." Really, much of the talk about money being thrown around is just talk.

So we have in this legislation conditions that we think can fit into the existing Act and have all of the lobbying activity which is significant lobbying activity regulated, and also have the financial disclosure requirements there.

I think that is about what I would like to say. I can conclude probably by saying that I have been lobbying for 30 years here. I have seen a great, great many changes take place. There was a day when we didn't even know where the committees were meeting, let alone getting into them. Since then, there has been a great deal of progress and it has been helpful, I know, to the Legislature, to lobbyists and to the people. I think that this type of legislation will certainly be in that direction. I would urge you to once again favorably release these two bills, S 1396 and S 1397. Thank you.

SENATOR LIPMAN: Thank you very much, Mr. Applegate.

Are there any questions?

SENATOR DI FRANCESCO: Mr. Thurston raised the question of \$1,000 limit for individual legislative agents, \$1,000 a quarter, I think.

MR. APPELGATE: Yes. What is the question?

SENATOR DI FRANCESCO: That appears to be correct when he said that if you had 35 legislative agents for the Chamber ----

MR. APPELGATE: No. I think that can be corrected very easily. In the case of the Chamber, we register under one number. In other words, Mr. Morford's number is the same as mine. We file one claim. It is true that you could circumvent it, I would think, the way it is written, if you wanted to do that. But I think a simple amendment to the bill could take care of that.

SENATOR DI FRANCESCO: Thank you very much.

SENATOR LIPMAN: Mr. Edmund Lawlor. I understand that Mr. Chip Stapleton will be speaking in place of Mr. Lawlor.

C H I P S T A P L E T O N: I am Chip Stapleton with the New Jersey Savings League.

Mr. Lawlor, the President of the New Jersey Savings League, was unable to be here today at the last minute and he asked me to speak for him.

A lot has been said about these bills. I am glad that Lew Applegate gave what I regard as a very good history of how this legislation came about. I believe the Senators on the Committee, however, are really aware of the confusing way in which these regulations came about.

I do want to say, at the outset, that the New Jersey Savings League has

to commend the Election Law Enforcement Commission for doing such a great job with what they had to work with, and especially the Executive Director. It was a very difficult problem they faced, having a law to enforce such as the one that was put on the books in 1973.

I think that Lew Applegate pointed out quite clearly that the court recognized earlier this year that there should be a substantial difference between the kind of amorphous public relations activities of companies and groups and lobbying activities. It is certainly my belief that the bills before this committee recognize the importance differences.

It occurs to me that what the Legislature can do is to get at what lobbying is and get at who influences whom. Let's get at what amounts of money are spent. Let's have these things reported. But to really go on a fishing expedition of what all groups do in all these other areas where they might bump into a legislator and have to make a meticulous report on such an occurrence probably is not what the court recognized as being lobbying.

The bills recognize, as Lew pointed out, the existing law, which currently controls registration of all lobbying and requires quarterly reports on the bills right now that each lobbyist is supporting, opposing or seeking to amend. The reports generated as a result of Senator Bedell's bill, it should be noted, would be issued four times a year and in my opinion will accurately depict the extent of lobbying activities by those who engage in those activities. But the reports will not require the massive and quite often unrelated disclosure activities which are not undertaken to directly influence the passage or defeat of legislation. Individuals, corporations and trade associations which lobby for their points of view will not under these bills have to undertake the task of assessing the cost of clerical staff, photocopying, telephone and travel, which are not directly related to lobbying. Of course, such expenses which are so directly related will be included in the calculation of the threshold and listed in the aggregate by categories in the quarterly report.

Perhaps an example would point out how effectively and fairly these bills would address the right of the public to be aware of the extent of any lobbyist influence. Let's envision a trade association lobbyist whose annual salary is \$25,000 a year. To determine whether that lobbyist must report, he or she would calculate the time spent lobbying and arrive at a proportion of total working hours. The percentage would then be multiplied by his or her total salary for the quarter and the resulting figure would be used to calculate whether the \$1,000 quarterly threshold has been reached. So, if this lobbyist spent 50 percent of his or her time lobbying and the total salary for the quarter was \$6,250, which is one-fourth of \$25,000, then \$3,125 would be attributable to the threshold calculation; thus, he or she would exceed the threshold and would have to file a quarterly report. Now, you can envision in your own mind exactly who would have to report under this legislation. I would say virtually everybody. That may remain to be seen, but that is certainly what I believe.

The lobbyist isn't through yet though because then he or she would determine the portion of the association's or his expenses related to direct lobbying, such as media advertising, entertainment, food and beverage, travelling and lodging and the like, and list all those expenditures in the aggregate by category. So they would be added to the already \$3,000 to come up with a total of what that lobbyist spent during the quarter.

In the event that the lobbyist spent more than \$50 a day on behalf of a

legislator, or more than \$200 a year, or more than \$100 on any specific occasion, such as a convention, a seminar or meeting, those expenditures would have to be reported separately and they would include the date and type of expenditure and to whom paid. Inflation, alone, I think would obviate the \$25 thing. I only say that because of what has been going on at Lorenzo's where lately it is hard to even get out of there for less than an awful lot more money than the \$25 threshold. But, nevertheless, we feel the \$50 figure is probably pretty fair.

So, it is our belief that a full, fair and honest report of income expenditures related to direct lobbying will give the public and the Legislature all the facts it needs to be informed about the extent of lobbying influence on government officials without misleading the public with an inflated version of numbers which include this amorphous public relations activity. The system envisioned by Senator Bedell's bill will give the press, the public and the Legislature the following information in my judgment: It will tell us which groups are contract lobbyists; launch the greatest overall effort on lobbying, in terms of money spent on staff and related expenses - we will know that, we don't know it now, but we will know it; which bills these groups or contract lobbyists support, oppose or seek to amend. That information is available now, but it has never been available in the context of how much money is being spent by the group which is supporting or opposing these bills. We will also learn in these quarterly reports which groups the contract lobbyists represent. This information also is available now, but, once again, not in the context of how much money is spent on lobbying. The only ingredient that the public will have to add, undoubtedly by means of the press, is which bills pass and which bills don't pass.

I believe the system will give the entire picture of lobbying influence in Trenton. And I hope that given a responsible press, which I certainly believe we enjoy in Trenton, the full story of the important educational and informational function accomplished by the lobbyist will be told at the same time.

Therefore, the Savings League, Madam Chairman, would respectfully request that these bills be favorably released for a floor vote for the entire Senate. Thank you for allowing me to appear - I certainly appreciate it - on behalf of Mr. Lawlor.

If there are any questions I can answer for the Committee, I would be happy to do so.

SENATOR LIPMAN: Are there any questions? (No questions.)

Thank you.

Mr. Shimberg, Chairman of New Jersey Common Cause.

B E N S H I M B E R G: Thank you, Madam Chairman and members of the Committee. It is a pleasure to be here again and I would like to take this opportunity to commend the Legislature for the enormous strides that New Jersey has made in furthering open and accountable government. Citizens of a democracy have a right to know how their government works and how government decisions are influenced by organizations heavily involved in the legislative process.

In New Jersey today, key aspects of the legislative process are open to public scrutiny. Hearings are open and legislation is discussed and amended in public sessions. Transcripts of public hearings and votes of committee meetings are available to the public. Important information about campaign finances is available and, thanks to the recently enacted legislative ethics bill, information about sources of income of legislators is also a matter of record. Such legislation

is all part of a larger effort to help the public better understand how the interest of outside groups or the legislator's self interest might influence governmental decisions.

Lobby disclosure legislation is a further effort to help the public and the Legislature, itself, become more aware of the organized efforts underway to influence legislation or executive action. And quite apart from the fact that the lobby disclosure requirements may have been tacked on to a bill dealing with election law campaign contributions, the fact remains that it was a legislative decision to make a lobby disclosure part of the law of this State. We have it and, speaking for Common Cause, we are delighted that we have it. We are sorry it has taken so long to get it implemented.

Now, it comes as no surprise to this Committee that Common Cause is vitally interested in this matter of lobby disclosure. As far as I can tell from our own history, we did work for the inclusion of the lobby disclosure requirement in the Election Campaign Contribution and Expenditures Act of 1973. And that is not unusual to have amendments added to germane bills, even though they may be slightly off the track. We have participated in litigation in which the Chamber of Commerce challenged the constitutionality of that legislation and we have appeared before the ELEC during its recent hearings on the development of rules to implement the lobby disclosure provisions of the 1973 law. I would like to make it clear that we are not opposed to lobbying, per se. I fully share Senator Bedell's observations that lobbyists play a very, very constructive role in our society. It is a legitimate activity under the First Amendment and we believe that lobbyists often make useful contributions to the legislative process. My own observation is that lobbyists are not only extremely well informed people, they do have integrity and they destroy their usefulness the minute they give a legislator wrong information. They simply cannot afford to mislead a legislator. They simply would be thrown out the next time they showed their face.

That is what we are talking about. We are not attacking lobbyists. We are supporting lobbying as a legitimate activity. But we believe that the public has a right to know which organizations are lobbying for what legislation, on whose behalf registered lobbyists are working, which members of the Executive or Legislative Branches they seek to influence, and how much they are spending to achieve their objectives.

New Jersey historically has had a weak lobby registration law. Lobbyists simply have been required to register and that has been about it. I don't know of any litigation or enforcement activity. I was pleased to hear Mr. Applegate say that we had a very, very good law on the books since 1962 or thereabouts. I never heard of it. If the Attorney General is supposed to be enforcing it, I wonder if any of you have seen any evidence of enforcement.

We felt that the lobby disclosure provisions in the '73 Campaign Contributions and Expenditures Act were a major step forward. Even though they represent only a few words in that bill, they represented a major step forward.

We also agree with the ELEC's policy statement that the 1973 law is not perfect because it was tacked on without clear legislative intent to support it. It is ambiguous and, therefore, almost everything that derives from that bill has had to come in the form of rules and regulations.

So, we agree with the Commission that it is a less than perfect vehicle and we share the Commission's recommendation in urging the Legislature to consider a comprehensive lobby disclosure law that will address the major

shortcomings in the present law that Mr. Thurston has enumerated. I think those are matters that are well worthy of your consideration. However, enactment of S 1396 and S 1397 will not accomplish the purpose of correcting the technical defects in the present legislation. In our view, it would be a step backward and that is why we urge that these bills not be released.

Until such time as the studies are made and improved comprehensive legislation is enacted, we would urge this Committee to stand by the 1973 lobby disclosure requirements and the regulations that were recently adopted by ELEC pursuant to the court order. The provisions of that law have been declared constitutional. After six months of hearings, regulations are finally in place. We believe that the present law and the recently adopted ELEC regulations should be given an opportunity to operate. We believe that it would be unwise to make changes hastily at this time even before the law has had a chance to go into effect. I understand that ELEC has not proceeded to implement its regulations until it gets a clear direction from this Committee whether or not its function is going to be transferred to another agency. So, I think it is incumbent upon you, ladies and gentlemen, in my opinion, that you give the rules and regulations a chance to operate to see if they work.

It seems to us that all concerned should have an opportunity to live with this law and with the ELEC regulations for a year or two. After we have had some experience with the law, not conjecture about its dire effects, there should be a full and open hearing so that lobbyists and public interest groups and legislators and everybody can come in and tell you what is good and what is bad and what ought to be changed. But simply scrapping this whole thing and taking another law, which again will have to have new rules and regulations administered by another agency, I don't know would give us anything better than what is now in place.

As I said, while we have some reservations about the 1973 law and the ELEC regulations, we feel that on balance that law is preferable to S 1396, which purports to accomplish essentially the same purpose. One major difference between the 1973 law and the rules that have been drawn pursuant to that law and S 1396 is the latter requires disclosure only on the part of registered agents after they exceed certain reporting thresholds. The ELEC regulations define lobbyists to include not only contract lobbyists but "any corporation, partnership or association which receives contributions or makes expenditures for lobbying activities." Lobbying under this definition includes trade and business associations, clubs, political action committees, unions, public interest groups and corporations whose salaried employees engage in lobbying activities for their employer or which retain contract lobbyists. I am quoting now from the ELEC regulations, not from the law. That is a major difference between what is in the law, which applies only to registered agents, and what is in the regulations, which applies to the entity that employs the contract lobbyist or whose own employees engage in lobbying activities.

We feel that this is an important distinction. It is not enough for the public to know that this or that contract lobbyist spends so much for such and such a client. What the public wants to know is the magnitude of the total effort by the organization that is behind the lobbying program. And S 1396 does not provide that information. That is a serious shortcoming in our opinion.

Another problem that we see relates to the definition as to what constitutes lobbying. I realize that that definition to some extent is pursuant

to the court's interpretation. But it is within the purview of this Legislature to define it more broadly than the statement which was quoted earlier as lobbying being direct, expressed and intentional communication with legislators undertaken for the specific purpose of affecting legislation. It applies only to communications that were "initiated by a legislative agent which reasonably can be said to be intended to influence legislation." Now, that is a good start. But I contend that that definition is too narrow. It doesn't go far enough. What about the activities of lobbyists that are not intended to influence specific legislation? Lobbyists have been known to take legislators and their families and legislative staff people and officials from the Executive Branch to sporting events and on paid trips. They have been known to make generous gifts to State officials without discussing specific legislation. Are such expenditures to be exempt from the reporting requirement? That is a decision that this Committee and the Legislature must decide. Do you want it reported or don't you want it reported? It seems to us that any substantial expenditure for gifts or entertainment by a lobbyist should be subject to the disclosure requirement if the lobbyist claims a state or federal tax deduction for the expenditure, or if the lobbyist is reimbursed by the client organization. In other words, the lobbyist isn't being nice and friendly to the legislator and paying for it out of his own pocket. He takes him to the ball game and if he charges his tickets off as a business expense, he, in effect, is declaring to the government and to the State, "This is a business expense. I did it for the sake of developing a better relationship with that lobbyist so that I will have access and I will be able to call on him for quid pro quo if and when it should be necessary."

We believe that it is fair to presume that the purpose of such expenditures was to influence legislators and other decision-makers even though no specific legislation may have been discussed at the time. That is what I mean by being too narrow because it restricts it to only those activities that were, one, initiated by the lobbyist since I believe sometimes it is going to be hard to determine who initiated what. And if it isn't initiated, it isn't reportable. Secondly, it must be for the purpose of influencing specific legislation and I maintain that that is too narrow. I hope this Committee will consider that factor as you look at this law and, hopefully, turn your attention to developing a broader piece of legislation.

Now, there are differences in the thresholds found in S 1396 and those in the ELEC regulations. We would call attention to the fact that direct comparison of the two bills is misleading. It is like comparing apples and oranges. 1396 applies only to the activities of registered legislative agents. As I understand it, in the regulations that are promulgated by the ELEC, there the thresholds apply to the organization that supports the lobbying activities, as well as to the registered agents who seek to influence legislation on its behalf.

The ELEC regulation would give the public a much better picture of the magnitude of the lobbying effort. Requiring disclosure only from the agent provides just a small piece of the picture because the corporation could be doing many, many other things and the pieces never get put together. Indeed, a lobbying organization could, if it wished, circumvent the disclosure requirements altogether by retaining a number of contract lobbyists and instructing them not to exceed the reporting threshold. I am not sure whether they would do it or not, but they could do it.

There are other shortcomings that I might discuss, such as the absence of civil penalties and the failure to include activities designed to influence rules and regulations before administrative agencies. I think these too are matters which this Committee should consider if it moves into the direction of thinking about a more comprehensive law.

I am aware of time constraints. So I will close with a plea that you not report out S 1396 or S 1397. If, in your wisdom, you should decide to release these bills, I implore you to amend them to incorporate the definitions, thresholds and criteria that were adopted by ELEC and I would further urge you to lodge responsibilities for enforcement with the ELEC, which has demonstrated that it can handle this type of assignment effectively and in a non-partisan manner.

Thank you and I will be happy to answer any questions.

SENATOR LIPMAN: Are there any questions? (No questions.)

Thank you very much.

Mr. Thomas Edel from the Retail Merchants Association.

T H O M A S R. E D E L: Madam Chairman, my name is Tom Edel. I represent the New Jersey Retail Merchants Association and I am a registered agent. I have passed out my comments to the members of the Committee pertaining to a statement which I would like to read at this point.

Our Association does represent approximately 65 percent of the retail industry in New Jersey, including operating department stores, chain stores and specialty stores throughout the State.

Our Association is in strong support of Senator Bedell's bills, 1396 and 1397. We do not object to the disclosure of lobbying expenditures and agree that the lobbying law is a logical source of authority for requiring the reporting of such expenditures. The Lobbying Law now contains the requirement for the registration of a lobbyist, as well as the quarterly reporting of his activity in attempting to influence legislation. The registration and the quarterly reports must be filed with the Attorney General, who has enforcement and various other responsibilities under the Lobbying Law. The new section in Bill No. 1396, providing for quarterly reporting of the lobbying expenditures to the Attorney General, seems to us to eminently be sensible in view of the Attorney General's expertise and current responsibilities in this area.

Our Association also believes that new subsection i., which Bill 1396 would add to the Lobbying Law's definitions section, will be helpful to both those who must enforce the Lobbying Law, as well as those who are governed by it. The phrase "direct, express and intentional communication with legislators undertaken for the specific purpose of affecting legislation" in new subsection i. is limited to communications which are initiated by a legislative agent. The new subsection would make clear that it is not the intent of the Lobbying Law to discourage the rendering of technical advice by representatives of trade associations and others in response to requests from legislators, for example, in connection with the drafting of legislation. We have been approached on this many times. Unfortunately, sometimes, the legislation that comes about with our expertise is opposed by us. This happens many times. So it is a two-way street. The inclusion in the definition of the word "initiated" makes clear that responses to such requests from legislators are not reportable, and thus the new definition will facilitate this type of public service.

As mentioned earlier, this is a brief statement. We are in support of

both of these bills and we would strongly urge this Committee to release these bills for consideration by the Senate today. Thank you.

SENATOR LIPMAN: Thank you very much. Are there any questions?
(No questions.)

Unless someone else from the public has a comment to make on these two pieces of legislation, I think this is the end of our public hearing.

MR. ROBERT WOODFORD: It won't require my coming down there. But I did want to say I heard all the arguments in favor that I was about to make.

SENATOR HIRKALA: He ought to identify himself, Wynona.

R O B E R T W O O D F O R D: I don't want to keep you here by repeating arguments you have heard.

I am Bob Woodford, Vice President of the New Jersey Business and Industry Association. We support these bills for the reasons that you have heard from many others. I am not going to repeat them here. But I wanted to add our support to what you have heard today. Thank you.

SENATOR LIPMAN: Thank you, Mr. Woodford.

Is there anyone else who wishes to speak?

SENATOR HIRKALA: I would like to suggest that we refer these bills to our next public meeting of the Committee and, during the interim period, those members of the Committee that desire to entertain any amendments contact our Committee Staff Aide, James Carroll, to indicate what amendments they want to pursue. Also I would suggest that Senator Bedell and Lew Thurston, who offered many amendments, try to arrange a meeting, so that if the prime sponsor is receptive to any amendments, they might let our Committee Aide know.

SENATOR HERBERT: I concur.

SENATOR LIPMAN: All right. If no one else has anything else to say, thank you very much for coming.

(Hearing Concluded)

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State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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STATEMENT OF ELECTION LAW ENFORCEMENT COMMISSION RE LOBBYIST DISCLOSURE

The Election Law Enforcement Commission today made public modified proposed regulations governing financial reporting by lobbyists. Because significant changes were made in the original proposed regulations, the Commission is forwarding the modified proposed regulations to the Office of Administrative Procedure for publication in the July 1980 New Jersey Register. After allowing a period of 20 days for comment after such publication, the Commission, after review of such comments, may adopt these regulations as the final regulations governing financial reporting by lobbyists.

These regulations are a product of a very intensive process begun immediately after the February 6, 1980 New Jersey Supreme Court decision in the case of New Jersey Chamber of Commerce et. al. vs. ELEC et. al. After a series of meetings and discussions, the Commission adopted proposed regulations, held a public hearing at which 14 witnesses appeared and gave testimony and received written comments from approximately 35 persons representing major economic and other entities.

To ensure a thorough evaluation and review of the comments and suggested amendments, the Commission requested and obtained an additional 90-day period from the New Jersey Supreme Court in order to complete its work on these regulations and meet its responsibilities under the Court directive.

The Commission will discharge its responsibilities under the New Jersey Supreme Court decision. However, it is concerned that the statute (the New Jersey Campaign Contributions and Expenditures Reporting Act) which was the basis of the litigation and the authority for the Commission regulations was enacted primarily as an election disclosure statute and not primarily as a comprehensive financial arrangement for reporting lobbyist expenditures and sources of funds. The Commission believes that such a comprehensive scheme, in combination with a lobbyist registration and activity reporting provision, would form the basis of an orderly and coordinated program for disclosure of pertinent lobbyist activities in the public interest.

Accordingly, while we have confidence that the present statutes and Commission regulations provide a constitutional and workable basis for lobbyist regulation, we recognize that an improved statutory basis is desirable.

Thus, while the Commission stands behind its regulations and will fully enforce and administer them, it recommends that the Legislature review the Campaign Contributions and Expenditures Reporting Act and the 1971 lobbyist registration and activities reporting statute and effect an improved statutory basis for lobbyist registration, activities reporting and financial disclosure. Such a review should include, among other things, questions as to the scope of such legislation, the appropriate agency to administer and enforce such a statutory scheme, the requirements for a bank account and treasurer, and the frequency and substance of the reports.

The Commission recommends that any revised statutory plan should include at least the following elements:

1. The financial, registration and activity report requirements should be consolidated into one law.

2. One government agency, preferably an independent, bipartisan commission, should have responsibility for administration and enforcement of the law.

3. Both financial and activity reports should be filed quarterly.

4. Both civil and criminal penalties should be provided in the Act. Civil penalties are essential to effective enforcement.

5. There should be detailed reporting concerning expenditures by lobbyists on legislators, their staffs and the Governor and his staff, with particular emphasis on monitoring gifts, entertainment, food and beverages and travel and lodging provided to such public officials by lobbyists.

6. General lobbyist expenditures, which do not enure to the benefit of a legislator, should be reported in some summary fashion adequate to provide a reasonable indication of the magnitude of the total lobbying effort.

7. The lobbying activity to be reported should include such activity directed to members of the Legislature and their staffs, and the Governor and his staff.

8. The Legislature should explore the need to include activity of lobbyists directed at cabinet officers or administrative agencies, including lobbying directed to rules and regulations. It should also review the need to include so-called "grass roots" efforts to solicit others to lobby.

! The Commission recognizes the legitimate and important function of lobbying in New Jersey's legislative process, and believes that

appropriate disclosure of information concerning such activity is in the public interest. The Commission believes that its modified proposed regulations implement a workable and constitutional statutory scheme which will have the effect of providing pertinent information to the public concerning where money for lobbying comes from and how it is spent. We believe, however, that the statutory provisions can be significantly improved and support appropriate legislation, in accordance with the guidelines set forth above, to accomplish this aim. The Commission stands ready to work with members of the Legislature, the Governor and other interested parties in such an effort.

May 1980

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