

BUSINESS AND LABOR
COMMITTEE
NEBRASKA LEGISLATURE

SUMMARY OF 2009 LEGISLATION

One Hundred First Legislature
First Session

Senator Steve Lathrop, Chair
Senator Brenda Council, Vice-Chair
Senator Tom Carlson
Senator Amanda McGill
Senator Ken Schilz
Senator Norm Wallman
Senator Tom White

Molly Burton, Legal Counsel
Chris Chapek, Committee Clerk

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LB 158 (White) Change provisions relating to employment, removal, and discipline of peace officers

LB 158 provides due process procedures for law enforcement officers facing agency disciplinary action.

Technical Details

Section 1: amends *Neb. Rev. Stat.* § 17-107 concerning mayoral duties of cities of the second class. Adds demoted and suspended with or without pay as disciplinary actions that may be taken against a police officer. Clarifies that city ordinances must include a procedure for police officer removal, demotion, or suspension. Ordinances must provide procedures for acting upon written accusations including: (1) notice and copy of accusation to the officer, (2) right to have a retained attorney or representative present at all hearings and proceedings, (3) right to be heard and present evidence, and (4) right to record the proceedings. Clarifies that the procedures do not apply to officers during their probationary periods.

Section 2: amends *Neb. Rev. Stat.* § 17-208 concerning the village board of trustees' duties. Adds demoted and suspended with or without pay as disciplinary actions that may be taken against a police officer. Clarifies that village ordinances must include a procedure for police officer removal, demotion, or suspension. Ordinances must provide procedures for acting upon written accusations including: (1) notice and copy of accusation to the officer, (2) right to have a retained attorney or representative present at all hearings and proceedings, (3) right to be heard and present evidence, and (4) right to record the proceedings. Clarifies that the procedures do not apply to officers during their probationary periods.

Section 3: amends *Neb. Rev. Stat.* § 23-1734 concerning deputy sheriffs. Explains that a deputy may be removed or suspended with or without pay. Clarifies that the procedures do not apply to officers during their probationary periods.

Section 4: prohibits municipalities or counties, not accredited through the Commission on Accreditation for Law Enforcement Agencies, from requiring the production of personal financial records without a search warrant.

Section 5: prohibits the public release of an officer's photograph who is the subject of an investigation, without the officer's permission unless it is shown to a prospective witness.

Section 6: outlines how documents may be included in an officer's personnel file.

Section 7: proscribes retaliation against an officer who exercises his/her rights as described in LB 158.

Section 8: adds a new section concerning cities of the first class and county sheriffs. Unless otherwise provided for in a collective bargaining agreement or the Nebraska Constitution, said agencies must adopt rules and regulations governing the removal, demotion, or suspension with or without pay, of any officer. The rules and regulations must include provisions for: (1) notice and copy of accusation to the officer, (2) right to have a retained attorney or representative present at all hearings and proceedings, (3) right to be heard and present evidence, (4) right to record the proceedings, and (5) process for appeal. States that nothing prevents the preemptory suspension or immediate removal pending hearing in cases of gross misconduct, neglect of duty, or disobedience of orders. Clarifies that the procedures do not apply to officers during their probationary periods.

Section 9: repealer.

LB 537 (Giese) Change provisions relating to the hours of duty of firefighters

Amends *Neb. Rev. Stat.* § 35-302 concerning work hours for firefighters. LB 537 allows smaller communities with primarily volunteer departments to enter into agreements allowing longer work hour weeks. Communities will be able to supplement their volunteer departments with a few full-time firefighters to work the day shifts while the volunteers are working their regular full-time jobs. Limiting the work week to 40 hours restricted the ability of smaller communities to hire full-time firefighters. To address this, LB 537 permits communities to negotiate work hours with the collective bargaining agent or the firefighter directly if there is not a bargaining unit.

LB 627 (Business and Labor Committee) Require inspection of domestic potable hot water heaters under the Boiler Inspection Act

LB 627 brings the law in line with the National Board of Boiler and Pressure Vessel Inspectors' ("NBBI") inspection requirements. Currently, domestic potable hot water heaters are required to be inspected annually, but NBBI recommends that the heaters be inspected every other year.

LB 627 amends the Boiler Inspection Act ("Act") by creating an exception to the one year domestic potable boiler inspection requirement by authorizing the Commissioner of Labor to adopt a two-year inspection cycle for domestic potable hot water heaters that are not otherwise exempted under the Act. Residential heaters are exempted under the Act.

LB 628 (Business and Labor Committee) Provide for payment of claims against the state

LB 628 was introduced by the Business and Labor Committee at the request of the Department of Administrative Services, Risk Management Division. This bill introduces the claims against the state that are required by statute to be reviewed by the legislature.

Technical Details:

Section 1: MISCELLANEOUS CLAIMS

1. Claim No. 2009-03297 filed by the Nebraska Press Advertising Service against the Nebraska Secretary of State. This is a request for reimbursement for printing and publishing costs for constitutional amendments placed on the 2008 primary and general election ballots. The Secretary of State recommended the claim be approved.

General Fund

Claim Amount: \$87,387.20

2. Claim No. 2009-03442 filed by Ogborn, Summerlin & Ogborn PC for attorney fees in representing a prisoner against the Nebraska Department of Corrections in a federal 1983 action. There is a judgment from the U.S. District Court, District of Nebraska (*El-Tabech v. Clarke*) awarding attorney fees and costs. Post-judgment interest also applies.

General Fund

Claim Amount: \$209,549.92

Section 2 TORT CLAIMS

1. Claim No. 04-127 filed by Ross Ostergard and P. Stephen Potter against the Nebraska Department of Roads. This was a negligence claim against the state filed in Lancaster District Court. The court found the state negligent in how it posted stop signs at an intersection and by failing to place rumble bars prior to the intersection. The court found the plaintiff was also negligent and allocated his negligence at 40 percent. Accordingly, his award was reduced by 40 percent plus costs and interest.

Roads Operations Cash Fund

Claim Amount: \$150,588.52

2. Claim Nos. 04-275, 04-297 and 04-298 filed by William F. Kirkwood, Robert C. Johnson, Mavis M. Johnson and Hickey & Evans, LLC, against the Nebraska Department of Roads. This was a negligence action against the state filed in Lancaster District Court. The court found the state negligent in how it posted stop signs. It found that the state did not comply with the Manual on Uniform Traffic Control Devices. The court

1. Request No. 2008-02408 by the Nebraska Supreme Court for \$202.53.
2. Request No. 2009-03129 by Clerk of the Nebraska Legislature to write off \$61.64 for reproduction of legislative materials. Letters requesting payment were sent monthly to no avail.
3. Request No. 2009-03176 by the Nebraska Department of Health and Human Services for its programs and facilities to write off \$260,275. The total includes unclaimed debts due to deaths, bankruptcies, and statutes of limitation.
4. Request No. 2009-03206 by the Military Department to write off \$2,456.79 in tuition reimbursements under the National Guard Tuition Assistance Program. Letters requesting payment were sent to no avail.
5. Request No. 2009-03218 by the Nebraska Workers' Compensation Court to write off \$22,796.08 for an unrecoverable overpayment of worker's compensation second injury benefits from the Workers' Compensation Trust Fund. Pursuant to an award to Maureen Ellis from September 15, 1999, second injury benefits were to be paid from the fund for 300 weeks. However, payments were made after the 300 week deadline until the error was caught. Thus, Ms. Ellis was overpaid \$22,796.08. The Nebraska Workers' Compensation Act does not provide a right of reimbursement for overpayment of benefits.
6. Request No. 2009-03243 by the Department of Roads to write off \$12,249.31. The debts relate to damage to agency property. The department made efforts to collect on the debts.
7. Request No. 2009-03246 by the Nebraska Supreme Court for \$176.82.
8. Request No. 2009-03339 by the State Fire Marshal to write off \$4,470 for uncollectible debt for annual underground storage tank registration fees for the years 2000-2004. Attempts were made to collect the debts and the statute of limitations has run.

Section 5 emergency clause.

LB 629 (Business and Labor Committee) Disapprove claims against the state

For those claims filed against the state that are denied by the state claims board, such claims may be appealed to the legislature. The following claimants have requested the legislature's review. These claims have been submitted by the state risk manager for disapproval:

1. Claim No. 2008-02420 against the state building division of the Department of Administrative Services and the Norfolk Veteran's Home of the Department of Health and Human Services in the amount of \$317.64;
2. Claim No. 2008-02424 against the Nebraska Educational Telecommunications Commission in the amount of \$22,395.60
3. Claim No. 2008-02461 against the Nebraska Supreme Court in the amount of \$95,000.

LB 630 (Business and Labor Committee) Change workers' compensation provisions relating to certain notices, fees, payments, settlements, and procedures and informal dispute resolution

LB 630 was introduced on behalf of the Nebraska Workers' Compensation Court to amend several sections of the Nebraska Workers' Compensation Act. LB 630 includes language and/or concepts of LB 194 and 453.

Technical Details:

Section 1 adds language from LB 453. Amends *Neb. Rev. Stat.* § 48-106 to allow exempted agricultural employers to provide their employees notice that they are not covered by workers' compensation insurance at any time more than 30 days prior to an injury. Before this legislation, notice could only be given at the time of hire. This allows agricultural employers who did not give notice at the time of hire another opportunity to provide notice.

Section 2 changes the date for reimbursement for inpatient trauma services under the Diagnostic Related Group inpatient hospital fee schedule from January 1, 2010 to January 1, 2011.

Section 3 moves, but does not change language, requiring that payments be sent directly to the recipient.

Section 4 makes technical changes to conform with section 6.

Section 5 makes technical changes to conform with section 6.

Section 6 addresses the concept of lump-sum settlements in LB 194.

LB 630 addresses concerns with Medicare and future medical payments. LB 630 requires court approval of lump-sum settlements if: (1) the individual is not represented by counsel, (2) the employee at the time of settlement is eligible for Medicare, is a Medicare beneficiary, or has a reasonable expectation of becoming

eligible within 30 months, (3) medical expenses have been paid by Medicaid and Medicaid will not be reimbursed as part of the settlement, (4) medical expenses will not be paid as part of the settlement (5) or in cases of death and payments will be paid to dependents.

A release must be filed with the court if the settlement does not require court approval. The waiver must be signed by the employee and his/her attorney, is a complete discharge of future liability, and must indicate that the employee understands the rights afforded under the Nebraska Worker's Compensation Act including: (1) the right to receive permanent and temporary disability benefits, (2) the right to receive vocational rehabilitation services, (3) the right to receive future medical services, (4) the right to request the judge to decide the parties' rights and obligations, (5) that the employee is not eligible for Medicare, is not a current Medicare beneficiary or does not have a reasonable expectation of becoming eligible, (6) that there are no medical expenses that have been paid by Medicaid and Medicaid has not been reimbursed, and (7) that there are no medical expenses that will remain unpaid.

Section 7 makes technical changes to conform to section 6.

Section 8 makes technical changes to conform to section 6.

Section 9 amends *Neb. Rev. Stat. § 48-144.03* concerning notice of workers' compensation insurance. Requires that notice by electronic means is not considered given until it is accepted by the court.

Section 10 allows vocational rehabilitation counselors to submit disputes for informal dispute resolution. Provides that if the court sent a dispute for informal dispute resolution, it can set a return date no later than 90 days after the order is signed. Clarifies that any settlement or agreement is voluntary and is not final until approved by the court. Strikes in its entirety *Neb. Rev. Stat. § 48-168(2)(b)* as it expired on January 1, 2008. Adds language concerning mediators and what information mediators can disclose to the court.

Section 11 repealer.

Section 12 emergency clause.

LB 631 (Business and Labor Committee) Change Employment Security Law provisions

LB 631 was introduced at the request of the Department of Labor.

Technical Details:

Section 1 amends *Neb. Rev. Stat.* § 48-612.01 to correct grammatical errors in LB 265, passed in 2007.

Section 2 deletes reference to the state advisory council as section 15 repeals the council.

Section 3 adds uses for monies in the Nebraska Training and Support Trust Fund.

Section 4 amends *Neb. Rev. Stat.* § 48-622.03 pertaining to the Nebraska Worker Training Board. States that training guidelines must give priority to training that expands Nebraska's workforce. The board's membership is modified to reflect section 15's repeal of the state advisory council.

Sections 5, 6 & 7 amends *Neb. Rev. Stat.* §§ 48-648, 48-648.01 and 48-649 to reduce the threshold for mandatory electronic filing of combined tax and wage returns and electronic payment of combined tax from an annual payroll of \$500,000 to an annual payroll of \$100,000, beginning with tax years commencing on or after January 1, 2010. Employers would continue to be exempted from electronic filing and payment requirements if electronic filing or payment creates a hardship.

Section 7 also strikes language stating that the state unemployment tax rate is zero percent if the state advisory council determines that such rate is in the best interests of preserving the integrity of the state's account in the Unemployment Trust Fund. The section adds language reserving Category 20 for negative experience balance employers.

Section 8 codifies current practices for charging employers for benefits drawn by part-time employees and benefits based upon combined wage claims.

Section 9 changes the tax rate recalculation process following the acquisition of an existing business to match the fiscal year calculation process enacted in Laws 2005, LB 739.

Sections 10 & 11 allows the Commissioner of Labor to intercept federal income tax refunds for unpaid unemployment taxes not paid as the result of fraud and unemployment benefits obtained through fraud.

Section 12 makes technical changes as to how subsections are enumerated in *Neb. Rev. Stat.* § 48-668. Adds language to *Neb. Rev. Stat.* § 48-668 concerning commissioner authorization to enter into agreements with other state agencies when computing unemployment benefits. Specifically, the change would clarify that if an agreement for payment of benefits is made on the basis of combining wages earned in Nebraska and other states, it would not be charged against the employer's experience account if, absent said agreement, the employer's account would not

have been charged. If the claimant is not entitled to the benefits, the employer's account will be reimbursed in the same manner absent an agreement.

Section 13 makes technical changes to comport with section 12.

Section 14 repealer.

Section 15 outright repeals *Neb. Rev. Stat.* § 48-610 pertaining to the creation of a state advisory council as its rating functions no longer exist.

Section 16 emergency clause.

BILL SUMMARIES: BILLS INCLUDED IN ENACTED LEGISLATION

LB 194 (Nantkes) Change workers' compensation provisions on lump-sum settlements

Under current law, a lump-sum settlement agreement may only become final if approved by the Nebraska Workers' Compensation Court. LB 194 would provide that a lump-sum settlement may become final without court approval provided that the employee is represented by counsel. It would retain the requirement for court approval of lump-sum settlements in all cases where an employee is not represented by counsel.

The bill also requires a release to be filed with the Compensation Court executed by the employee or his or her dependents' representative, as well as by the employee's attorney, which is a full and complete discharge from further liability for the employer on account of the injury or death.

Technical Details of Original Bill:

Section 1 strikes language in *Neb. Rev. Stat.* § 48-138 requiring lump-sum settlements to be commuted only by order of the court.

Section 2 clarifies that if an employee is not represented by an attorney, the court must approve the lump-sum settlement. The bill adds language to *Neb. Rev. Stat.* § 48-139 allowing an employee or employee represented by counsel to file a release with the court releasing the employer from further liability. The release is a full and complete discharge and must be completed on a form approved by the court. The release must specify that the employee or his or her dependents waive all rights under the Nebraska Worker's Compensation Act including:

- the right to receive weekly disability or death benefits;
- the right to receive vocational rehabilitation services;
- the right to medical and related expenses;
- the right to ask the court to decide the parties' rights and obligations.

Section 3 harmonizes *Neb. Rev. Stat.* § 48-140 to comport with the new language.

Explanation of Amendments approved by the Legislature:

The concept of LB 194 was amended into LB 630 through AM 874. AM 874 addresses concerns with Medicare and future medical payments. AM 874 requires court approval of lump-sum settlements if: (1) the individual is not represented by counsel, (2) the employee at the time of settlement is eligible for Medicare, is a Medicare beneficiary, or has a reasonable expectation of becoming eligible within 30 months, (3) medical expenses have been paid by Medicaid and Medicaid will not be reimbursed as part of the settlement, (4) medical expenses will not be paid as part of the settlement (5) or in cases of death and payments will be paid to dependents.

A release must be filed with the court if the settlement does not require court approval. The waiver must be signed by the employee and his/her attorney, is a complete discharge of future liability, and must indicate that the employee understands the rights afforded under the Nebraska Worker's Compensation Act including: (1) the right to receive permanent and temporary disability benefits, (2) the right to receive vocational rehabilitation services, (3) the right to receive future medical services, (4) the right to request the judge to decide the parties' rights and obligations, (5) that the employee is not eligible for Medicare, is not a current Medicare beneficiary or does not have a reasonable expectation of becoming eligible, (6) that there are no medical expenses that have been paid by Medicaid and Medicaid has not been reimbursed, (7) that there are no medical expenses that will remain unpaid.

LB 453 (Rogert) Change provisions relating to an employer notice that employees are not covered by workers' compensation insurance

Amends *Neb. Rev. Stat.* § 48-106 to allow exempted agricultural employers to provide their employees notice that they are not covered by workers' compensation insurance at any time more than 30 days prior to an injury. Before this legislation notice could only be given at the time of the hire. This allows agricultural employers who did not give notice at the time of hire another opportunity to provide notice. This language was amended into LB 630 through AM 874.

BILL SUMMARIES: BILLS ON SELECT FILE

LB 622 (Nordquist) Provide time limits and penalties for late workers' compensation medical payments

Amends *Neb. Rev. Stat. § 48-125* to extend 50 percent late charge fees currently applied to delinquent workers' compensation disability benefits to delinquent medical payments that are more than 30 days late.

Explanation of Amendments Approved by the Legislature:

On general file, the legislature approved committee amendment 875 which replaced the original provisions of LB 622. AM 875 addressed a recent Nebraska Supreme Court opinion, *Lagemann v. Nebraska Methodist Hospital*, 277 Neb. 335 (2009). Section 48-125 provides for 50 percent late fee penalties if an award is not received within 30 days of (1) notice of injury when there is no reasonable controversy or (2) after 30 days after a final order issued after an appellate court's mandate. The *Lagemann* Court interpreted this section to disallow late penalty fees for undisputed portions of an award pending appeal. AM 875 addresses *Lagemann* by permitting late penalties pending an appeal for those portions of the award for which there is no reasonable controversy. Amendments were approved on the floor including AM 1198 which clarifies that late penalties do not attach until the appeal deadline has passed and AM 1500 which strikes the reasonable controversy language.

BILL SUMMARIES: BILLS ON GENERAL FILE

LB 107 (Haar) Requires an employer to provide an employee a reason for termination

LB 107 Requires employers to provide certain employees the reason for employment termination.

Section 1 provides that certain employees must be given a reason for termination and an opportunity to respond to the termination. The requirement applies to employers as defined under the Industrial Relations Act to include the State of Nebraska, municipal corporations, public power and irrigation districts and public utilities. It also applies to nonexempt employees under the Fair Labor Standards Act.

Section 2 clarifies that the bill does not negate any procedures agreed to by contract or afforded by other laws.

Explanation of Amendments:

Committee Amendment 490 replaces the original provisions of the bill. The amendment restricts application to public employers as defined by *Neb. Rev. Stat. § 48-801*. Public employees may request in writing within seven days of termination, the specific reason of said termination. After seven days of receipt, the employer must respond in writing with the specific reason for termination.

Noncompliance with the legislation neither creates nor affects a cause of action and does not affect or change the state's employment-at-will doctrine. Section 3 clarifies that the legislation does not negate or repeal collective bargaining agreements or laws providing rights to certain employees.

An employer found in violation of the legislation is subject to an infraction as defined by *Neb. Rev. Stat. § 29-431* and subject to a fine pursuant to *Neb. Rev. Stat. § 29-436*.

LB 267 (Lathrop) Prohibit mandatory overtime for state employees providing services to individuals in residential care

Prohibits the state from requiring mandatory overtime of employees who are providing services in 24 hour care facilities unless there was an unforeseen, emergency situation such as an act of terrorism, a disease outbreak, an adverse weather condition or a natural disaster.

Section 1 declares policy that citizens under the 24 hour care of the State of Nebraska need qualified care from trained individuals. Such care is jeopardized

when employees are required to work unusually long hours, and the state should provide adequate staffing without the use of mandatory overtime.

Provides that state employees providing 24 hour care shall not be disciplined in any manner for refusing to work more than 12 consecutive hours unless there is an unforeseen emergent situation. Under no circumstances shall an employee be required to work 7 days in a row without a day off. Acceptance of overtime is voluntary and the refusal to work overtime is not grounds for discrimination, dismissal, discharge, or any other form of penalty.

Defines unforeseen emergent situation as an unusual, unpredictable or unforeseen circumstance including: an act of terrorism, a disease outbreak, an adverse weather condition, or a natural disaster.

An emergent situation does not include situations in which the facility has reasonable knowledge of increased patient volume or decreased staffing, including scheduled vacations and scheduled medical leave of employees.

LB 552 (White) Adopt the Nebraska Construction Prompt Pay Act

Adopts the Construction Prompt Pay Act. LB 552 addresses the problem of delinquent payment to contractors which in turn negatively affects payment to subcontractors. LB 552 requires payment within 30 days of a request for payment. Likewise, subcontractors must be paid within 10 days of receipt of payment.

Technical Details:

Section 1 creates the Construction Prompt Pay Act (“Act”).

Section 2 defines, for purposes of the Act, contractor, owner, owner’s representative, real property, receipt, and subcontractor.

Section 3 provides timelines for payment: the owner must pay the contractor within 30 days of receipt of a payment request and requires contractors and subcontractors to make payment to their subcontractors within 10 days of receipt of payment.

Section 4 provides that payment may be withheld for: (1) retainage in an amount not exceed the amount specified in the contract, until the work is substantially complete; (2) a reasonable amount if the completion date will not be met due to unsatisfactory job progress, the filing or likely filing of a third-party claim, or contractor failure to make timely payments to his/her subcontractors; (3) after substantial completion of an amount not to exceed 125 percent of the estimated cost to complete the remaining work.

Section 5 provides for interest penalties of one percent per month or a pro rata fraction thereof on the unpaid balance.

Section 6 clarifies that the Act does not modify any existing remedies.

Section 7 exempts from the Act, improvements to real property used as residential property with no more than four residential units.

Section 8 sets an operative date for contracts entered into after October 1, 2009.

Section 9 makes void and against public policy, contractual language that: waives or releases the right to file a claim against a payment or performance bond, choice of law provisions stating a state other than Nebraska as controlling law, and venue provisions indicating a venue outside of Nebraska.

Section 10 sets guidelines for filing claims against the state or a political subdivision. Provides that claims must be in writing and filed within 180 days after the date of substantial completion. Directs the state or political subdivision to issue a decision on the claim within 30 days of receipt. Presumes that the claim is denied if no decision is entered. If the claim is denied, the aggrieved party may bring a civil action within two years after denial.

Section 11 makes technical changes to *Neb. Rev. Stat. § 81-2407*.

Section 12 sets operative date of October 1, 2009.

Section 13 repealer.

LB 573 (Nordquist) Change Conveyance Advisory Committee membership

Currently, the Conveyance Safety Act (“Act”) does not apply to conveyances in private residences located in counties with less than 100,000 inhabitants. The Act requires a licensed elevator mechanic or one working under the supervision of a licensed mechanic to work on existing conveyances located in counties of more than 100,000 inhabitants. LB 573 would remove the population restrictions.

Technical Details:

Section 1 changes the Conveyance Advisory Committee’s composition to include three members of the general public from different counties representing urban, suburban and rural interests instead of members from counties of more than 100,000.

Section 2 adds platform lifts and stair chairs to the definition of conveyance. Amends *Neb. Rev. Stat. §48-2507 (3)* to apply to installation of conveyances in all private residences, rather than private residences in counties of more than 100,000.

Section 3 deletes from the Act's exemption, conveyances in residences located in counties of less than 100,000.

Section 4 removes language pertaining to work on existing conveyances located in counties of more than 100,000.

Explanation of Amendments:

AM 807 clarifies the makeup of the Conveyance Advisory Committee and exempts residential stairway chair lifts.

LB 579 (Cornett) Adopt the Professional Employer Organization Registration Act

Adopts the Professional Employer Organization Registration Act.

Technical Details:

Section 1 creates the Professional Employer Organization Registration Act.

Section 2 states legislative findings that professional employer organizations ("PEOs") provide valuable cost-effective services, that such operations should be regulated by the Nebraska Department of Labor, and that allocation of employer duties preserves an employee's rights they would be entitled to in traditional employment.

Section 3 defines client, co-employer, co-employment relationship, covered employee, department, person, professional employer agreement, PEO, PEO group, professional employer services, registrant, temporary help services and working capital. Defines, for purposes of the Act, what is not a PEO or professional employment services.

Section 4 states that nothing in the Act affects any collective bargaining agreement or rights or obligations of any client, PEO or employee covered by the National Labor Relations Act or the Railway Labor Act. Clarifies that the Act does not diminish, abolish or remove rights or obligations existing prior to the effective date of the professional employer agreement. The Act does not affect, modify or amend contractual relationships in effect at the time of or subsequent to the professional employer agreement becomes effective. The Act does not create a new or separate enforceable right against the PEO. The PEO has no responsibility or liability under existing or new contractual relationships unless agreed to in writing. Nothing in the Act affects state, local or federal licensing, registration or certification requirements. Covered employees who are required to be registered or certified by law are solely an employee of the client for purposes of such registration or certification. A professional employer agreement is not automatically deemed to engage in an

occupation, trade or profession that is subject to licensing, registration or certification when the agreement is entered into with a covered employee who is subject to such regulations. The client is to have the sole right, subject to licensing, regulation and certification, to direct and control its employee's activities.

Covered employees belong to the client for tax or economic incentive purposes. PEOs are to provide, upon request, employment information. Any status or certification is not affected by entering into a professional employer agreement.

Section 5 requires PEO registration. Applicants for registration are to provide certain identifying information, business history, management experience and financial information. Each PEO is to register within 180 days after the operative date of the Act. PEO must renew its registration within 180 days after its fiscal year. Out of state PEO's must register before beginning operations. Allows for out of state limited registrations if certain conditions are met. Allows for group PEO registration. The Department of Labor is to maintain a PEO list, prescribe forms, and adopt rules concerning registration process. States that most PEO information is confidential.

Section 6 creates registration fees.

Section 7 except for limited registrants, requires positive working capital at time of registration or provide bond, irrevocable letter of credit or securities.

Section 8 discusses rights and duties in co-employment relationships including:(1) client is entitled to exercise all rights and perform all duties otherwise applicable to an employer in an employment relationship; (2) PEO can only exercise those rights and perform those duties required by the Act or in the professional employer agreement and; (3) unless otherwise agreed to in the professional employer agreement, the client retains the right to direct and control the covered employees, to discharge its fiduciary responsibilities, and comply with licensure requirements.

States that employment relationships are to be governed by professional employer agreements. Each agreement must: (1) provide for the allocation of rights, duties and obligations; (2) require the PEO to pay wages and salaries, withhold necessary taxes and pay agreed upon benefits. Defines wages and limits the PEO's liability to pay fees outside the covered employee's salary unless the PEO assumed the responsibility in the professional employer agreement; (3) allow the PEO and client to have the right to hire, discipline and terminate a covered employee, and; (4) provide worker's compensation coverage.

Requires the PEO to send covered employees written notification describing the nature of the co-employment relationship.

Unless otherwise provided for under the professional employment agreement: (1) the client is responsible for the quality of its goods; (2) the client is responsible for directing its employees and is responsible for the employee's actions; (3) the client is

not liable for acts, errors or omissions of a PEO or a covered employee acting at the direction of the PEO; (4) a covered employee is not considered an employee of the PEO for purposes of general liability insurance, fidelity bonds, surety bonds or other insurance carried by the PEO unless the covered employee is specifically referenced in the professional employer agreement.

A PEO registrant is not deemed to be selling insurance by offering, marketing, selling, administering or providing PEO services or employee benefit plans to covered employees.

For purposes of state and local taxes: (1) covered employees whose services are subject to sales tax are deemed employees of the client; (2) taxes imposed on professional employer services that are based on gross receipts shall allow for a deduction from the gross income that portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, and withholding of a covered employee by the PEO; (3) taxes assessed are assessed against the client for covered employees and against the PEO for its employees who are not covered employees co-employed with a client. Allows for a credit against the client's obligation if certain conditions are met; and (4) allows the PEO to use small business allowances or exemptions available to the client.

Section 9 states that both the client and PEO are employers for retirement and welfare benefit plan purposes. Provides guidelines for PEO self-insurance plans.

Section 10 states that the professional employer agreement is to allocate responsibility for workers' compensation coverage. Both the PEO and client are considered employers for purposes of the Nebraska Worker's Compensation Act.

Section 11 allows for disciplinary action if a PEO offers or provides services before registering or provides false or fraudulent information when registering under the Act.

Section 12 harmonizes definitional language in *Neb. Rev. Stat. § 48-602* to comport with the Act.

Section 13 harmonizes language in *Neb. Rev. Stat. § 48-648* to comport with the Act.

Section 14 provides an operative date of January 1, 2010.

Section 15 provides that any finding that a section is deemed unconstitutional, should have no bearing on the remaining sections.

Section 16 repeals *Neb. Rev. Stat. § 48-602* and *Neb. Rev. Stat. § 48-648*.

Explanation of Amendments:

Committee Amendment 1323 strikes the legislative intent statement found in section 1. Removes provisions that specifically allowed a PEO to sponsor self-funded health plans or workers' compensation coverage. Specifies that nothing in the Act otherwise exempts a PEO from the requirements of insurance law (or regulations) and the Producer-Controlled Property and Casualty Insurer Act.

Requires the PEO client to post notice of the PEO relationship and certain workers' compensation information at the workplace.

AM 1323 provides guidelines for PEO sponsored workers' compensation policies including: (1) creating requirements, safeguards, and rule-making authority when there is less than a full workforce; (2) creating rule-making authority relating to data collection; (3) requiring certain information be provided to the workers' compensation court; (4) specifying that policy information must be provided to the client; (4) explaining that an insurer must be able to provide client-based information; (5) requiring that a safety committee be established; (6) specifying how workers' compensation coverage may end and what notices must be given. Cancellation is not effective unless there is compliance with the notice provisions and; allowing a client to withdraw from the PEO agreement after receipt of cancellation or nonrenewal notice.

AM 1323 additionally specifies that in actions, including those alleging civil rights violations, notice served to either the PEO or client shall be considered notice to both and such notice shall be transmitted to the one not served with notice.

BILL SUMMARIES: BILLS HELD IN COMMITTEE

LB 243 (Nantkes) Provide for annual adjustment for workers' compensation total disability income benefits

Directs weekly total disability benefits be adjusted each year in a proportion equal to the state average weekly wage as computed under *Neb. Rev. Stat. § 48-121.02*.

The concept of LB 243 was amended in LB 630 by committee amendment 874. The new language would annually review awards and give the individual either $66 \frac{2}{3}$ of his/her weekly wage or the maximum amount as computed in *Neb. Rev. Stat. § 48-121.01*, whichever is less. On general file, the legislature adopted floor amendment 27 which struck this language from LB 630.

LB 554 (White) Prohibit certain employers from requiring use of paid leave under certain circumstances

Absent agreement by the employee, prohibits certain employers from requiring employees to use paid leave before using unpaid leave provided for under law, rule or regulation.

Section 1 prohibits employers of more than fifty employees from requiring the use of paid leave when the employee has qualified for unpaid leave under law, rule or regulation.

Section 2 provides for civil penalties.

LB 556 (White) Change workers' compensation third-party claims provisions

LB 556 prohibits employer contributory negligence as a defense in third-party claims brought pursuant to *Neb. Rev. Stat. § 48-118.01*.

LB 557 (Nantkes) Provide for fair share representation contribution from employees who are not members of the labor union

Technical Details:

Section 1 definitional section:

- (1) bargaining unit is a group of employees represented by a labor organization;

- (2) collective bargaining means representing employees in matters of wages, hours and condition of employment;
- (3) employee means a person employed by an employer;
- (4) employer means any public or private person or entity that has a person under a contract of hire;
- (5) contribution or fair share representation contribution means the sum of money paid by the employee who is not a member of the labor organization, and represents the employee's proportionate share of the cost borne by the labor organization representing employees in collective bargaining and contract enforcement;
- (6) labor organization means the same as under section *Neb. Rev. Stat.* § 48-218.

Section 2 requires an employee to pay a fair share representation contribution to the labor organization if:

- (1) the labor organization is the collective bargaining and contract enforcement; and
- (2) there is an agreement between the employer and labor organization that requires represented employees that do not pay membership dues to pay a fair share representation contribution to the labor organization.

The contribution shall not exceed the amount of dues required for membership in the labor organization.

Section 3 (1) requires an agreement to state whether the fair share representation contribution of a nonunion member shall be deducted from the employee's pay and paid by the employer to the labor organization. Any deduction from the employee's wages requires written consent of the employee. Or, if the contribution is not paid through payroll deduction, the employee shall pay the fair share representation contribution directly to the labor organization. (2) the agreement may also provide that the payment of the contribution shall be a condition of employment only to the extent that the unpaid contribution gives rise to an enforceable debt on the part of the employee to the labor organization. The agreement cannot provide that an unpaid contribution is grounds for continued employment or discharge from employment.

Section 4 requires the labor organization to: (1) establish a procedure for a non-union employee to challenge the contribution calculations before the labor organization in a prompt and expeditious manner before it is taken for judicial enforcement or arbitration proceedings; (2) establish an interest-bearing escrow account for contributions that are in dispute; and (3) provide the nonmember employee notice of the amount of the contribution and percentage it represents of the regular dues paid by a member, how the contribution was determined and the dispute procedure established pursuant to subdivisions (1) of this section.

Section 5 allows the labor organization to bring action against a nonmember that fails to pay the contribution, and the ability to collect reasonable attorney's fees and court costs.

Section 6 technical changes to *Neb. Rev. Stat.* § 48-219.

Section 7 repealer.

Section 8 outright repeal of *Neb. Rev. Stat.* §§ 48-217 and 48-218.

LB 563 (Lathrop) Adopt the Contractor Employee Classification Act

Creates the Contractor Employee Classification Act ("Act") to address the problem of misclassifying employees as independent contractors. LB 563 creates a cause of action for the misclassified employee, the Department of Labor, and the Department of Revenue against the offending contractor. LB 563 directs contractors to post at job sites, the rights enumerated under the Act. LB 563 further prohibits retaliation against an employee from exercising any right granted under the Act.

Technical Details:

Section 1 creates the Contractor Employee Classification Act.

Section 2 defines contractor, interested party, and performing services for purposes of the Act.

Section 3 presumes an individual is an employee unless certain criteria are met: (1) the individual is free from control or direction, (2) the individual is engaged in a independently established business, (3) the individual's service is available to the general public, (4) the individual furnishes his/her own tools and (5) the contractor does not represent that the individual is an employee. The individual is presumed to be an independent contractor if he/she is registered pursuant to the Contractor Registration Act, has been assigned a combined tax rate, and is listed on the Department of Revenue's database under *Neb. Rev. Stat.* § 77-2753.

Section 4 declares that not properly classifying a worker is a violation of the Act.

Section 5 provides an interested party a cause of action to recover that amount of taxes that would have been paid or withheld, the difference in compensation between what was actually paid and the average wage for like work and attorney's fee and costs.

Section 6 prohibits a contractor from retaliating against an employee for exercising any right granted under the Act. Defines rights.

Section 7 requires contractors to post at job sites, the rights and obligations enumerated in the Act. The notice directs an employee to contact an attorney, the Nebraska Department of Labor or the Nebraska Department of Revenue if it is believed that misclassification is occurring.

Section 8 the Act does not affect or apply to tort recovery, or affect the common-law interpretation of independent contractor status or affect a workers' compensation claim.

LB 564 (Lathrop) Require licensure of contractors under the Contractor Registration Act

The purpose of LB 564 is to establish minimum qualifications for those holding themselves out as contractors. Contractors required to register under the Contractor Registration Act, *Neb. Rev. Stat. § 48-2104 et. seq.*, must apply for licensure and pass a written examination created by the Nebraska Department of Labor before performing contracting duties in Nebraska. LB 564 requires contractors to notify the Department of Labor of certain informational changes including: civil filings against the contractor, filings for bankruptcy, and any criminal conviction related to the business of contracting.

Technical Details:

Section 1 adds licensure requirement to the Contractor Registration Act.

Section 2 prohibits those required to register to contract without a license.

Section 3 adds licensure to the application and registration process.

Section 4 requires a designee to fulfill licensure requirements and notification to the Department of Labor of information changes, including filings for bankruptcy and criminal convictions related to contracting. Requires completion of a written examination every three years in order to obtain a license. The examination will establish the applicant's knowledge of terms and codes and general business principles.

Section 5 creates operative date of January 1, 2010.

Section 6 repealer.

BILL SUMMARIES: BILLS INDEFINITELY POSTPONED

LB 51 (Fulton) Provide for confidentiality of Nebraska Workers' Compensation Court documents and information

LB 51 provides confidentiality to employees that file a workers' compensation claim. Any court document or information that is available by electronic means that reveals specific information about the employee is deemed to be confidential and not open to public inspection or copying unless otherwise provided for under one of five exceptions.

Technical Details:

Section 1 provides that Workers Compensation Court documents and information available by electronic means are confidential and are not open to public inspection or copying. The documents and information which are to be held confidential are those which reveal: (a) the identity of an employee; (b) the nature of the employee's alleged injury; (c) the employee's past or present medical condition; (d) the extent of an employee's disability; (e) the amount, type, or duration of benefits paid to an employee; or (f) the application information for self insurance.

The court is to deny any request to inspect or copy a record deemed to be confidential unless: (1) the requestor is the employee who is the subject of the record or an attorney or authorized agent of the employee; (2) the requestor is the employer of the injured employee, or the employer's insurance carrier or third-party administrator; (3) the information is used for the purpose of state or federal investigations or examinations or for the state or federal government to compile statistical information; (4) the document is a pleading, final order or exhibit associated with workers' compensation case; or (5) the information reveals statistical information but does not reveal any information proscribed in section 1.

Section 2 incorporates the language into the Nebraska Workers' Compensation Act and repeals the original version of *Neb. Rev. Stat. § 48-1,110*.

LB 514 (Lautenbaugh) Change workers' compensation disability compensation provisions

Provides for termination of benefits awarded under the Nebraska Workers' Compensation Act when an individual qualifies for social security retirement benefits or two years after the date of the injury, whichever occurs last.

BILL SUMMARIES: RESOLUTION WITHDRAWN

LR 10 (Price) Urge members of the Nebraska Congressional delegation to support worker freedom by opposing the Employee Free Choice Act

If approved, LR 10 would have urged Nebraska's Congressional delegation to oppose the federal Employee Free Choice Act.

INTERIM STUDIES

- LR 123** (Giese) Examine the Department of Labor's authority to conduct workplace safety inspections.
- LR 144** (Carlson) Examine the Commission of Industrial Relations and the statutory requirements for comparable wages and conditions of employment for municipal employees.
- LR 185** (Lathrop) Examine the impact of employer misclassification
- LR 186** (Lathrop) Examine workers' compensation insurance premiums.
- LR 231** (Pirsch) Examine ways the State can promote job creation in the more economically disadvantaged rural communities.

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LB # & Introducer	Description	Hearing Date	Disposition
LR 10 Price	If approved, LR 10 would have urged Nebraska's Congressional delegation to oppose the federal Employee Free Choice Act.		Resolution withdrawn
LB 51 Fulton	<p>Provide for confidentiality of Nebraska Workers' Compensation Court documents and information.</p> <p>Section 1 provides that Workers Compensation Court documents and information available by electronic means are confidential and are not open to public inspection or copying. The documents and information which are to be held confidential are those which reveal: (a) the identity of an employee; (b) the nature of the employee's alleged injury; (c) the employee's past or present medical condition; (d) the extent of an employee's disability; (e) the amount, type, or duration of benefits paid to an employee; or (f) the application information for self insurance.</p> <p>The court is to deny any request to inspect or copy a record deemed to be confidential unless: (1) the requestor is the employee who is the subject of the record or an attorney or authorized agent of the employee; (2) the requestor is the employer of the injured employee, or the employer's insurance carrier or third-party administrator; (3) the information is used for the purpose of state or federal investigations or examinations or for the state or federal government to compile statistical information; (4) the document is a pleading, final order or exhibit associated with workers' compensation case; or (5) the information reveals statistical information but does not reveal any information proscribed in section 1.</p> <p>Section 2 incorporates the language into the Nebraska Workers' Compensation Act and repeals the original sections of <i>Neb. Rev. Stat. § 48-1,110</i>.</p>	2/9/09	Indefinitely Postponed by the Committee
LB 107 Haar	<p>Requires an employer to provide an employee a reason for termination.</p> <p>Section 1 provides that certain employees must be given a reason for termination and an opportunity to respond to the termination. The requirement applies to employers as defined under the Industrial Relations Act to include the State of Nebraska, municipal corporations, public power and irrigation districts and public utilities. It also applies to nonexempt employees under the Fair Labor Standards Act.</p> <p>Section 2 clarifies that the bill does not negate any procedures agreed to by contract or afforded by other laws.</p> <p>AM 490 replaces the original provisions of the bill. The amendment restricts application to public employers as defined by <i>Neb. Rev. Stat. § 48-801</i>. Public employees may request in writing within seven days of termination, the specific reason of said termination. After</p>	1/26/09	3/12/09 General File w/Com. AM 490

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	<p>seven days of receipt, the employer must respond in writing with the specific reason in for termination.</p> <p>Noncompliance with the legislation neither creates nor affects a cause of action and does not affect or change the state's employment-at-will doctrine. Section 3 clarifies that the legislation does not negate or repeal collective bargaining agreements or laws providing rights to certain employees.</p> <p>An employer found in violation of the legislation is subject to an infraction as defined by <i>Neb. Rev. Stat. § 29-431</i> and subject to a fine pursuant to <i>Neb. Rev. Stat. § 29-436</i>.</p>		
LB 158 White	<p>Change provisions relating to employment, removal, and discipline of peace officers.</p> <p>Section 1: amends <i>Neb. Rev. Stat. § 17-107</i> concerning mayoral duties of cities of the second class. Adds demoted and suspended with or without pay as disciplinary actions that may be taken against a police officer. Clarifies that city ordinances must include a procedure for police officer removal, demotion, or suspension. Ordinances must provide procedures for acting upon written accusations including: (1) notice and copy of accusation to the officer, (2) right to have a retained attorney or representative present at all hearings and proceedings, (3) right to be heard and present evidence, and (4) right to record the proceedings. Clarifies that the procedures do not apply to officers during their probationary periods.</p> <p>Section 2: amends <i>Neb. Rev. Stat. § 17-208</i> concerning the village board of trustees' duties. Adds demoted and suspended with or without pay as disciplinary actions that may be taken against a police officer. Clarifies that village ordinances must include a procedure for police officer removal, demotion, or suspension. Ordinances must provide procedures for acting upon written accusations including: (1) notice and copy of accusation to the officer, (2) right to have a retained attorney or representative present at all hearings and proceedings, (3) right to be heard and present evidence, and (4) right to record the proceedings. Clarifies that the procedures do not apply to officers during their probationary periods.</p> <p>Section 3: amends <i>Neb. Rev. Stat. § 23-1734</i> concerning deputy sheriffs. Clarifies that a deputy may be removed or suspended with or without pay. Clarifies that the procedures do not apply to officers during their probationary periods.</p> <p>Section 4: prohibits municipalities or counties, not accredited through the Commission on Accreditation for Law Enforcement Agencies, from requiring the production of personal financial records without a search warrant.</p> <p>Section 5: prohibits the public release of an officer's photograph who is the subject of an investigation, without the officer's permission unless it is shown to a prospective witness.</p> <p>Section 6: outlines how documents may be included in the officer's personnel file.</p> <p>Section 7: proscribes retaliation against an officer who exercises his/her rights as described in LB 158.</p>	1/26/09	<p>5/13/09 Governor Approved 5/7/09 Final Read 4/17/09 AM 1006 adopted 4/17/09 Returned to Select for AM 1006 4/06/09 AM 951 adopted on Select File 2/2/09 Com. AM 48 adopted 1/27/09 General File w/Com. AM 48</p>

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	<p>Section 8: adds a new section concerning cities of the first class and county sheriffs. Unless otherwise provided for in a collective bargaining agreement or the Nebraska Constitution, said agencies must adopt rules and regulations governing the removal, demotion, or suspension with or without pay, of any officer. The rules and regulations must include provisions for: (1) notice and copy of accusation to the officer, (2) right to have a retained attorney or representative present at all hearings and proceedings, (3) right to be heard and present evidence, (4) right to record the proceedings, and (5) process for appeal. States that nothing prevents the preemptory suspension or immediate removal pending hearing in cases of gross misconduct, neglect of duty, or disobedience of orders. Clarifies that the procedures do not apply to officers during their probationary periods.</p> <p>Section 9: repealer.</p>		
LB 194 Nantkes	<p>Change workers' compensation provisions on lump-sum settlements.</p> <p>Details of bill as amended into LB 630:</p> <p>addresses concerns with Medicare and future medical payments. Requires court approval of lump-sum settlements if: (1) the individual is not represented by counsel, (2) the employee at the time of settlement is eligible for Medicare, is a Medicare beneficiary, or has a reasonable expectation of becoming eligible within 30 months, (3) medical expenses have been paid by Medicaid and Medicaid will not be reimbursed as part of the settlement, (4) medical expenses will not be paid as part of the settlement (5) or in cases of death and payments will be paid to dependents.</p> <p>A release must be filed with the court if the settlement does not require court approval. The waiver must be signed by the employee and his/her attorney, is a complete discharge of future liability, and must indicate that the employee understands the rights afforded under the Nebraska Worker's Compensation Act including: (1) the right to receive permanent and temporary disability benefits, (2) the right to receive vocational rehabilitation services, (3) the right to receive future medical services, (4) the right to request the judge to decide the parties' rights and obligations, (5) that the employee is not eligible for Medicare, is not a current Medicare beneficiary or does not have a reasonable expectation of becoming eligible, (6) that there are no medical expenses that have been paid by Medicaid and Medicaid has not been reimbursed, (7) that there are no medical expenses that will remain unpaid.</p>	2/9/09	5/26/09 LB 630 Approved by the Governor 4/29/09 Com. AM 874 adopted 4/2/09 Provisions of LB 194 amended into LB 630 by AM 874
LB 243 Nantkes	<p>Provide for annual adjustment for workers' compensation total disability income benefits.</p> <p>Section 1 adds language to <i>Neb. Rev. Stat.</i> § 48-121, stating that compensation for total disability weekly benefits be adjusted annually in a proportion equal to the state average</p>	2/9/09	Held in Committee 4/29/09 LB 243 provisions removed by adoption of FA 27 4/29/09 Com. AM 874

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	weekly wage as computed under <i>Neb. Rev. Stat.</i> § 48-121.02. Section 2 repeals <i>Neb. Rev. Stat.</i> § 48-121.		adopted 4/2/09 Provisions of LB 243 amended into LB 630 by Com. AM 874
LB 267 Lathrop	Prohibit mandatory overtime for state employees providing services to individuals in residential care. Section 1 declares policy that citizens under the 24 hour care of the State of Nebraska need qualified care from trained individuals. Such care is jeopardized when employees are required to work unusually long hours, and the State should provide adequate staffing without the use of mandatory overtime. Provides that State employees providing 24 hour care shall not be disciplined in any manner for refusing to work more than 12 consecutive hours unless there is an unforeseen emergent situation. Under no circumstances shall an employee be required to work 7 days in a row without a day off. Acceptance of overtime is voluntary and the refusal to work overtime is not grounds for discrimination, dismissal, discharge, or any other form of penalty. Defines unforeseen emergent situation as an unusual, unpredictable or unforeseen circumstances including: an act of terrorism a disease outbreak, an adverse weather condition, or a natural disaster. An emergent situation does not include situations in which the facility has reasonable knowledge of increased patient volume or decreased staffing, including scheduled vacations and scheduled medical leave of employees.	3/9/09	4/23/09 General File
LB 453 Rogert	Change provisions relating to an employer notice that employees are not covered by workers' compensation insurance. Amends <i>Neb. Rev. Stat.</i> § 48-106 to allow exempted agricultural employers to provide their employees notice that they are not covered by workers' compensation insurance at any time more than 30 days prior to an injury. Before this legislation notice could only be given at the time of the hire. This allows agricultural employers who did not give notice at the time of hire another opportunity to provide notice. This language was amended into LB 630 through AM 874.	2/23/09	5/26/09 LB 630 Approved by the Governor 4/29/09 Com. AM 874 adopted 4/2/09 Provisions of LB 453 amended into LB 630 by AM 874
LB 514 Lautenbaugh	Change workers' compensation disability compensation provisions. Provides for termination of benefits awarded under the Workers' Compensation Act when an individual qualifies for social security retirement benefits or two years after the date of the injury, whichever occurs last.	2/23/09	Indefinitely Postponed by the Committee
LB 537 Giese	Change provisions relating to the hours of duty of firefighters. Amends <i>Neb. Rev. Stat.</i> § 35-302 concerning work hours for firefighters. LB 537 allows	3/2/09	5/26/09 Governor Approved 5/20/09 Final Read

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	<p>smaller communities with primarily volunteer departments to enter into agreements allowing longer work hour weeks. Communities will be able to supplement their volunteer departments with a few full-time firefighters to work the day shifts while the volunteers are working their regular full-time jobs. Limiting the work week to 40 hours restricted the ability of smaller communities to hire full-time firefighters. To address this, LB 537 permits communities to negotiate work hours with the collective bargaining agent or the firefighter directly if there is not a bargaining unit.</p>		<p>4/20/09 Select File 4/16/09 Com. AM 882 adopted 4/2/09 General File w/Com. AM 882</p>
<p>LB 552 White</p>	<p>Adopt the Nebraska Construction Prompt Pay Act.</p> <p>Section 1 creates the Construction Prompt Pay Act (“Act”). Section 2 defines for purposes of the Act, contractor, owner, owner’s representative, real property, receipt and subcontractor. Section 3 provides timelines for payment: the owner must pay the contractor within 30 days of receipt of a payment request and requires contractors and subcontractors to make payment to their subcontractors within 10 days of receipt of payment. Section 4 provides that payment may be withheld for: (1) retainage in an amount not exceed the amount specified in the contract, until the work is substantially complete; (2) a reasonable amount if the completion date will not be met due unsatisfactory job progress, the filing or likely filing of a third-party claim or contractor failure to make timely payments to his/her subcontractors; (3) after substantial completion an amount not to exceed one hundred twenty-five percent of the estimated cost to complete the remaining work. Section 5 provides for interest penalties of one percent per month or a pro rata fraction thereof on the unpaid balance. Section 6 clarifies that the Act does not modify any existing remedies. Section 7 exempts from the Act, improvements to real property used as residential property with no more than four residential units. Section 8 sets an operative date for contracts entered into after October 1, 2009. Section 9 makes void and against public policy contractual language that: waives or releases the right to file a claim against a payment or performance bond, choice of law provisions stating a state other than Nebraska as controlling law, venue provisions indicating a venue outside of Nebraska. Section 10 sets guidelines for filing claims against the state or a political subdivision. Provides that claims must be in writing and filed within 180 days after the date of substantial completion. Directs the state or political subdivision to issue a decision on the claim within 30 days of receipt. Presumes that the claim is denied if no decision is entered. If the claim is denied, the aggrieved party may bring a civil action within 2 years after denial. Section 11 makes technical changes to <i>Neb. Rev. Stat. § 81-2407</i>. Section 12 sets operative date of October 1, 2009.</p>	<p>3/2/09</p>	<p>4/23/09 General File</p>

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	Section 13 repealer.		
LB 554 White	Prohibit certain employers from requiring use of paid leave under certain circumstances. Section 1 prohibits employers of more than fifty employees from requiring the use of paid leave when the employee has qualified for unpaid leave under law, rule or regulation. Section 2 provides for civil penalties.	2/2/09	Held in Committee
LB 556 White	Change workers' compensation third-party claims provisions Section 1 Adds language to <i>Neb. Rev. Stat.</i> § 48-118.01 prohibiting third parties to assert contributory negligence as a defense. Section 2 repealer	2/23/09	Held in Committee
LB 557 Nantkes	Provide for fair share representation contribution from employees who are not members of the labor union. Section 1 Definitional section: <ul style="list-style-type: none"> (1) A bargaining unit is a group of employees represented by a labor organization; (2) Collective bargaining means representing employees in matters of wages, hours and condition of employment; (3) Employee means a person employed by an employer; (4) Employer means any public or private person or entity that has a person under a contract of hire; (5) Contribution or fair share representation contribution means the sum of money paid by the employee who is not a member of the labor organization, and represents the employee's proportionate share of the cost borne by the labor organization representing employees in collective bargaining and contract enforcement; (6) Labor organization means the same as under section <i>Neb. Rev. Stat.</i> § 48-218. Section 2 Requires an employee to pay a fair share representation contribution to the labor organization if: <ul style="list-style-type: none"> (1) The labor organization is the collective bargaining and contract enforcement; and (2) There is an agreement between the employer and labor organization that requires represented employees that do not pay membership dues to pay a fair share representation contribution to the labor organization. The contribution shall not exceed the amount of dues required for membership in the labor organization. Section 3 (1) requires an agreement to state whether the fair share representation contribution of a nonunion member shall be deducted from the employee's pay and paid	3/9/09	Held in Committee

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	<p>by the employer to the labor organization. Any deduction from the employee's wages requires written consent of the employee. Or, if the contribution is not paid through payroll deduction, the employee shall pay the fair share representation contribution directly to the labor organization. (2) the agreement may also provide that the payment of the contribution shall be a condition of employment only to the extent that the unpaid contribution gives rise to an enforceable debt on the part of the employee to the labor organization. The agreement cannot provide that an unpaid contribution is grounds for continued employment or discharge from employment.</p> <p>Section 4 Requires the labor organization to: (1) establish a procedure for a non-union employee to challenge the contribution calculations before the labor organization in a prompt and expeditious manner before it is taken for judicial enforcement or arbitration proceedings; (2) establish an interest-bearing escrow account for contributions that are in dispute; and (3) provide the nonmember employee notice of the amount of the contribution and percentage it represents of the regular dues paid by a member, how the contribution was determined and the dispute procedure established pursuant to subdivisions (1) of this section.</p> <p>Section 5 Allows the labor organization to bring action against a nonmember that fails to pay the contribution, and the ability to collect reasonable attorney's contributions and court costs.</p> <p>Section 6 Technical changes to <i>Neb. Rev. Stat. § 48-219</i>.</p> <p>Section 7 <i>Neb. Rev. Stat. § 48-219</i> repealer.</p> <p>Section 8 Outright repeal of <i>Neb. Rev. Stat. §§ 48-217 and 48-218</i>.</p>		
LB 563 Lathrop	<p>Adopt the Contractor Employee Classification Act.</p> <p>Section 1 creates the Contractor Employee Classification Act ("Act").</p> <p>Section 2 defines contractor, interested party, and performing services for purposes of the Act.</p> <p>Section 3 presumes an individual is an employee unless certain criteria are met: (1) the individual is free from control or direction, (2) the individual is engaged in a independently established business, (3) the individual's service is available to the general public, (4) the individual furnishes his/her own tools and (5) the contractor does not represent that the individual is an employee. The individual is presumed to be an independent contractor if he/she is registered pursuant to the Contractor Registration Act, has been assigned a combined tax rate and is listed on the Department of Revenue's database under <i>Neb. Rev. Stat. § 77-2753</i>.</p> <p>Section 4 declares that not properly classifying a worker is a violation of the Act.</p> <p>Section 5 provides an interested party a cause of action to recover that amount of taxes that would have been paid or withheld, the difference in compensation between what was actually paid and the average wage for like work and attorney's fee and costs.</p>		Held in Committee

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	<p>Section 6 prohibits a contractor from retaliating against an employee for exercising any right granted under the act. Defines rights.</p> <p>Section 7 requires contractors to post at job sites, the rights and obligations enumerated in the act. The notice directs an employee to contact an attorney, the Department of Labor or the Department of Revenue if it is believed that misclassification is occurring.</p> <p>Section 8 the Act does not affect or apply to tort recovery, or affect the common-law interpretation of independent contractor status or affect a workers' compensation claim.</p>		
LB 564 Lathrop	<p>Requires licensure of contractors under the Contractor Registration Act</p> <p>Section 1 adds licensure requirement to the Contractor Registration Act.</p> <p>Section 2 prohibits those required to register to contract without a license.</p> <p>Section 3 adds licensure to the application and registration process.</p> <p>Section 4 requires a designee to fulfill licensure requirements and notification to the Department of Labor of information changes, including filings for bankruptcy and criminal convictions related to contracting. Requires completion of a written examination every three years in order to obtain a license. The examination will establish the applicant's knowledge of terms and codes and general business principles.</p> <p>Section 5 creates operative date of January 1, 2010.</p> <p>Section 6 repealer.</p>		Held in Committee
LB 573 Nordquist	<p>Change Conveyance Advisory Committee membership.</p> <p>Section 1 changes the Conveyance Advisory Committee's composition to include three members of the general public from different counties representing urban, suburban and rural interests instead of members from counties of more than 100,000.</p> <p>Section 2 adds platform lifts and stair chairs to the definition of conveyance. Amends <i>Neb. Rev. Stat. § 48-2507(3)</i> to apply to installation of conveyances in all private residences, rather than private residences in counties of more than 100,000.</p> <p>Section 3 deletes from the Act's exemption, conveyances in private residences located in counties of less than 100,000.</p> <p>Section 4 removes language pertaining to work on existing conveyances located in counties of more than 100,000.</p> <p>AM 807 clarifies the makeup of the Conveyance Advisory Committee and exempts residential stairway chair lifts.</p>	2/2/09	5/28/09 General File w/Com. AM 807
LB 579 Cornett	<p>Adopt the Professional Employer Organization Registration Act.</p> <p>Section 1 creates the Professional Employer Organization Registration Act ("Act").</p> <p>Section 2 states legislative findings that professional employer organizations ("PEOs") provide valuable cost-effective services, that such operations should be regulated by the</p>	2/2/09	5/29/09 General File w/Com. AM 1323

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	<p>Department of Labor, and that allocation of employer duties preserves an employee's rights they would be entitled to in traditional employment.</p> <p>Section 3 defines client, co-employer, co-employment relationship, covered employee, department, person, professional employer agreement, PEO, PEO group, professional employer services, registrant, temporary help services, and working capital. Defines, for purposes of the Act, what is not a PEO or professional employment services.</p> <p>Section 4 states that nothing in the Act affects any collective bargaining agreement or rights or obligations of any client, PEO or employee covered by the National Labor Relations Act or the Railway Labor Act. Clarifies that the Act does not diminish, abolish or remove rights or obligations existing prior to the effective date of the professional employer agreement. The Act does not affect, modify or amend contractual relationships in effect at the time of or subsequent to the professional employer agreement becomes effective. The Act does not create a new or separate enforceable right against the PEO. The PEO has no responsibility or liability under existing or new contractual relationships unless agreed to in writing. Nothing in the Act affects state, local or federal licensing, registration or certification requirements. Covered employees who are required to be registered or certified by law are solely an employee of the client for purposes of such registration or certification. A professional employer agreement is not automatically deemed to engage in an occupation, trade or profession that is subject to licensing, registration or certification when the agreement is entered into with a covered employee who is subject to such regulations. The client is to have the sole right, subject to licensing, regulation and certification, to direct and control its employee's activities.</p> <p>Covered employees belong to the client for tax or economic incentive purposes. PEOs are to provide, upon request, employment information. Any status or certification is not affected by entering into a professional employer agreement.</p> <p>Section 5 requires PEO registration. Applicants for registration are to provide certain identifying information, business history, management experience and financial information. Each PEO is to register within 180 days after the operative date of the Act. PEO must renew its registration within 180 days after its fiscal year. Out of state PEO's must register before beginning operations. Allows for out of state limited registrations if certain conditions are met. Allows for group PEO registration. The Department of Labor is to maintain a PEO list, prescribe forms, and adopt rules concerning registration process. States that most PEO information is confidential.</p> <p>Section 6 creates registration fees.</p> <p>Section 7 except for limited registrants, requires positive working capital at time of registration or provide bond, irrevocable letter of credit or securities.</p> <p>Section 8 discusses rights and duties in co-employment relationships including:(1) client is entitled to exercise all rights and perform all duties otherwise applicable to an employer in an employment relationship; (2) PEO can only exercise those rights and perform those</p>		
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	<p>duties required by the Act or in the professional employer agreement and; (3) unless otherwise agreed to in the professional employer agreement, the client retains the right to direct and control the covered employees, to discharge its fiduciary responsibilities, and comply with licensure requirements.</p> <p>States that employment relationships are to be governed by professional employer agreements. Each agreement must: (1) provide for the allocation of rights, duties and obligations; (2) require the PEO to pay wages and salaries, withhold necessary taxes and pay agreed upon benefits. Defines wages and limits the PEO's liability to pay fees outside the covered employee's salary unless the PEO assumed the responsibility in the professional employer agreement; (3) allow the PEO and client to have the right to hire, discipline and terminate a covered employee, and; (4) provide worker's compensation coverage.</p> <p>Requires the PEO to send covered employees written notification describing the nature of the co-employment relationship.</p> <p>Unless otherwise provided for under the professional employment agreement: (1) the client is responsible for the quality of its goods; (2) the client is responsible for directing its employees and is responsible for the employee's actions; (3) the client is not liable for acts, errors or omissions of a PEO or a covered employee acting at the direction of the PEO; (4) a covered employee is not considered an employee of the PEO for purposes of general liability insurance, fidelity bonds, surety bonds or other insurance carried by the PEO unless the covered employee is specifically referenced in the professional employer agreement.</p> <p>A PEO registrant is not deemed to be selling insurance by offering, marketing, selling, administering or providing PEO services or employee benefit plans to covered employees.</p> <p>For purposes of state and local taxes: (1) covered employees whose services are subject to sales tax are deemed employees of the client; (2) taxes imposed on professional employer services that are based on gross receipts shall allow for a deduction from the gross income that portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, and withholding of a covered employee by the PEO; (3) taxes assessed are assessed against the client for covered employees and against the PEO for its employees who are not covered employees co-employed with a client. Allows for a credit against the client's obligation if certain conditions are met; and (4) allows the PEO to use small business allowances or exemptions available to the client.</p> <p>Section 9 states that both the client and PEO are employers for retirement and welfare benefit plan purposes. Provides guidelines for PEO self-insurance plans.</p> <p>Section 10 states that the professional employer agreement is to allocate responsibility for workers' compensation coverage. Both the PEO and client are considered employers for purposes of the Nebraska Worker's Compensation Act.</p>		
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	<p>Section 11 allows for disciplinary action if a PEO offers or provides services before registering or provides false or fraudulent information when registering under the Act. Section 12 harmonizes definitional language in <i>Neb. Rev. Stat.</i> § 48-602 to comport with the Act. Section 13 harmonizes language in <i>Neb. Rev. Stat.</i> § 48-648 to comport with the Act. Section 14 provides an operative date of January 1, 2010. Section 15 provides that any finding that a section is deemed unconstitutional, should have no bearing on the remaining sections. Section 16 repeals <i>Neb. Rev. Stat.</i> § 48-602 and <i>Neb. Rev. Stat.</i> § 48-648.</p> <p>Committee Amendment 1323 strikes the legislative intent statement found in section 1. Removes provisions that specifically allowed a PEO to sponsor self-funded health plans or workers' compensation coverage. Specifies that nothing in the Act otherwise exempts a PEO from the requirements of insurance law (or regulations) and the Producer-Controlled Property and Casualty Insurer Act.</p> <p>Requires the PEO client to post notice of the PEO relationship and certain workers' compensation information at the workplace.</p> <p>AM 1323 provides guidelines for PEO sponsored workers' compensation policies including: (1) creating requirements, safeguards, and rule-making authority when there is less than a full workforce; (2) creating rule-making authority relating to data collection; (3) requiring certain information be provided to the workers' compensation court; (4) specifying that policy information must be provided to the client; (4) explaining that an insurer must be able to provide client-based information; (5) requiring that a safety committee be established; (6) specifying how workers' compensation coverage may end and what notices must be given. Cancellation is not effective unless there is compliance with the notice provisions and; allowing a client to withdraw from the PEO agreement after receipt of cancellation or nonrenewal notice.</p> <p>AM 1323 additionally specifies that in actions, including those alleging civil rights violations, notice served to either the PEO or client shall be considered notice to both and such notice shall be transmitted to the one not served with notice.</p>		
LB 622 Nordquist	<p>Provide time limits and penalties for late workers' compensation medical payments</p> <p>Amends <i>Neb. Rev. Stat.</i> § 48-125 to extend 50% late charge fees currently applied to delinquent workers' compensation disability benefits to delinquent medical payments that are more than 30 days late.</p> <p>On general file, the legislature approved committee amendment 875 which replaced the original provisions of LB 622. AM 875 addressed a recent Nebraska Supreme Court opinion, <i>Lagemann v. Nebraska Methodist Hospital</i>, 277 Neb. 335 (2009). Section 48-125</p>	2/23/09	5/26/09 Laid over 4/15/09 Select File 4/14/09 Com. AM 875 adopted 4/2/09 General File w/Com. AM 875

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	<p>provides for 50% late fee penalties if an award is not received within 30 days of (1) notice of injury when there is no reasonable controversy or (2) after 30 days after a final order issued after an appellate court's mandate. The <i>Lagemann</i> Court interpreted this section to disallow late penalty fees for undisputed portions of an award pending appeal. AM 875 addresses <i>Lagemann</i> by permitting late penalties pending an appeal for those portions of the award for which there is no reasonable controversy.</p> <p>Amendments were approved on the floor including AM 1198 that clarifies that late penalties do not attach until the appeal deadline has passed and AM 1500 which strikes the reasonable controversy language.</p>		
Business & Labor LB 627	<p>Require inspection of domestic potable hot water heaters under the Boiler Inspection Act.</p> <p>LB 627 brings the law in line with the National Board of Boiler and Pressure Vessel Inspectors' ("NBBI") inspection requirements. Currently, domestic potable hot water heaters are required to be inspected annually, but NBBI recommends that the heaters be inspected every other year.</p> <p>LB 627 amends the Boiler Inspection Act ("Act") by creating an exception to the one year domestic potable boiler inspection requirement by authorizing the Commissioner of Labor to adopt a two-year inspection cycle for domestic potable hot water heaters that are not otherwise exempted under the Act. Residential heaters are exempted under the Act.</p>	2/2/09	<p>5/26/09 Governor Approved 5/20/09 Final Read 4/20/09 Select File 4/16/09 Com. AM 230 adopted 3/17/09 General File w/Com. AM 230</p>
Business & Labor LB 628	<p>Provide for payment of claims against the state.</p> <p>Section 1: MISCELLANEOUS CLAIMS</p> <p>1. Claim No. 2009-03297 filed by the Nebraska Press Advertising Service against the Nebraska Secretary of State. This is a request for reimbursement for printing and publishing costs for constitutional amendments placed on the 2008 primary and general election ballots. The Secretary of State recommended the claim be approved. General Fund Claim Amount: \$87,387.20</p> <p>2. Claim No. 2009-03442 filed by Ogborn, Summerlin & Ogborn PC for attorney fees in representing a prisoner against the Nebraska Department of Corrections in a federal 1983 action. There is a judgment from the U.S. District Court, District of Nebraska (<i>EI-Tabech v. Clarke</i>) awarding attorney fees and costs. Post-judgment interest also applies. General Fund Claim Amount: \$209,549.92</p> <p>Section 2 TORT CLAIMS</p> <p>1. Claim No. 04-127 filed by Ross Ostergard and P. Stephen Potter against the Nebraska Department of Roads. This was a negligence claim against the state filed in Lancaster District Court. The court found the state negligent in how it posted stop signs at an intersection and by failing to place rumble bars prior to the intersection. The court found the plaintiff was also negligent and allocated his negligence at 40 percent. Accordingly, his award was reduced by 40 percent plus costs and interest.</p>	3/23/09	<p>5/29/09 Governor Approved 5/13/09 Final Read 5/6/09 Select File 5/5/09 Com. AM 1116 adopted 4/23/09 General File w/Com. AM 1116</p>

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	<p>Roads Operations Cash Fund Claim Amount: \$150,588.52 2. Claim Nos. 04-275, 04-297 and 04-298 filed by William F. Kirkwood, Robert C. Johnson, Mavis M. Johnson and Hickey & Evans, LLC against the Nebraska Department of Roads. This was a negligence action against the state filed in Lancaster District Court. The court found the state negligent in how it posted stop signs. It found that the state did not comply with the Manual on Uniform Traffic Control Devices. The court awarded damages to Robert and Mavis Johnson and William Kirkwood. The award also includes costs and interest.</p> <p>Roads Operations Cash Fund Claim Amount: \$3,567,345.14 3. Claim No. 2007-01616 filed by Joshua Vandenberg and Vince Powers against the Nebraska Department of Roads for \$2,500.00.</p> <p>Roads Operations Cash Fund Claim Amount: \$2,500 4. Claim No. 2008-01916 filed by Steven Werner against the Department of Roads. Claimant's motorcycle was hit by a department of road's vehicle. The department's vehicle turned left in front of claimant without using the turning lane.</p> <p>State Insurance Fund Claim Amount: \$69,000 5. Claim No. 2007-01467 filed by Kayla Trebesch against the Nebraska Game and Parks Commission. Claimant's car was hit by a game and parks' employee driving a department's car in South Dakota. This is a settlement agreement approved by the agency and the Board. The settlement was approved by the district court.</p> <p>State Insurance Fund Claim Amount: \$156,157.32 6. Claim No. 2009-03181 filed by the State of South Dakota Employee Health Plan against the Nebraska Game and Parks Commission. This claim is related to the previous claim, 2007-01467. Through its subrogation rights, South Dakota filed this claim to recoup medical expenses it paid.</p> <p>State Insurance Fund Claim Amount: \$57,606.73 7. Claim No. 2009-03528 filed by David Manes and Jefferson Downing against the Nebraska Department of Health and Human Services. The claim concerned a resident's death at the Beatrice State Developmental Center. The settlement was approved by the district court.</p> <p>General Fund Claim Amount: \$600,000 Section 3 grants the Director of Administrative Services authority to issue warrants for payment of the claims enumerated in sections 1 and 2. Clarifies that payment cannot be made until the beneficiaries sign waivers releasing the state of any other claims. Section 4 AGENCY WRITE-OFF REQUESTS The Nebraska State Claims Board approved the following write-off requests: 1. Request No. 2008-02408 by the Nebraska Supreme Court for \$202.53. 2. Request No. 2009-03129 by Clerk of the Nebraska Legislature to write off \$61.64 for reproduction of legislative materials. Letters requesting payment were sent</p>		
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	<p>monthly to no avail.</p> <p>3. Request No. 2009-03176 by the Nebraska Department of Health and Human Services for its programs and facilities to write off \$260,275. The total includes unclaimed debts due to deaths, bankruptcies and statutes of limitation.</p> <p>4. Request No. 2009-03206 by the Military Department to write off \$2,456.79 in tuition reimbursements under the National Guard Tuition Assistance Program. Letters requesting payment were sent to no avail.</p> <p>5. Request No. 2009-03218 by the Nebraska Workers' Compensation Court to write off \$22,796.08 for an unrecoverable overpayment of worker's compensation second injury benefits from the Workers' Compensation Trust Fund. Pursuant to an award to Maureen Ellis from September 15, 1999, second injury benefits were to be paid from the fund for 300 weeks. However, payments were made after the 300 week deadline until the error was caught. Thus, Ms. Ellis was overpaid \$22,796.08. The Nebraska Workers' Compensation Act does not provide a right of reimbursement for overpayment of benefits.</p> <p>6. Request No. 2009-03243 by the Department of Roads to write off \$12,249.31. The debts relate to damage to agency property. The department made efforts to collect on the debts.</p> <p>7. Request No. 2009-03246 by the Nebraska Supreme Court for \$176.82.</p> <p>8. Request No. 2009-03339 by the State Fire Marshal to write off \$4,470 for uncollectible debt for annual underground storage tank registration fees for the years 2000-2004. Attempts were made to collect the debts and the statute of limitations has run.</p> <p>Section 5 emergency clause.</p>		
Business & Labor LB 629	<p>Disapprove claims against the state.</p> <p>For those claims filed against the State that are denied by the State Claims Board, such claims may be appealed to the Legislature. The following claimants have requested the legislature's review. These claims have been submitted by the State Risk Manager for disapproval:</p> <p>Claim No. 2008-02420 against the state building division of the Department of Administrative Services and the Norfolk Veteran's Home of the Department of Health and Human Services in the amount of \$317.64;</p> <p>Claim No. 2008-02424 against the Nebraska Educational Telecommunications Commission in the amount of \$22,395.60;</p> <p>Claim No. 2008-02461 against the Nebraska Supreme Court in the amount of \$95,000.</p>	3/23/09	5/19/09 Governor Approved 5/13/09 Final Read 5/6/09 Select File 4/23/09 General File
Business & Labor LB 630	<p>Change workers' compensation provisions relating to certain notices, fees, payments, settlements, and procedures and informal dispute resolution.</p> <p>Section 1 adds language from LB 453. Amends <i>Neb. Rev. Stat.</i> § 48-106 to allow exempted agricultural employers to provide their employees notice that they are not</p>	2/9/09	5/26/09 Governor Approved 5/20/09 Final Read 5/13/09 AM 1398 adopted

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	<p>covered by workers' compensation insurance at any time more than 30 days prior to an injury. Before this legislation notice could only be given at the time of the hire. This allows agricultural employers who did not give notice at the time of hire another opportunity to provide notice.</p> <p>Section 2 changes the date for reimbursement for inpatient trauma services under the Diagnostic Related Group inpatient hospital fee schedule from January 1, 2010 to January 1, 2011.</p> <p>Section 3 moves but does not change language requiring that payments be sent directly to the recipient.</p> <p>Section 4 makes technical changes to conform with section 6.</p> <p>Section 5 makes technical changes to conform with section 6.</p> <p>Section 6 addresses the concept of lump-sum settlements in LB 194.</p> <p>LB 630 addresses concerns with Medicare and future medical payments. LB 630 requires court approval of lump-sum settlements if: (1) the individual is not represented by counsel, (2) the employee at the time of settlement is eligible for Medicare, is a Medicare beneficiary, or has a reasonable expectation of becoming eligible within 30 months, (3) medical expenses have been paid by Medicaid and Medicaid will not be reimbursed as part of the settlement, (4) medical expenses will not be paid as part of the settlement (5) or in cases of death and payments will be paid to dependents.</p> <p>A release must be filed with the court if the settlement does not require court approval. The waiver must be signed by the employee and his/her attorney, is a complete discharge of future liability, and must indicate that the employee understands the rights afforded under the Nebraska Worker's Compensation Act including: (1) the right to receive permanent and temporary disability benefits, (2) the right to receive vocational rehabilitation services, (3) the right to receive future medical services, (4) the right to request the judge to decide the parties' rights and obligations, (5) that the employee is not eligible for Medicare, is not a current Medicare beneficiary or does not have a reasonable expectation of becoming eligible, (6) that there are no medical expenses that have been paid by Medicaid and Medicaid has not been reimbursed, (7) that there are no medical expenses that will remain unpaid.</p> <p>Section 7 makes technical changes to conform to section 6.</p> <p>Section 8 makes technical changes to conform to section 6.</p> <p>Section 9 amends <i>Neb. Rev. Stat.</i> § 48-144.03 concerning notice of workers' compensation insurance. Requires that notice by electronic means is not considered given until it is accepted by the court.</p> <p>Section 10 allows vocational rehabilitation counselors to submit disputes for informal dispute resolution. Provides that if the court sent a dispute for informal dispute resolution, it can set a return date no longer than 90 days after the order is signed. Clarifies that any settlement or agreement is voluntary and is not final until approved by the court. Strikes in</p>	<p>4/30/09 Select File 4/29/09 FA 27 adopted 4/29/09 Com. AM 874 adopted 4/2/09 General File w/Com. AM 874</p>
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	<p>its entirety <i>Neb. Rev. Stat.</i> § 48-168(2)(b) as it expired on January 1, 2008. Adds language concerning mediators and what information mediators can disclose to the court. Section 11 repealer. Section 12 emergency clause.</p>		
<p>Business & Labor LB 631</p>	<p>Change Employment Security Law provisions.</p> <p>Section 1 amends <i>Neb. Rev. Stat.</i> § 48-612.01 to correct grammatical errors in LB 265, passed in 2007.</p> <p>Section 2 deletes reference to the state advisory council as section 15 repeals the council.</p> <p>Section 3 adds uses for monies in the Nebraska Training and Support Trust Fund.</p> <p>Section 4 amends <i>Neb. Rev. Stat.</i> § 48-622.03 pertaining to the Nebraska Worker Training Board. States that training guidelines must give priority to training that expands Nebraska's workforce. The membership of the board is modified to reflect section 15's repeal of the state advisory council.</p> <p>Sections 5, 6 & 7 amends <i>Neb. Rev. Stat.</i> §§ 48-648, 48-648.01 and 48-649 to reduce the threshold for mandatory electronic filing of combined tax and wage returns and electronic payment of combined tax from an annual payroll of \$500,000 to an annual payroll of \$100,000, beginning with tax years commencing on or after January 1, 2010. Employers would continue to be exempted from electronic filing and payment requirements if electronic filing or payment creates a hardship.</p> <p>Section 7 also strikes language stating that the state unemployment tax rate is zero percent if the state advisory council determines that such rate is in the best interests of preserving the integrity of the state's account in the Unemployment Trust Fund. The section adds language reserving Category 20 for negative experience balance employers.</p> <p>Section 8 codifies current practices for charging employers for benefits drawn by part-time employees and benefits based upon combined wage claims.</p> <p>Section 9 changes the tax rate recalculation process following the acquisition of an existing business to match the fiscal year calculation process enacted in Laws 2005, LB 739.</p> <p>Sections 10 & 11 allows the Commissioner of Labor to intercept federal income tax refunds for unpaid unemployment taxes not paid as the result of fraud and unemployment benefits obtained through fraud.</p> <p>Section 12 makes technical changes as to how subsections are enumerated in <i>Neb. Rev. Stat.</i> § 48-668. Adds language to <i>Neb. Rev. Stat.</i> § 48-668 concerning commissioner authorization to enter into agreements with other state agencies when computing unemployment benefits. Specifically, the change would clarify that if an agreement for payment of benefits is made on the basis of combining wages earned in Nebraska and other state(s), it would not be charged against the employer's experience account if absent</p>	<p>2/9/09</p>	<p>5/26/09 Governor Approved 5/11/09 Final Read 4/20/09 Select File 4/16/09 AM 415 adopted 4/02/09 General File w/Com. AM 415</p>

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	<p>said agreement the employer's account would not have been charged. If the claimant is not entitled to the benefits, the employer's account will be reimbursed in the same manner absent an agreement.</p> <p>Section 13 makes technical changes to comport with section 12.</p> <p>Section 14 repealer.</p> <p>Section 15 outright repeals <i>Neb. Rev. Stat. § 48-610</i> pertaining to the creation of a state advisory council as its rating functions no longer exist.</p> <p>Section 16 emergency clause.</p>		