

Banking, Commerce and Insurance Committee

**One Hundred Second Legislature
Second Session – 2012**

SUMMARY OF 2012 LEGISLATION

Committee Members

**Senator Rich Pahls, Chairperson
Senator Beau McCoy, Vice Chairperson
Senator Mark Christensen
Senator Mike Gloor
Senator Chris Langemeier
Senator Pete Pirsch
Senator Ken Schilz
Senator Paul Schumacher**

Committee Staff:

**William Marienau, Committee Counsel
Janice Foster, Committee Clerk**

MEMORANDUM

TO: Members of the Legislature and
Other Interested Persons

FROM: Senator Rich Pahls, Chairperson
Banking, Commerce and Insurance Committee

DATE: June 25, 2012

RE: Summary of 2012 Session Legislation

I am pleased to present, for your reference, the following summary of the provisions and disposition of all carried-over 2011 bills and 2012 bills referenced to and considered by the Banking, Commerce and Insurance Committee.

I hope you find this summary helpful as you review our work as of the conclusion of the 2012 session. If you have questions or need additional information, please contact me or our committee staff: Bill Marienau, Legal Counsel or Janice Foster, Committee Clerk.

BANKING AND FINANCE

LB268 (Howard) Require return to the payee of insufficient funds checks

Left in Committee

This bill would enact a new section in the Nebraska Banking Act to provide that when a check, draft, or assignment of funds is deposited in a financial institution by the payee of the instrument and is refused by the financial institution of the drawer of the instrument, the financial institutions of the drawer and payee shall cause the instrument to be returned to the payee. The bill would provide that the instrument shall be returned in its entirety and in such a condition that all information identifying the drawer is legible.

The bill would provide that it shall be enforced by the Department of Banking and Finance and that a financial institution violating it shall be subject to a civil penalty of five hundred dollars.

LB811 (Harr) Change provisions relating to disclosure of confidential business or financial information

Enacted

Effective July 19, 2012

This bill amends section 8-1401 to provide that no person organized to conduct business in Nebraska or organized under the laws of the United States shall be required to disclose any records or information that it deems confidential concerning its affairs or the affairs of any person with which it is doing business, unless (in addition to other things already in this section) the request for disclosure relates to information or records regarding indebtedness owed by a deceased person when the request is made by a person having an ownership interest in real or personal property which secures such indebtedness owed to the person to whom the request for disclosure is made.

The bill passed 47-0-2 on March 8, 2012 and was approved by the Governor on March 14, 2012.

LB963e (Pahls, McCoy, Pirsch) Change provisions relating to banking and finance

Enacted

Effective April 7, 2012

Banking, Commerce and Insurance Committee Priority Bill

This bill, introduced at the request of the Director of Banking and Finance, amends various sections regarding banking and finance. The bill provides, section by section, as follows:

BANKS

Section 1 amends section 8-141 of the Nebraska Banking Act, the bank lending limit statute, to authorize state-chartered banks to engage in derivative transactions in the manner and to the extent of credit exposure

determined by the Director of Banking and Finance. These amendments are required by Section 611 of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") Act in order for state-chartered banks to continue to engage in derivative transactions. These amendments also define the terms "derivative transaction" and "loan" and come into operation on January 21, 2013, all in accordance with the Dodd-Frank Act.

Section 2 amends section 8-157 of the Nebraska Banking Act to update internal references.

Section 3 amends section 8-183.05 of the Nebraska Banking Act to update internal references.

Section 4 amends section 8-1,140 of the Nebraska Banking act, which is the "wild-card" statute for state-chartered banks. This section is amended to give state-chartered banks the same rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2012 by a federally chartered bank doing business in Nebraska. Due to state constitutional restrictions on delegation of legislative authority, this section is amended annually.

TRUST COMPANIES

Section 5 amends section 8-209 of the Nebraska Trust Company Act, the statute requiring the pledge of securities to the Department of Banking and Finance by trust companies and depository financial institutions with trust powers located in Nebraska, to require out-of-state trust companies and entities without a Nebraska office that may be appointed as trustees in Nebraska to pledge securities to the department to be held against losses by the pledging entity.

Section 6 amends section 8-212 of the Nebraska Trust Company Act to harmonize provisions with amendments to section 8-209 in section 5 of the bill.

Section 7 amends section 8-213 of the Nebraska Trust Company Act to harmonize provisions with amendments to section 8-209 in section 5 of the bill.

Section 8 amends section 8-214 of the Nebraska Trust Company Act to harmonize provisions with amendments to section 8-209 in section 5 of the bill.

Section 9 amends section 8-215 of the Nebraska Trust Company Act to harmonize provisions with amendments to section 8-209 in section 5 of the bill.

Section 10 amends section 8-230 of the Nebraska Trust Company Act to update the definitions of "agency capacity" and "fiduciary capacity" by removing the term "a trust company" from each definition. These amendments harmonize the provisions of this section with amendments to section 8-209 in section 5 of the bill.

BUILDING AND LOAN ASSOCIATIONS

Section 11 amends section 8-355, which is the "wild-card" statute for state-chartered savings and loan associations. This section is amended to give state-chartered building and loan associations the same rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2012 by a federal savings and loan association doing business in Nebraska. Due to state constitutional restrictions on delegation of legislative authority, this section is amended annually.

DEPARTMENT ASSESSMENTS AND FEES

Section 12 amends section 8-602, the financial institutions fee statute, to harmonize the provisions of this section with amendments to sections 8-157, 8-209, 8-2103, and 8-2104 in sections 2, 5, 16, and 17 of the bill, respectively.

FINANCIAL INSTITUTION NAMES

Section 13 amends section 8-1901, the statute defining terms for the laws which prohibit confusingly similar financial institution names, to provide that the definition of "financial institution" includes out-of-state state-chartered banks.

INTERSTATE BRANCHING BY MERGER

Section 14 amends section 8-2101 to change the name of the Interstate Branching by Merger Act of 1997 to the Interstate Branching and Merger Act. As a result of preemptive provisions of the Dodd-Frank Act, interstate branching is no longer limited to branches established through merger, so the name was no longer appropriate.

Section 15 amends section 8-2102 to harmonize and update provisions.

Section 16 amends section 8-2103 to provide that, with the prior approval of the Director of Banking and Finance and payment of an application fee, a state-chartered bank may (1) establish and maintain de novo branches in any other state, and/or (2) merge with a bank in any other state and establish branches as a result of the merger where the Nebraska bank is the resulting (surviving) bank. The effect of this change will be to allow full interstate branching on a de novo basis, while preserving the ability of Nebraska banks to engage in an interstate merger. These amendments also update the activities that may be conducted at an out-of-state branch to match provisions in section 17 of the bill regarding the activities of an out-of-state bank establishing a Nebraska branch.

Section 17 amends section 8-2104 to provide that an out-of-state bank may (1) establish and maintain de novo branches in Nebraska, and/or (2) merge with a Nebraska bank and establish branches as a result of the merger where the out-of-state bank is the resulting bank. The requirement that the Nebraska bank being acquired be at least five years old is also removed, and the provisions relating to the activities of Nebraska branches of out-of-state banks are updated as in section 16 of the bill.

Section 18 amends section 8-2106, which had provided that an interstate merger transaction cannot occur if, after the merger, the surviving bank or its holding company would control more than fourteen percent of the total of deposits of banks and savings associations located in this state, based on calendar year end reports. These amendments (1) change the fourteen percent "deposit cap" to twenty-two percent to conform to 2002 amendments to section 8-910, and (2) change the requirement for calendar year-end reports to mid-year reports to conform to 2000 amendments to section 8-910.

Section 19 amends section 8-2107 relating to the authority of the Director of Banking and Finance to examine branches of out-of-state state-chartered banks and to require reports from such institutions. These amendments remove provisions regarding examinations which placed out-of-state state-chartered banks at a disadvantage with their national counterparts.

Section 20 amends section 8-2108 relating to the closure of an interstate bank branch, to harmonize provisions.

CREDIT CARD BANKS

Section 21 amends section 8-2403, relating to credit card banks, to harmonize provisions.

CREDIT UNIONS

Section 22 amends section 21-17,115 of the Credit Union Act, which is the "wild-card" statute for state-chartered credit unions. This section is amended to give state-chartered credit unions the same rights, powers, privileges, benefits, immunities which may be exercised as of January 1, 2012 by a federal credit union doing business in Nebraska. Due to state constitutional restrictions on delegation of legislative authority, this section is amended annually.

MISCELLANEOUS PROVISIONS

Section 23 provides for the repealers of the amendatory sections.

Section 24 outright repeals section 8-2105, which had provided that out-of-state banks may only establish branches in Nebraska through an interstate merger transaction, because the restriction has been preempted by the Dodd-Frank Act.

Section 25 provides for the emergency clause.

The bill passed 46-0-3 with the emergency clause on April 2, 2012 and was approved by the Governor on April 6, 2012.

LB964 (Pahls) Adopt the Nebraska Money Transmitters Act

Left on General File

This bill, introduced at the request of the Department of Banking and Finance, would enact 44 new sections to be known as the Nebraska Money Transmitters Act and would outright repeal sections 8-1001 to 8-1017, the Nebraska Sale of Checks and Funds Transmission Act. The bill would provide, section by section, as follows:

Section 1 would provide that the name of the new act shall be the Nebraska Money Transmitters Act (NMTA).

Section 2 would provide that the definitions in sections 3 to 21 of the bill shall be used for purposes of the NMTA.

Section 3 would define "applicant" as a person filing an application for a money transmitter license.

Section 4 would define "authorized delegate" as an entity designated by a licensee or an exempt entity to engage in the business of money transmission on behalf of the licensee or exempt entity.

Section 5 would define "control" as the power, directly or indirectly, to direct the management or policies of a licensee, whether through ownership of securities, by contract, or otherwise, and would provide that certain persons will be deemed to have control of a licensee. This section is based on section 8-1001 of the existing Nebraska Sale of Checks and Funds Transmission Act (NSCA) which

would be repealed if the NMTA is enacted.

Section 6 would define “controlling person” as any person in control of a licensee or authorized delegate.

Section 7 would define “department” as the Department of Banking and Finance, which would administer the NMTA.

Section 8 would define “director” as the Director of Banking and Finance.

Section 9 would define “electronic instrument” as a card or other tangible object for the transmission or payment of money with the means for the storage of information. The card or object would have to be prefunded and reflect decreased value upon each use. Cards which are redeemable by an issuer for goods or services of the issuer would be excluded from the definition.

Section 10 would define “executive officer” as a licensee's president, chairman of the executive committee, senior officer responsible for business decisions, chief financial officer, and any other person who performs similar functions for a licensee.

Section 11 would define “key shareholder” as any person or group of persons acting in concert owning ten percent or more of any voting class of an applicant's stock. This would comport with the definition of control in section 5 of the bill.

Section 12 would define “licensee” as a person licensed pursuant to the NMTA.

Section 13 would define “material litigation” as litigation that is significant to an applicant's or licensee's financial health and would be required to be referenced in annual audited financial statements, reports to shareholders, or similar documents, in accordance with generally accepted accounting principles.

Section 14 would define “monetary value” as a medium of exchange, whether or not redeemable in money.

Section 15 would define “money transmission” as a business for the sale or issuance of payment instruments or stored value; as the receiving of money or monetary value for transmission to another location by any means; and as certain bill payment services.

Section 16 would define “outstanding payment instrument” as any payment instrument issued and sold by a licensee or issued by a licensee and sold by its authorized delegate, which is reported as having been sold, but not yet been paid by, or for, the licensee.

Section 17 would define “payment instrument” as any electronic or written check, draft, money order, travelers check, or other electronic or written instrument or order for the transmission or payment of money, which has been sold or issued. Credit cards, vouchers, letters of credit, and any instrument redeemable by an issuer for goods or services would be excluded from the definition.

Section 18 would define “permissible investments” to include cash, certificates of deposit, bankers’

acceptances, rated investments, government securities, and the like, with authority for the Director of Banking and Finance to authorize other securities or investments as permissible. This definition would relate to section 26 of the bill.

Section 19 would define "person."

Section 20 would define "remit," for purposes of a licensee, as a direct payment of funds to the licensee or deposit of funds to a designated financial institution. The definition would exclude the reference to the Department of Banking and Finance remitting fees, costs, and fines contained in section 43 of the bill.

Section 21 would define "stored value" as monetary value that is evidenced by an electronic record.

Section 22 would provide that the licensing requirements of the NMTA do not apply to federal and state governments, political subdivisions, governmental agencies, the US Post Office, financial institutions and their subsidiaries, bank holding companies which have a bank subsidiary in Nebraska, authorized delegates of financial institutions, financial institution subsidiaries and holding companies that are also financial institutions, financial institution subsidiaries and holding companies, contractors providing governmental electronic benefits transfers; and operators of specified limited payment processing systems. Other authorized delegates could be excluded from the licensing requirements, but would have to comply with the provisions of the NMTA which apply to money transmission transactions.

Section 23 would set forth the licensing requirement for money transmitters who provide services to Nebraska residents, whether or not the money transmitter has a physical location in the state. These licenses would not be transferable or assignable. This section would also provide that money transmitters may conduct business through authorized delegates.

Section 24 would provide the requirements that must be met in order for the Department of Banking and Finance to grant a money transmitter license. The standards would include a net worth of fifty thousand dollars; proof that the business will be conducted honestly and fairly based on financial condition, financial and business experience, and the character and general fitness of the applicant. These standards would reflect current requirements set by section 8-1004 of the NSCA.

Section 25 would require applicants and licensees to obtain and maintain a surety bond in an amount based upon the number of locations at which it offers its services in Nebraska, up to a maximum amount of two hundred fifty thousand dollars. This section would allow for a pledge of securities to the Department of Banking and Finance in lieu of the surety bond requirement, and would provide authority to the department to require an increase to the bond amount for good cause. This section is a combination of the bonding requirements set forth in sections 8-1006 and 8-1008 of the NSCA.

Section 26 would require licensees to hold permissible investments having an aggregate market value at least equal to the aggregate face amount of all outstanding payment instruments and stored value issued or sold by the licensee in the United States. This section would also provide the Director of Banking and Finance with limited authority to waive the requirement, and would deem these investments to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event the licensee becomes bankrupt.

Section 27 would provide that applications for a license are to be on forms created by the Director of Banking and Finance, as is currently provided by section 8-1005 of the NSCA.

Section 28 would provide for an application fee of one thousand dollars, which is unchanged from the fee required currently for a license under section 8-1006 of the NSCA.

Section 29 would provide the Department of Banking and Finance with the responsibility of investigating license applications, would allow for onsite investigations of an applicant, and would reiterate the conditions for licensure found in sections 24 and 25 of the bill. This section would provide for a post-denial hearing in accordance with the Administrative Procedure Act.

Section 30 would establish the renewal requirements for a license, which include a July 1 annual renewal date, completion of a license renewal application, a fee of two hundred fifty dollars, and bond information, and a list of locations where the business is conducted. These requirements are currently in place for licenses under section 8-1009 of the NSCA. This section would also require the filing of audited financial statements, list of authorized delegates, and information on the licensee's investments, payment instruments, and business changes.

Section 31 would provide that a licensee must (1) file notice with the Department of Banking and Finance within thirty calendar days of any material changes in information provided in a licensee's application, and (2) file a report within five business days of certain specified events. This section mirrors section 8-1019 of the NSCA.

Section 32 would provide for change of control procedures for licensees that mirror the change of control procedures set out in section 8-1018 of the NSCA.

Section 33 would provide authority for the Department of Banking and Finance to conduct annual onsite examinations of licensees upon reasonable written notice, and to conduct examinations of licensees and authorized delegates without prior notice if the Director of Banking and Finance has a reasonable basis to believe that the licensee is in noncompliance with the NMTA. The department would be authorized to conduct an examination with another state, and to accept another state's examination or a report from an independent accountant in lieu of an onsite examination. This section would require licensees to pay examination expenses.

Section 34 would provide record-keeping standards for licensees, and would include the requirement to maintain records for a period of five years, the authority for photographic or electronic record-keeping, and for storage of records outside of Nebraska.

Section 35 would set forth conditions that must be included in the written contract between a licensee and each of its authorized delegates, and would provide that neither a licensee nor an authorized delegate may authorize subdelegates without the written consent of the Director of Banking and Finance.

Section 36 would set forth conduct standards for authorized delegates, including adherence to a licensee's written procedures and the handling and remission of money owed to the licensee. This section would provide authority to the Department of Banking and Finance to cancel an authorized delegate's contract and take other disciplinary action against those entities.

Section 37 would continue the authority of the Department of Banking and Finance to suspend or revoke a license currently provided in section 8-1012 of the NSCA. This would section provide additional events which the Director of Banking and Finance may consider as cause to institute these proceedings against a licensee, including unsafe and unsound practices, failure to pay its obligations, and refusal to permit an examination. This section would also contain provisions that mirror section 8-1012 regarding surrender, expiration, and cancellation of a license.

Section 38 would provide for the suspension or revocation of authorized delegates by the Department of Banking and Finance in accordance with the Administrative Procedure Act, if the entity violates the NMTA, does not cooperate with an examination or investigation, engages in fraud, other bad acts or unsafe or unsound practices, or is convicted of money laundering.

Section 39 would provide authority to the Department of Banking and Finance to issue cease and desist orders upon a determination that a violation of the NMTA has occurred. Subsections (1), (3), and (4) of section 39 are virtually identical to section 8-1016 (1), (2), and (3) of the current act. Subsection (2) of this section would provide authority to order a licensee to cease and desist its business with an authorized delegate who is subject to a departmental order issued under section 38 of the bill.

Section 40 would provide authority to the Department of Banking and Finance to impose administrative fines up to \$5,000.00 per violation for violations of the NMTA or departmental rules or orders. Fines and investigation costs could only be assessed after notice and hearing.

Section 41 would provide that certain bad acts would constitute Class III misdemeanors (maximum: 3 months or \$500, or both; minimum: none), including the making of false statements, certifications, or entries in records, violations of the NMTA, and unlicensed money transmission. This would be the same penalty contained in section 8-1014 for violations of the current act.

Section 42 would provide authority to the Department of Banking and Finance to adopt and issue rules and regulations, orders, findings and demands under the NMTA.

Section 43 would provide that the fees, charges, and costs collected by the Department of Banking and Finance pursuant to the NMTA will be credited to the Financial Institution Assessment Cash Fund, while fines will be distributed per the Nebraska Constitution, Article VII, section 5. These are current procedures.

Section 44 would provide for savings and transitional provisions for entities currently licensed under the Nebraska Sale of Checks and Funds Transmission Act.

Section 45 would amend section 8-602, which is the general fees statute for financial institutions, to update the citation to the pledging of securities statute in section 25 of the bill. No new fee would be imposed by the amendment.

Section 46 would provide for a delayed operative date of January 1, 2013.

Sections 47 and 48 would contain the amendatory repeal provisions for the bill and would provide for the outright repeal of sections 8-1001 to 8-1019.

EXPLANATION OF COMMITTEE AMENDMENTS

The committee amendments (AM1756) make three technical changes to the bill:

1. The phrase "or authorized delegate" would be removed from the definition of "controlling person" in section 6 of the bill. This phrase is superfluous as the bill makes no further reference to a controlling person of an authorized delegate.
2. The second change would be to the definition of "money transmission" in section 15 of the bill. The amendment would add, at the end of the definition, the phrase "but does not include bill payment services in which an agent of a payee receives money or monetary value on behalf of such payee." This would clarify that a money transmitter does not include an agent of a payee who receives funds on behalf of that payee.
3. The phrase "or authorized delegate" in section 25 of the bill would be replaced with "in this state" to clarify that the surety bond is based upon the number of locations within this state, and not on the number of authorized delegates that the licensee has in this state.

BURIAL PRE-NEED SALES

LB71 (Pahls) Change the definition of trustee under the Burial Pre-Need Sale Act

Left in Committee

This bill, introduced at the request of the Director of Insurance, would amend section 12-1102 of the Burial Pre-Need Sale Act to provide that the trustee, with which pre-need sale proceeds must be deposited, does not have to be a bank, trust company, building and loan association, or credit union located “within the state”.

LB551 (Schilz) Change the Burial Pre-Need Sale Act

Left in Committee

This bill would amend section 12-1106 of Burial Pre-Need Sale Act to provide that, at the request of a pre-need purchaser, the first “eight thousand five hundred” dollars, rather than the first “four thousand” dollars, paid by the pre-need purchaser which is placed in trust by the pre-need seller may be designated as irrevocable. The bill would provide that the Department of Health and Human Services shall increase such amount by the percentage change in the Consumer Price Index annually on September 1 beginning in 2012 rather than 2006.

CORPORATIONS AND OTHER COMPANIES

LB317 (Conrad) Adopt the Nebraska Revised Uniform Unincorporated Nonprofit Association Act

Left in Committee

This bill would enact the Nebraska Revised Uniform Unincorporated Nonprofit Association Act (RUUNAA) based on the Revised Uniform Unincorporated Nonprofit Association Act as adopted by the National Conference of Commissioners in 2008 and recommended to the states for enactment.

RUUNA provides a basic comprehensive legal framework governing unincorporated nonprofit associations. It addresses the following issues: (1) definition of the types of organizations covered; (2) the relation of the act to other existing laws; (3) the recognition of an unincorporated nonprofit association as a legal entity and the legal implications flowing from that status; (4) the contract and tort liability of an unincorporated nonprofit association and its members and managers; (5) internal governance, fiduciary duties, and agency authority; and (6) dissolution and merger.

RUUNAA makes it clear that an unincorporated nonprofit association is a legal entity, separate from its members and managers. It can own and convey interests in property and can sue and be sued in its own name.

RUUNAA provides the same personal liability protection to members and managers of an unincorporated nonprofit association formed or operating in an enacting state as does a corporation.

RUUNAA provides a basic set of default voting and other governance rules that will be applicable unless the association has established practices or agreements to the contrary.

RUUNAA contains provisions setting forth the default rules for how members of an unincorporated nonprofit association are admitted, suspended, dismissed, expelled, or can resign; duties and liabilities of members and managers; their rights to financial and other information about an unincorporated nonprofit association; limitations on distributions from the association to members and manager; and the right to reimbursement, indemnification, and advancement of expenses.

RUUNAA contains provisions for dissolving and winding up an unincorporated nonprofit association. RUUNAA also authorizes unincorporated nonprofit associations to merge into other types of organizations and for other organizations to merge into unincorporated nonprofit associations.

LB639 (Schumacher) Change provisions relating to articles of organization and charging orders relating to limited liability companies

Left in Committee

This bill would amend the limited liability company statutes with regard to the restating of articles of

organization and with regard to charging orders.

LB888 of 2010 provided for (1) the enactment of the Uniform Limited Liability Company Act (“new LLC act”) with an operative date of January 1, 2011 and (2) the termination of the Limited Liability Company Act (“old LLC act”) on January 1, 2013. Beginning January 1, 2011, LLCs must be formed under the new act and LLCs formed under the old act may, through a filing with the Secretary of State, become subject to the new act. Beginning January 1, 2013, all LLCs are subject to the new act.

This bill would amend section 21-112 of the new LLC act to repeal references to provisions repealed elsewhere in the bill and would amend section 21-118 of the new LLC act to provide that articles of organization filed under the old LLC act may be restated pursuant to provisions which provide for restatement of a certificate of organization filed under the new LLC act.

This bill would repeal uniform provisions regarding charging orders from section 21-142 of the new LLC act and parallel provisions from section 21-2654 of the old LLC act, all of which were enacted by LB888. This bill would then insert nonuniform provisions regarding charging orders which had been in section 21-2654 of the old LLC act prior to enactment of LB888.

LB852 (McCoy) Change provisions relating to corporations and professional corporations

Enacted

Effective July 19, 2012

This bill amends section 21-2024 of the Business Corporation Act and section 21-2202 of the Nebraska Professional Corporation Act to clarify who may form a professional corporation.

The Nebraska Professional Corporation Act provides that one or more individuals who reside in Nebraska and who are licensed to render the same professional service may organize and become a shareholder or shareholders in a professional corporation.

Section 1 amends section 21-2024 of the Business Corporation Act to harmonize provisions with the definition of professional service as amended in section 21-2202 of the Nebraska Professional Corporation Act (section 2 of the bill). Section 1 amends subsection (3) of section 21-2024 to provide that business corporations shall not be organized to perform “professional” services (rather than “personal” services) specified in section 21-2202 except for such services rendered by a designated real estate broker.

Section 2 amends the definition of “professional service” in subdivision (3) of section 21-2202 of the Nebraska Professional Corporation Act to provide that a professional service means personal services rendered only by specific individuals (an attorney at law, a certified public accountant, a public accountant, a dentist, an osteopathic physician, a physician and surgeon, a real estate broker, an associate real estate broker, a real estate salesperson, or a veterinarian) and this section repeals provisions which provide that a professional service means any type of personal service to the public which requires the obtaining of a license, “including, but not limited to,” personal services rendered by an individual listed above.

The bill passed 49-0-0 on March 1, 2012 and was approved by the Governor on March 7, 2012.

LB854 (McCoy) Change provisions relating to business entity dissolution and reinstatement

Enacted

Operative January 1, 2013

This bill amends section 21-152 of Nebraska Uniform Limited Liability Act, sections 21-323.01 and 21-325.01 of the occupation tax statutes, sections 21-19,139 and 21-19,159 of Nebraska Nonprofit Corporation Act, sections 21-20,160 and 21-20,180.01 of the Business Corporation Act, and section 21-2995 of the Nebraska Limited Cooperative Association Act to provide that domestic entities that are automatically or administratively dissolved and foreign entities that have their certificates of authority revoked can apply to the Secretary of State for reinstatement only within five years after dissolution or revocation rather than at any time after dissolution or revocation.

The bill has an operative date of January 1, 2013.

The bill passed 49-0-0 on March 1, 2012 and was approved by the Governor on March 7, 2012.

LB890 (Pirsch) Provide for electronic transmission of notice under the Nebraska Nonprofit Corporation Act

Enacted

Effective July 19, 2012

This bill amends sections 21-1914 and 21-1915 of the Nebraska Nonprofit Corporation Act to provide for electronic transmission of notice.

Section 1 amends section 21-1914 to provide for a new definition: "electronic transmission" or "electronically transmitted" – any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

Section 2 amends section 21-1915 to provide that notice may be communicated, in addition to communicated in person, by mail or other method of delivery, or by telephone or other electronic means (rather than by telephone, telegraph, teletype, other form of wire or wireless communication, or mail or private carrier). This section also provides that a written notice or report delivered as part of a publication regularly sent to members shall constitute a written notice or report if electronically transmitted to a member in a manner authorized by the member.

The bill passed 49-0-0 on March 1, 2012 and was approved by the Governor on March 7, 2012.

LB942 (McCoy) Change certain notice provisions under the Nebraska Uniform Limited Liability Company Act

Enacted
Effective July 19, 2012

This bill amends section 21-193 of the Nebraska Uniform Limited Liability Company (LLC) Act which provides that a notice of organization of the LLC, among other things, must be published for three successive weeks in a legal newspaper. The bill clarifies this requirement by providing that the published notice of organization must show the same information that is required to be stated in the LLC's certificate of organization as filed with the Secretary of State (the name of the LLC; the street and mailing address of the initial designated office and the name and street and mailing addresses and post office box number, if any, of the initial agent for service of process; and the professional service, if any, to be rendered).

Section 21-193 is a nonuniform section based on provisions in section 21-2652 of Nebraska's old LLC act (Chapter 21, article 26). The bill's amendatory provisions make section 21-193 more consistent with the rest of Nebraska's new LLC act (Chapter 21, article 1).

The bill passed 49-0-0 on March 1, 2012 and was approved by the Governor on March 7, 2012.

LB1018 (Conrad) Change provisions relating to business mergers, consolidations, and conversions

Enacted
Effective July 19, 2012

OVERVIEW

This bill amends the Business Corporation Act, the Nebraska Uniform Limited Partnership Act, and the Uniform Partnership Act of 1998 to set forth procedures for business entity mergers, consolidations, and conversions.

BUSINESS CORPORATIONS

Section 1 amends section 21-2001 of the Business Corporation Act to provide that sections 5 to 8 of the bill shall be codified within the act.

Section 2 amends section 21-2005 of the Business Corporation Act to provide that the fee for filing articles of merger or share exchange shall apply to articles of conversions.

Sections 3 and 4 amend sections 21-20,128 and 21-20,130 of the Business Corporation Act to set forth procedures for one or more domestic business corporations to merge with one or more domestic or foreign business corporations, domestic or foreign partnerships, domestic or foreign limited partnerships, or domestic or foreign limited liability companies.

Sections 5 to 8 enact four new sections in the Business Corporation Act to set forth procedures for a domestic business corporation to convert into a domestic or foreign limited liability company.

LIMITED PARTNERS

Section 9 amends section 67-248.02 of the Nebraska Uniform Limited Partnership Act to set forth procedures for a domestic limited partnership to merge or consolidate with one or more domestic or foreign limited partnerships, domestic or foreign business corporations, domestic or foreign partnerships, or domestic or foreign limited liability companies.

Sections 10 to 13 enact four new sections in the Nebraska Uniform Limited Partnership Act to set forth procedures for a domestic limited partnership to convert into a domestic or foreign limited liability company.

Section 14 amends section 67-296 of the Nebraska Uniform Limited Partnership Act to provide that new sections 10 to 13 of the bill shall be codified in the act.

Section 15 amends section 67-450 of the Uniform Partnership Act of 1998 to harmonize provisions regarding limited partnerships that are party to a merger.

The bill passed 47-0-2 on March 27, 2012 and was approved by the Governor on April 2, 2012.

Note: LR476 (Conrad) calls on the Banking, Commerce and Insurance Committee to study whether Nebraska's business entity statutes should be updated. The resolution calls for the study to include a review of the Model Entity Transactions Act as developed by the National Conference of Commissioners on Uniform State Laws and the American Bar Association.

TRUSTS

LB784 (Wightman) Change Nebraska Uniform Trust Code provisions relating to testamentary powers

Left in Committee

This bill would amend sections 30-3823 and 30-3855 of the Nebraska Uniform Trust Code to change provisions regarding power of appointment.

Section 1 would amend section 30-3823 of the Nebraska Uniform Trust Code to provide that the holder of a power of appointment or other power to terminate an interest may represent and bind persons whose interests are subject to the power. This section would repeal provisions which provide that the holder of a general testamentary power of appointment, to the extent there is no conflict of interest between the holder and persons represented, may represent and bind persons whose interests are subject to the power.

Section 2 would amend section 30-3855 of the Nebraska Uniform Trust Code, regarding revocable trusts, to provide that the duties of the trustee are owed exclusively to the holder of a power of withdrawal and that the holder of a power of appointment has the rights of a settlor of a revocable trust and the duties of the trustee are owed exclusively to the holder of the power.

Section 3 would provide for an operative date of January 1, 2013.

Section 4 would provide for repealers.

INSURANCE

LB132 (Dubas, Coash, Harms, Karpisek, Mello, Nordquist, Pirsch, Schilz, Sullivan, Utter) Adopt the Abortion Mandate Opt-Out Act so no abortion coverage is provided by a qualified health plan offered through a health insurance exchange created pursuant to federal law

Left in Committee

This bill would enact three new sections to be known as the Abortion Mandate Opt-Out Act with the purpose of affirmatively opting out of allowing qualified health plans that cover abortion to participate in health insurance exchanges within Nebraska.

The bill would provide that no abortion coverage shall be provided by a qualified health plan offered through a health insurance exchange created in this state pursuant to the federal Patient Protection and Affordable Care Act and would further provide that this limitation shall not apply to an abortion performed when the life of the mother is endangered, including a condition caused by or arising from the pregnancy.

LB196 (Lathrop) Change liability insurance and financial responsibility requirements for motor vehicles

Left in Committee

This bill would increase the current required minimum limits of motor vehicle liability insurance coverage (1) for bodily injury to or death of other persons and (2) for damage to property of others.

UNINSURED AND UNDERINSURED COVERAGE

Section 1 would amend section 44-6408 of the Uninsured and Underinsured Motorist Insurance Coverage Act to increase the minimum limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident and (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident. (There are no statutory requirements for uninsured and underinsured coverage of injury to or destruction of property of other persons.)

LIABILITY COVERAGE

Sections 2 to 6 would amend the following sections to increase the minimum liability limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident, (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident, and (3) from \$25,000 to \$50,000 for injury to or destruction of property of others in one accident:

Section 60-310 of the Motor Vehicle Registration Act (definition of “automobile liability policy” for purposes of motor vehicle registration requirements) (section 2 of the bill);

Section 60-346 of the Motor Vehicle Registration Act (definition of “proof of financial responsibility” for purposes of motor vehicle registration requirements) (section 3 of the bill);

Section 60-501 of the Motor Vehicle Safety Responsibility Act (definition of “proof of financial responsibility”) (section 4 of the bill);

Section 60-509 of the Motor Vehicle Safety Responsibility Act (requirements for an automobile liability policy or bond) (section 5 of the bill); and

Section 60-534 of the Motor Vehicle Safety Responsibility Act (requirements for a certified SR22 motor vehicle liability policy) (section 6 of the bill).

Section 7 would amend section 60-549 of the Motor Vehicle Safety Responsibility Act to increase the minimum amount of cash or securities deposited with the State Treasurer necessary to evidence proof of financial responsibility from \$75,000 to \$150,000 – historically this amount has been the sum of the minimum limit for bodily injury to or death of two or more persons plus the minimum limit for injury to or destruction of property of others. This section would express this amount with an internal reference to subdivisions (11)(b) and (c) of section 60-501.

Section 8 would provide for an operative date of January 1, 2012.

Section 9 would provide for the repealers of the amendatory sections.

Financial responsibility limits were first enacted in 1949 and have been increased three times thereafter, as follows:

1949	LB493	\$5,000/\$10,000/\$1,000
1959	LB628	\$10,000/\$20,000/\$5,000
1973	LB365	\$15,000/\$30,000/\$10,000
1983	LB253	\$25,000/\$50,000/\$25,000 (current)

LB223 (Karpisek) Require insurance coverage of cochlear implants

Left in Committee

This bill would enact a new section to provide that individual and group sickness and accident insurance policies, certificates, and subscriber contracts; hospital, medical, or surgical expense-incurred policies; and self-funded employee benefit plans to the extent not preempted by federal law shall provide coverage for single or bilateral cochlear implants for persons diagnosed with severe to profound hearing impairment.

LB240 (Nordquist, Campbell, Cook, Hadley, Mello) Create the Nebraska Insurance Choices Exchange Task Force

Left in Committee

This bill would create the Nebraska Insurance Choices Exchange Task Force to develop recommendations regarding the establishment, governance, and requirements of the health insurance

exchange required by the federal Patient Protection and Affordable Care Act, as amended.

The task force would have nine members: the Director of Insurance or designee; the chief executive officer of the Department of Health and Human Services or designee; the Chief Information Officer or designee; three members of the Legislature, appointed by the Executive Board; and three public members, one from each congressional district, appointed by the Governor. Members would serve without expense reimbursement.

Administrative and staff support would be provided by the staff of the members of the Legislature appointed to the task force.

The task force would be considered a stakeholder for any activities conducted by the Department of Insurance under the department's Affordable Care Act Exchange Investigation Study. The task force would review interim and final reports and recommendations resulting from the department's study.

The task force would submit a report to the Legislature by December 1, 2011, with recommendations regarding the implementation of the health insurance exchange.

The task force would oversee implementation of the health insurance exchange in Nebraska until June 30, 2012.

These provisions would sunset on June 30, 2012.

The bill carries the emergency clause.

LB280 (Lathrop) Adopt the Discretionary Clause Prohibition Act and create an unfair insurance trade practice

Left in Committee

This bill would enact five new sections to be known as the Discretionary Clause Prohibition Act, which would provide that no health policy, contract, certificate, or agreement and no disability income protection policy, contract, certificate, or agreement shall contain a provision purporting to reserve discretion to the carrier or insurer to interpret the terms of the contract or to determine eligibility to receive benefits.

The bill would provide that a violation shall be an unfair trade practice in the business of insurance subject to the Unfair Insurance Trade Practices Act.

LB322 (Cornett) Provide requirements for prescription drug insurance

Left in Committee

This bill would enact a new section to provide requirements for health insurers providing prescription drug coverage.

The bill would provide that an insurer shall not create specialty tiers that require payment of a percentage cost of prescription drugs and shall not establish tiers of prescription drug copays in which the maximum prescription drug copay exceeds by more than five hundred percent the lowest prescription drug copay charged under the health benefit plan.

The bill would provide that if an insurer's health benefit plan provides a limit for out-of-pocket expenses for benefits other than prescription drugs, the insurer shall include one of the following provisions in the plan that would result in the lowest out-of-pocket prescription drug cost: (1) out-of-pocket expenses for prescription drugs shall be included under the plan's total limit for out-of-pocket expenses for all benefits provided under the plan; or (2) out-of-pocket expenses for prescription drugs per contract year shall not exceed one thousand dollars per insured or two thousand dollars per insured family, adjusted for inflation.

The bill would provide that it shall be enforced by the Department of Insurance. The bill would provide that the department shall cease enforcement of it if its requirements will result in the assumption by the state of additional costs pursuant to the federal Patient Protection and Affordable Care Act, as amended.

LB371 (Schumacher, McCoy) Provide for an unfair insurance trade practice relating to public officials

Left in Committee

This bill would amend section 44-1525 of the Unfair Insurance Trade Practices Act to provide that it shall be an unfair trade practice in the business of insurance for an insurer to refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of the status of the individual as a public official.

LB409 (Utter) Provide for the retention of insurance proceeds by a county or municipality to repair or demolish damaged property

Left on General File

This bill would provide for the withholding and deposit of insurance proceeds into a trust or escrow account maintained by a county, city, or village for the repair or demolition of materially damaged real property.

The bill would provide that if insured real property is materially damaged by flood, fire, explosion, or otherwise, and a claim is made by the insured to the insurer, the insurer shall withhold from payment of the claim the greater of: twenty-five percent of the actual cash value of the property; twenty-five percent of the final settlement; or fifteen thousand dollars.

Upon the withholding of the funds, the insurer shall give notice to: the insured; the treasurer of the county, city, or village; any mortgagee named on the policy; and the court in which a proceeding involving the property is filed.

The county, city, or village may request that the withheld funds be remitted to a trust or escrow account maintained by the treasurer of the county, city, or village. A copy of the request shall be sent to the insured who may object to the county, city, or village. The governing body of the county, city, or village shall make the final determination. After receipt of the request, the insurer shall remit the withheld funds to the treasurer.

The funds deposited in the trust or escrow account shall be used for the repair or demolition and clearing of the damaged real property. If the repair or demolition and clearing is performed by the insured or a contractor of the insured, the insured shall receive the proper permit issued by the county, city, or village. The county, city, or village shall not make payment until it has inspected and approved the performance. Any funds remaining upon completion shall be paid to the insured.

EXPLANATION OF COMMITTEE AMENDMENTS

The committee amendments (AM577) would strike the original provisions of the bill and would insert a new section with the following subsections:

1. Subsection (1) would provide that after an insurer makes payment to all mortgagees on a fire and casualty insurance policy covering damaged real property, the insurer shall reserve ten thousand dollars or ten percent of the coverage limit, whichever is greater, to be held as a demolition cost reserve if (a) the property is located within the limits and any zoning jurisdiction of a city or village, (b) the property is uninhabitable or unfit for use, and (c) proof of loss has been submitted by the policyholder to the insurer for a sum in excess of seventy-five percent of the face value of the policy.
2. Subsection (2) would provide that if the insurer receives proof of loss, it shall notify the clerk of the city or village of the existence of the demolition cost reserve.
3. Subsection (3) would provide that the city or village shall release all interest in the demolition cost reserve within ninety days of notice unless the city or village has instituted legal proceedings or issued a demolition order.
4. Subsection (4) would provide that a demolition cost reserve shall not be required if (a) the insurer has received notice from the insured and the city or village that the property has been replaced or rebuilt, repairs have been completed, or demolition has been completed, or (b) the city or village has failed to notify the insurer that it has instituted legal proceedings or issued a demolition order.
5. Subsection (5) would provide that the city or village shall present to the insurer a report of demolition costs.
6. Subsection (6) would provide that the insurer is not liable for any demolition costs (a) not covered under the policy, (b) in excess of policy liability limits, or (c) to the extent the reserve is needed to pay any interest of a mortgagee on the policy.
7. Subsection (7) would provide that an insurer and its agent that complies with this section shall be immune from any civil liability.

LB422 (Nordquist) Change eligibility provisions under the Comprehensive Health Insurance Pool Act

Left in Committee

This bill would amend sections 44-4221 and 44-4228 of the Comprehensive Health Insurance Pool Act to expand eligibility for pool coverage to an otherwise ineligible individual who was offered coverage under a short-term health insurance policy which such individual both elected and exhausted. These changes would be applicable to non-HIPAA-eligible individuals (subdivision (1)(a) of section 44-4221) and HIPAA-eligible individuals (subdivision (1)(b) of section 44-4221).

LB478 (McCoy) Adopt the Nebraska Insurance Claims Fraud Prevention Act

Left in Committee

This bill would enact the Nebraska Insurance Claims Fraud Prevention Act and would provide for three different violations:

- (1) It would be unlawful for a health care practitioner or intermediary to solicit a client, patient, or customer for financial benefit within thirty days after a motor vehicle accident involving the client, patient, or customer with the intent to seek insurance benefits or to assert a claim against the client, patient, or customer, any other insured involved in the accident, or a governmental entity or an insurer on behalf of the client, patient, or customer.
- (2) It would be unlawful for a health care practitioner to compensate a person to obtain a recommendation from such person or to secure his or her employment by a client, patient, or customer if the practitioner's intent is to seek insurance benefits or to assert a claim against the client, patient, or customer or a governmental entity or an insurer on behalf of the client, patient, or customer.
- (3) It would be unlawful for any person as an individual, as a public or private employee, or as an agent for any association, partnership, firm, or corporation to act as a capper, runner, or steerer. The bill would define a "capper, runner, or steerer" as a person who receives a financial benefit from a health care practitioner for procuring or attempting to procure a client, patient, or customer at the direction of a health care practitioner in violation of the act.

The bill would provide that violations would be subject to a fine not to exceed one thousand dollars collected by the Department of Insurance.

LB493 (Pahls) Provide dependent health insurance up to age twenty-six

Left in Committee

This bill would enact six new sections that would provide, in terms based on the federal Patient Protection and Affordable Care Act, as amended, that a health carrier that makes available dependent coverage of children shall make that coverage available for children until the attainment of twenty-six

years of age. The provisions of the bill are based on provisions of a model act developed by the National Association of Insurance Commissioners.

The bill would also outright repeal section 44-7,103 (enacted as LB551 in 2009), which requires continuing coverage under a health benefit plan for dependent children to age thirty.

LB514 (Christensen) Provide for recovery for unreasonable delay or denial of an insurance claim

Left in Committee

This bill would amend section 44-359 to provide that when a plaintiff, in an action against a property casualty insurance company, obtains a judgment for damages and an allowance of attorney's fees, the court may, if the recovery had been unreasonably delayed or denied by the company, allow an additional recovery of up to one times the recovery and attorney's fees as liquidated damages.

Note: LR563 (Christensen) calls on the Banking, Commerce and Insurance Committee to study legislation which would provide an additional recovery amount for compensatory or actual damages sustained due to an unreasonable delay or denial by an insurance company of a property and casualty insurance claim.

LB678 (Lathrop) Prohibit insurance discrimination based on race, creed, national origin, or religion

Left in Committee

This bill would amend section 44-1525 of the Unfair Insurance Trade Practices Act to provide that it shall be an unfair trade practice in the business of insurance for an insurer to engage in any act or practice in connection with the issuance, underwriting, rating, renewal, cancellation, or denial of or any other action related to a property and casualty insurance policy in a manner that has the effect of discrimination against any consumer because of his or her race, creed, national origin, or religion.

LB810 (Gloor, Lautenbaugh) Prohibit insurance policy provisions relating to fees for dental services

Enacted
Effective July 19, 2012
Speaker Priority Bill

This bill would enact a new section to provide that an individual or group health policy, certificate, contract, agreement, or plan shall not include a provision, stipulation, or agreement establishing or limiting any fees charged for dental services that are not covered by the policy, certificate, contract, or agreement, or plan. This section would apply to an individual or group sickness or accident policy, certificate, or contract; a hospital, medical, or surgical expense-incurred policy; a self-funded employee benefit plan to the extent not preempted by federal law; and a certificate, agreement, or contract issued

by a prepaid limited health services organization.

The bill passed 43-0-6 on March 30, 2012 and was approved by the Governor April 5, 2012.

LB835 (Nordquist, Ashford, Campbell, Cook, Dubas, Gloor, Hadley, Harr, Howard, Mello) Adopt the Nebraska Health Benefit Exchange Act

Left in Committee

OVERVIEW

This bill would enact the Nebraska Health Benefit Exchange Act in response to the federal Patient Protection and Affordable Care Act, as amended (2010).

The bill's stated purpose is to provide for (1) the establishment of a Nebraska health benefit exchange to facilitate the purchase and sale of qualified health plans in the individual market in this state and (2) the establishment of a small business health benefit exchange to assist qualified small employers in this state in facilitating the enrollment of their employees in qualified health plans offered in the small group market.

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would enact a new section to provide for a named act: the Nebraska Health Benefit Exchange Act.

Sections 2 and 3 would enact new sections to provide for legislative purpose and intent.

Section 4 would enact a new section to provide for defined terms: "board," "exchange," "federal act," "health care consumer advocate," "health insurance carrier," "qualified health plan," "qualified individual," and "secretary."

Section 5 would enact a new section to provide that the bill establishes the exchange within the Department of Insurance.

This section would provide that the exchange shall pursue federal funding and that the board shall adopt rules to obtain federal recognition of the exchange as a certified exchange.

This section would provide that the exchange may contract with or enter into a memorandum of understanding with an eligible entity for any of its functions. This section would provide that an eligible entity includes the Nebraska Department of Health and Human Services or an entity that has experience in individual and small group insurance, in benefit administration, or relevant to the responsibilities of the eligible entity. This section would provide that a health insurance carrier or affiliate is not an eligible entity. This section would provide that, prior to January 1, 2015, there are exemptions for contracts from approval by other state agencies and exemptions for contracts from statutes regarding state contracts for services.

Section 6 would enact a new section to provide that the exchange shall facilitate the purchase and sale of qualified health plans; provide for the establishment of a small business health benefit exchange; coordinate the policy and operations of the exchange with those of other state agencies; and perform duties required of the exchange by the Secretary of the federal Department of Health and Human Services related to exchange coverage.

Section 7 would enact a new section to provide for a governing board. This section would provide that, for administrative and budgetary purposes only, the board shall be housed within the Department of Insurance.

This section would provide that the board shall be composed of 11 members, eight of whom shall be appointed by the Governor and three of whom shall be ex officio, nonvoting.

This section would provide that the voting members shall be:

- three members, one from each congressional district, to represent individuals who will access health insurance in the exchange, appointed from a list submitted by the Executive Board of the Legislature;

- one member to represent small businesses, appointed from a list submitted by the Executive Board of the Legislature;

- two members to represent health care providers, appointed from a list submitted by the Health and Human Services Committee of the Legislature;

- one member to represent health insurance carriers, appointed from a list submitted by the Banking, Commerce and Insurance Committee Of the Legislature; and

- one member to represent health insurance agents, who is not a captive agent, appointed from a list submitted by the Banking, Commerce and Insurance Committee of the Legislature.

This section would provide that the nonvoting, ex officio members shall be the Director of Insurance, the Director of Medicaid and Long-Term Care, and the Director of Children and Family Services.

This section would provide that the appointed members shall serve four-year staggered terms and may be reappointed.

This section would provide that all appointments shall be subject to approval by the Legislature.

Section 8 would enact a new section to provide for organization of the board; immunity for members; and reimbursement of expenses.

Section 9 would provide for duties of the board including employing an executive director and other staff and obtaining the services of experts and consultants. This section would provide that the board shall create technical and advisory boards and work with the Department of Health and Human Services and the Comprehensive Health Insurance Pool. This section would provide that the board shall provide a written report to the Governor and the Legislature.

Section 10 would enact a new section to provide that the Open Meetings Act shall apply to the board and that the DAS materiel division purchase and lease statutes shall not apply to the exchange.

Section 11 would enact a new section to establish responses if any of the federal Patient Protection and Affordable Care Act, as amended, is invalidated.

Section 12 would enact a new section to provide that the board shall have rule and regulation authority.

Section 13 would enact a new section to provide that the Nebraska Health Benefit Exchange Act shall not preempt or supercede the authority of the Director of Insurance to regulate the business of insurance and that health insurance carriers shall comply with the health insurance laws and orders of the director.

Section 14 would enact a new section to provide for the creation of the Nebraska Health Benefit Exchange Fund.

Section 15 would amend section 77-912 to provide that, commencing 2014, all premium and retaliatory taxes paid by insurers writing health insurance business in the state shall be remitted to the Nebraska Health Benefit Exchange Fund.

Section 16 would amend section 81-1316 to provide that personnel of the exchange shall not be considered subject to the State Personnel System.

Section 17 would provide for the repealers for the amendatory sections.

Section 18 would provide for the emergency clause.

Note: LR498 (Pahls) calls on the Banking, Commerce and Insurance Committee to examine the processes, legislative and administrative, necessary for the establishment in Nebraska of a health insurance exchange in response to the federal Patient Protection and Affordable Care Act.

Note: LR547 (Nordquist) calls on the Banking, Commerce and Insurance Committee to gather information about what health benefits are important to Nebraskans, to evaluate benchmark plan options available to our state, and to allow public input into the process of selecting what benefits will be available through individual and small group health plans.

LB838 (Pahls) Adopt the Nebraska Health Benefit Exchange Act

Left in Committee

OVERVIEW

This bill would enact the Nebraska Health Benefit Exchange Act in response to the federal Patient Protection and Affordable Care Act, as amended (2010).

The provisions of the bill are based on those of the American Health Benefit Exchange Model Act as adopted by the National Association of Insurance Commissioners.

The bill's stated purpose is (1) to provide for the establishment of a Nebraska health benefit exchange to facilitate the purchase and sale of qualified health plans in the individual market in this state and (2) to provide for the establishment of a Small Business Health Options Program to assist qualified small employers in this state in facilitating the enrollment of their employees in qualified health plans offered in the small group market.

The bill would provide that the intent of the exchange is to (1) reduce the number of uninsured, (2) provide a transparent marketplace and consumer education, and (3) assist individuals with access to programs, premium assistance credits, and cost-sharing reductions.

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would enact a new section to provide for a named act: the Nebraska Health Benefit Exchange Act.

Section 2 would enact a new section to provide for legislative purpose and intent.

Section 3 would enact a new section to provide for defined terms: "director;" "educated health care consumer;" "exchange;" "federal act;" "health benefit plan;" "health carrier or carrier;" "qualified dental plan;" "qualified employer;" "qualified health plan;" "qualified individual;" "secretary;" "SHOP exchange;" and "small employer."

Section 4 would enact a new section to provide that the Director of Insurance is authorized to establish the Nebraska health benefit exchange.

This section would provide that the exchange shall (1) facilitate the purchase and sale of qualified health plans, (2) provide for the establishment of a SHOP exchange to assist qualified small employers in this state in facilitating the enrollment of their employees in qualified health plans, and (3) meet the requirements of the act and any rules and regulations of the director.

This section would provide that the exchange may contract with an eligible entity for any of its functions. This section would provide that an eligible entity includes the Nebraska Department of Health and Human Services or an entity that has experience in individual and small group health insurance, benefit administration, or other experience relevant to the responsibilities of the eligible entity. This section would provide that a health carrier or affiliate is not an eligible entity.

This section would provide that the exchange may enter into information-sharing agreements with federal and state agencies and other state exchanges.

Section 5 would enact a new section to provide that the exchange shall make qualified health plans available to qualified individuals and qualified employers beginning with effective dates on or before January 1, 2014.

Section 6 would enact a new section to provide for duties of the exchange.

Section 7 would enact a new section to provide for certification of health benefit plans as qualified

health plans by the exchange.

Section 8 would enact a new section to provide that the exchange may charge assessments or user fees to health carriers or otherwise may generate funding necessary to support its operations.

Section 9 would enact a new section to provide the Director of Insurance with rule and regulation authority to carry out the act.

Section 10 would enact a new section to provide for relation to other state laws.

Note: LR498 (Pahls) calls on the Banking, Commerce and Insurance Committee to examine the processes, legislative and administrative, necessary for the establishment in Nebraska of a health insurance exchange in response to the federal Patient Protection and Affordable Care Act.

Note: LR547 (Nordquist) calls on the Banking, Commerce and Insurance Committee to gather information about what health benefits are important to Nebraskans, to evaluate benchmark plan options available to our state, and to allow public input into the process of selecting what benefits will be available through individual and small group health plans.

LB876 (Wallman et al.) Change insurance policy, subscriber contract, and other policy provisions relating to mammography

Left in Committee

This bill would amend section 44-785 (which currently mandates screening mammography to be included in individual and group health coverage) to provide that each mammography report provided to a patient shall include information about breast density based on the Breast Imaging Reporting and Data System established by the American College of Radiology.

LB882 (Nordquist, Howard, Wallman) Require certain cancer treatment insurance coverage

Enacted

Effective July 19, 2012

Senator Priority Bill (Nordquist)

This bill enacts a new section to provide that individual and group sickness and accident insurance policies, certificates, and subscriber contracts; hospital, medical, or surgical expense-incurred policies; and self-funded employee benefit plans to the extent not preempted by federal law that provide coverage for cancer treatment shall provide coverage for a prescribed, orally administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected anticancer medications that are covered as medical benefits by the policy, certificate, contract, or plan.

The bill provides that the cost to the covered individual shall not exceed the coinsurance or copayment that would be applied to a cancer treatment involving intravenously administered or injected anticancer

medications.

The bill provides that it applies to policies, certificates, contracts, or plans delivered, issued for delivery, or renewed in this state on or after October 1, 2012.

The bill provides that it terminates on December 31, 2015.

The bill passed 46-0-3 on April 2, 2012 and was approved by the Governor on April 6, 2012.

LB887 (Pahls, McCoy) Change provisions relating to insurance

Enacted

Operative July 19, 2012 (effective date of the bill), except sections 3 to 15 and 32 become operative on January 1, 2013

This bill, introduced at the request of the Director of Insurance, amends various sections with regard to insurance. The bill provides, section by section, as follows:

FILING FEE REDUCTION

Section 1 amends section 44-114 to (1) reduce from one hundred dollars to twenty dollars the fee for filings made by domestic assessment associations doing business in more than thirty-one counties and (2) eliminate the five dollar fee for reports filed by unincorporated mutual associations.

INFORMATION SHARING AGREEMENTS

Section 2 amends section 44-154 to include the International Association of Insurance Supervisors, and the Bank for International Settlements in the list of institutions with which the Director of Insurance may enter agreements to share and receive information.

INSURANCE HOLDING COMPANY SYSTEM ACT

Section 3 amends section 44-2120 of the Insurance Holding Company System Act to provide that new sections 12 and 15 of the bill shall be included within the act.

Section 4 amends section 44-2121 of the Insurance Holding Company System Act to define “enterprise risk” as the risk posed to an insurer by non-insurer affiliates that are part of the same holding company system.

Section 5 amends section 44-2126 of the Insurance Holding Company System Act to require filings and approvals of divestitures of insurers by holding company systems so that a holding company system cannot transfer controlling interest in an insurer by gifting or any other method without notice and review by the Director of Insurance and to require an agreement by acquiring persons that they will continue to provide annual statements under the act. This section also requires an acknowledgment from the acquiring person that the person and all subsidiaries in the insurance holding company system will provide information at the request of the director.

Section 6 amends section 44-2127 of the Insurance Holding Company System Act to allow hearings on

insurer acquisitions to be held on a consolidated basis with participation by several insurance regulators at once.

Section 7 amends section 44-2129 of the Insurance Holding Company System Act to specify that it is also a violation of the act to attempt to effect a divestiture of a domestic insurer without approval of the Director of Insurance.

Section 8 amends section 44-2132 of the Insurance Holding Company System Act to allow the Director of Insurance to require filing of financial statements across the entire holding company system, which requirement would be satisfied with the parent corporation financial statements that have been filed with the Securities and Exchange Commission. This section requires the statement that the board of directors oversees governance and corporate controls be included in the filing, and grants the director authority or to require other information by rules and regulations adopted and promulgated by the director. This section specifies that a disclaimer of affiliation shall be deemed granted by the director within thirty days unless the filing party is notified otherwise, subject to the right to an administrative hearing. This section also requires the ultimate controlling person to file an annual enterprise risk report identifying material risks within the insurance holding system to also be filed with the lead state director of the insurance holding company system.

Section 9 amends section 44-2133 of the Insurance Holding Company System Act to grant rule and regulation authority to the Director of Insurance to define when cost sharing agreements between insurers and their affiliates are fair and reasonable, and to require filing of amendments or modifications of material affiliate agreements, including the reasons for and financial impact of the change. Such filings shall include reinsurance agreements and tax allocation agreements.

Section 10 amends section 44-2135 of the Insurance Holding Company System Act to specify that the board membership requirements of this section do not apply if the standard is met by the board of the person controlling the insurer. This section allows the Director of Insurance to waive the requirements of this section if the insurer's direct written premium is less than three hundred million dollars or upon unique factors.

Section 11 amends section 44-2137 of the Insurance Holding Company System Act to grant the Director of Insurance authority to examine registered insurers and their affiliates to ascertain the financial condition of the insurer, including enterprise risk to the insurer, and grants the director the authority to order production of information not in possession of the insurer and impose an administrative penalty for failure to comply. This section also authorizes the director to examine insurer affiliates to obtain information and petition the court for an order compelling witnesses or document production.

Section 12 enacts a new section in the Insurance Holding Company System Act to grant the Director of Insurance explicit authority to participate in a supervisory college for a domestic insurer that is part of an insurance holding company system with international operations. This section grants the director authority regarding operation of the supervisory college, and requires the insurer to pay reasonable expenses associated with the supervisory college. This section also specifies that nothing in the section delegates the director's authority over the insurer to the supervisory college.

Section 13 amends section 44-2138 of the Insurance Holding Company System Act to clarify that the provisions of section 44-154 authorizing the Director of Insurance to share information with other regulators applies to information under the act and to grant specific authority to the director to share information obtained under the act with the National Association of Insurance Commissioners.

Section 14 amends section 44-2139 of the Insurance Holding Company System Act to allow, rather than require, the Director of Insurance to adopt and promulgate rules and regulations under the act.

Section 15 enacts a new section in the Insurance Holding Company System Act to specify that a violation that prevents the full understanding of enterprise risk to the insurer may serve as an independent basis for disapproval of dividends or placement of the insurer under a supervision order under the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act.

NEBRASKA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT

Section 16 amends section 44-2702 of the Nebraska Life and Health Insurance Guaranty Association Act to define “authorized” as meaning that an assessment has been passed by resolution of the board of the Nebraska Life and Health Insurance Guaranty Association, and defines “called” as meaning the guaranty association board has given notice of an assessment requiring the assessment be paid in the time set forth in the notice. This section excludes those insurers whose certificate of authority has not been renewed or has been voluntarily withdrawn, and viatical assessment providers, brokers, and financing entities from the definition of “member insurer.” (Harvey v. Nebraska Life & Health Ins. Guar. Assn., 277 Neb. 757, 765 N.W.2d 206 (2009) held that a viatical settlement broker was not a “member insurer” and, therefore, the Nebraska Life and Health Insurance Guaranty Association was not obligated to guarantee its agreements.) This section defines “owner of a policy” as a person identified as the legal owner, but not to include persons with a beneficial interest in the policy; “receivership court” as the court in the insolvent insurer's state with jurisdiction; “structured settlement annuity;” and specifies that a “supplemental contract” is entered between a member insurer and an owner or beneficiary.

Section 17 amends section 44-2703 of the Nebraska Life and Health Insurance Guaranty Association Act to exclude from coverage Medicare Part C and D coverages and viatical settlement contracts. This section subdivides the coverage levels for health insurance benefits with a coverage limit of \$500,000 for basic hospital, medical, or surgical insurance or major medical insurance, \$300,000 for long term care or disability insurance, and \$100,000 for coverages not specifically defined above. This section increases coverage for annuity benefits and structured settlement annuities from \$100,000 to \$250,000.

Section 18 amends section 44-2704 of the Nebraska Life and Health Insurance Guaranty Association Act to specify that the act must be construed to effect the purposes listed in section 44-2701.

Section 19 amends section 44-2719.02 of the Nebraska Life and Health Insurance Guaranty Association Act to specify that the provisions of the act in effect on the date the association is obligated for the policies of insurance govern the association's rights or obligations to the policyowners.

HEALTH MAINTENANCE ORGANIZATION ACT

Section 20 amends section 44-32,177 of the Health Maintenance Organization Act to harmonize an internal reference with amendments to section 44-2126 in section 5 of the bill.

NEBRASKA PROTECTION IN ANNUITY TRANSACTION ACT

Section 21 amends section 44-8101 of the Nebraska Protection in Annuity Transactions Act to specify that new sections 28 and 29 of the bill shall be included within the act.

Section 22 amends section 44-8102 of the Nebraska Protection in Annuity Transactions Act to include in the purpose of the act the requirement that insurers establish a system to supervise recommendations.

Section 23 amends section 44-8103 of the Nebraska Protection in Annuity Transactions Act to include annuity replacements within the scope of the act.

Section 24 amends section 44-8104 of the Nebraska Protection in Annuity Transactions Act to specify that the act applies to transactions rather than recommendations.

Section 25 amends section 44-8105 of the Nebraska Protection in Annuity Transactions Act to define “continuing education provider,” “replacement,” and “suitability information” and also revise the definition of “annuity.”

Section 26 amends section 44-8106 of the Nebraska Protection in Annuity Transactions Act to require an insurance producer, or an insurer where no producer is involved, to have reasonable grounds for believing that a recommendation is suitable for a consumer based on the facts disclosed by the consumer, including the consumer's suitability information, and to require that the producer or insurer must have a reasonable basis to believe that the consumer has been informed and provided information related to the annuity product the consumer is considering purchasing. This section specifies that an insurance producer or insurer has no obligation to a consumer when no recommendation is made or a recommendation was made and it was later found that the recommendation was prepared based on materially inaccurate information. This section requires insurers to establish a supervision system and allows an insurer to contract the performance of a function required to be performed to a third party if the supervision system includes supervision of contractual performance. This section provides for a safe harbor for sales made in compliance with Financial Industry Regulatory Authority requirements pertaining to suitability and supervision of annuity transactions.

Section 27 amends section 44-8107 of the Nebraska Protection in Annuity Transactions Act to specify that an insurer is responsible for compliance with the act and that if a violation occurs by the insurer or its agent, the Director of Insurance may order penalties against the insurer.

Section 28 enacts a new section in the Nebraska Protection in Annuity Transactions Act to require a producer to have adequate product specific training, and to require completion of a one-time minimum four-credit-hour general annuity training course. This section allows a six-month grace period to comply with the training requirements.

Section 29 enacts a new section in the Nebraska Protection in Annuity Transactions Act to specify that the changes made in the act by this bill shall apply to solicitations occurring on and after January 1, 2013.

CAPTIVE INSURERS ACT

Section 30 amends section 44-8216 of the Captive Insurers Act to define “guaranty of a parent” as an agreement to pay specified obligations of the special purpose financial captive insurer by a parent of the captive insurer. This section allows the Director of Insurance to consider additional factors in determining whether to issue a certificate of authority to a special purpose financial captive insurer including a type of life insurance risks, the financial ability of a parent, and actuarial opinions. This section requires an annual statement of a senior actuarial officer that the transactions are not used to gain an unfair advantage in pricing of products. This section allows a special purpose financial captive insurer to use a guaranty of a parent in lieu of a letter of credit.

MISCELLANEOUS PROVISIONS

Section 31 provides that sections 3 to 15 and 32 of the bill become operative on January 1, 2013, and the other sections become operative three calendar months after adjournment of the legislative session (the effective date of the bill - July 19, 2012).

Section 32 provides for the repealers of the amendatory sections subject to the January 1, 2013 operative date.

Section 33 provides for the repealers of the amendatory sections not subject to the January 1, 2013 operative date.

The bill passed 48-0-1 on April 5, 2012 and was approved by the Governor on April 11, 2012.

LB943 (McCoy) Adopt the Insured Homeowners Protection Act

Enacted
Effective July 19, 2012

This bill enacts four new sections to be known as the Insured Homeowners Protection Act.

The bill provides that a person who has entered into a written contract with a residential contractor to provide goods or services to be paid from insurance proceeds (1) may cancel the contract within the later of three days after the person has (a) entered into the written contract or (b) received written notice from the insurer that all or part of the claim is not a covered loss and (2) shall be entitled to a refund of payments or deposits.

The bill defines "residential contractor" as a person in the business of contracting to (a) repair or replace a roof system or perform exterior work or (b) perform interior or exterior cleanup services.

The bill provides that a residential contractor shall not promise to rebate any portion of an insurance deductible as an inducement to the sale of goods or services.

The bill passed 47-0-2 on March 8, 2012 and was approved by the Governor on March 14, 2012.

LB984 (Krist) Increase requirements for uninsured and underinsured motor vehicle liability coverage

Left in Committee

This bill would amend section 44-6408 of the Uninsured and Underinsured Motorist Insurance Coverage Act to increase the minimum limits for both uninsured and underinsured coverage from \$25,000 to \$50,000 because of bodily injury, sickness, disease, or death of one person in any one accident and from \$50,000 to \$100,000 because of bodily injury, sickness, disease, or death of two or more persons in any one accident.

Section 44-6408 currently provides that, at the written request of the named insured, the insurer shall provide higher limits of uninsured and underinsured coverages, except that the insurer is not required to provide limits higher than \$100,000 per person and \$300,000 per accident. The bill would increase these amounts to \$200,000 and \$600,000, respectively.

LB1003 (Schumacher) Change motor vehicle liability insurance and financial responsibility requirements

Left in Committee

This bill would increase the current required minimum limits of motor vehicle insurance coverage (1) for bodily injury to or death of other persons and (2) for damage to property of others.

UNINSURED AND UNDERINSURED COVERAGE

Section 1 would amend section 44-6408 of the Uninsured and Underinsured Motorist Insurance Coverage Act to increase the minimum limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident and (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident. (There are no statutory requirements for uninsured and underinsured coverage of injury to or destruction of property of other persons.)

LIABILITY COVERAGE

Sections 2 to 6 would amend the following sections to increase the minimum liability limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident, (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident, and (3) from \$25,000 to \$50,000 for injury to or destruction of property of others in one accident:

Section 60-310 of the Motor Vehicle Registration Act (definition of "automobile liability policy" for purposes of motor vehicle registration requirements) (section 2 of the bill);

Section 60-346 of the Motor Vehicle Registration Act (definition of "proof of financial responsibility" for purposes of motor vehicle registration requirements) (section 3 of the bill);

Section 501 of the Motor Vehicle Safety Responsibility Act (definition of "proof of financial responsibility") (section 4 of the bill);

Section 60-509 of the Motor Vehicle Safety Responsibility Act (requirements for an automobile liability policy or bond) (section 5 of the bill); and

Section 60-534 of the Motor Vehicle Safety Responsibility Act (requirements for a certified SR22 motor vehicle liability policy) (section 6 of the bill).

Section 7 would amend section 60-549 of the Motor Vehicle Safety Responsibility Act to increase the minimum amount of cash or securities deposited with the State Treasurer necessary to evidence proof of financial responsibility from \$75,000 to \$150,000 – historically this amount has been the sum of the minimum limit for bodily injury to or death of two or more persons plus the minimum limit for injury to or destruction of property to others. This section would express this amount with an internal reference to subdivisions (12)(b) and (c) of section 60-501.

MISCELLANEOUS PROVISIONS

Section 8 would provide for an operative date of January 1, 2013.

Section 9 would provide for the repealers of the amendatory sections.

Minimum limits requirements were first enacted in 1949 and have been increased three times thereafter, as follows:

1949	LB493	\$5,000/\$10,000/\$1,000
1959	LB628	\$10,000/\$20,000/\$5,000
1973	LB365	\$15,000/\$30,000/\$10,000
1983	LB253	\$25,000/\$50,000/\$25,000 (current)

LB1054 (McCoy) Change contract coverage under the Motor Vehicle Service Contract Reimbursement Insurance Act

Enacted

Effective July 19, 2012

The bill amends sections 44-3521 and 44-3526 of the Motor Vehicle Service Contract Reimbursement Insurance Act to expand and clarify what may be included in a motor vehicle service contract.

The bill amends section 44-3521 to expand the existing definition of "motor vehicle service contract" to include a contract or agreement to repair or replace tires or wheels damaged by road hazards; remove dents, dings, or creases using paintless dent removal; repair or replace windshields damaged by road hazards; replace inoperable or lost keys or key fobs; pay specified incidental costs resulting from failure of a vehicle protection product; or perform other services approved by the Director of Insurance.

The bill also amends section 44-3521 to provide new definitions: "incidental costs" - expenses specified in a motor vehicle service contract incurred by the purchaser of the motor vehicle due to the failure of a vehicle protection product; "road hazard;" and "vehicle protection product" - a device, system, or service that is installed on or applied to a vehicle; is designed to prevent loss or damage

from a specific cause; and includes a warranty.

The bill amends section 44-3526 to clarify that the Motor Vehicle Service Contract Reimbursement Insurance Act shall not apply to product warranties governed by the federal Magnuson-Moss Warranty - Federal Trade Commission Improvement Act, or to any other warranties, indemnity agreement, or guarantees that are not provided incidental to the purchase of a vehicle protection product. The bill passed 44-0-5 on April 4, 2012 and was approved by the Governor on April 10, 2012.

LB1054A (McCoy) Appropriation Bill

Enacted
Effective July 19, 2012

This bill appropriates \$26,972 for FY2012-13 and for FY2013-14 from the Department of Insurance Cash Fund to the Department of Insurance to carry out LB1054.

The bill passed 43-0-6 on April 4, 2012 and was approved by the Governor on April 10, 2012.

LB1064 (Fulton) Permit the procurement of certain disability insurance from a nonadmitted insurer under the Surplus Lines Insurance Act

This bill amends section 44-5510 of the Surplus Lines Insurance Act, which provides, among other things, that specified lines of insurance, including sickness and accident insurance, shall not be procured from a nonadmitted insurer. The bill provides, as an exception, that this prohibition does not apply to the procurement of disability insurance that has a benefit limit in excess of any benefit limit available from an admitted insurer.

The bill passed 47-0-2 on March 8, 2012 and was approved by the Governor on March 14, 2012.

LB1100 (Wightman) Create a legislative advisory committee to study and report regarding health care services and health care insurance

Left in Committee

This bill would enact a new section to provide legislative intent to encourage the growth of patient centered "medical homes" through the health insurance industry, the medical community, and the business community.

The bill would direct the chairperson of the Banking, Commerce and Insurance Committee to appoint an advisory committee to study the needs of residents and employers and the most effective health care coverage models which provide the most effective health care in terms of services and costs of service.

The bill would direct the advisory committee to report to the Banking, Commerce and Insurance Committee by November 30, 2012.

Note: LR513 (Wightman, Gloor) calls on the Banking, Commerce and Insurance Committee to study ways in which health benefit policies and contracts could provide coverage for patient-centered medical homes.

LB1129 (Coash) Provide requirements for insurance coverage of autism spectrum disorder

Left in Committee

This bill would enact a new section to provide that an individual or group health policy, contract, or plan shall provide coverage for screening, diagnosis, and treatment of an autism spectrum disorder in an individual under twenty-one years of age.

Note: LR592 (McCoy) calls on the Banking, Commerce and Insurance Committee to study autism and the ways in which the educational, medical, and insurance industries can collaborate to provide successful treatment for children with autism.

LB1143 (Cornett) Change and eliminate provisions relating to stacking of insurance coverages

Left in Committee

This bill would amend sections 44-6410 and 44-6411 of the Uninsured and Underinsured Motorist Insurance Coverage Act to provide that a motor vehicle liability insurance policy shall not prohibit the limits of liability for uninsured or underinsured motorist coverage for two or more motor vehicles insured under the same policy or separate policies from being stacked to determine the limit of insurance coverage available to an injured person for any one accident.

INTEREST, LOANS, AND DEBT

LB269 (Conrad) Change provisions relating to delayed deposit services

Enacted

Effective July 19, 2012

This bill amends sections 45-901, 45-910, and 45-927 of the Delayed Deposit Services Licensing Act and enacts a new section in the act to provide that the annual \$150 main office renewal fee and the annual \$100 branch office renewal fee shall both be raised to \$500, and that the increased portion of the renewal fees shall be credited to the Financial Literacy Cash Fund created by this bill, to be administered by the University of Nebraska and used to provide assistance to nonprofit entities that offer financial literacy programs to students in grades kindergarten through twelve.

The bill passed 48-0-1 on March 1, 2012 and was approved by the Governor on March 7, 2012.

LB553 (McGill) Change provisions relating to delayed deposit services

Left in Committee

OVERVIEW

This bill would amend section 45-901, 45-906, 45-915, 45-919, 45-921, 45-925, and 45-927 of the Delayed Deposit Services Licensing Act and would enact four new sections within the act to provide that a licensee shall not enter into another delayed deposit transaction with a maker (customer) if such maker has a delayed deposit transaction in an aggregate face amount of five hundred dollars that is not complete with the licensee or any other licensee. The bill would require that the Director of Banking and Finance shall enter into a contract with a third-party data base provider to develop, implement, and maintain a data base accessible to licensees to facilitate compliance with the act. The bill would require the cost of the data base to be paid for with fees paid by the licensees.

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would amend section 45-901 of the Delayed Deposit Services Licensing Act to provide that new sections 7 to 10 of the bill shall be assigned within the act.

Section 2 would amend section 45-906 of the Delayed Deposit Services Licensing Act to provide that an application for a delayed deposit services license shall be accompanied by a data base fee of one hundred dollars to defray the costs of establishing the data base and that the fee shall terminate on the date the Director of Banking and Finance implements the data base.

Section 3 would amend section 45-915 of the Delayed Deposit Services Licensing Act to provide that a data base fee of one hundred dollars shall be paid to the Director of banking and Finance for each request by a licensee to change the location of its designated principal place of business or to establish or change the location of a branch office, that the fee shall be used to defray the costs entering into the

third-party data base contract, and that the fee shall terminate on the date the director implements the data base.

Section 4 would amend section 45-919 of the Delayed Deposit Services Licensing Act to provide that no licensee shall enter into another delayed deposit transaction with a maker (customer) if such maker has a delayed deposit transaction in an aggregate face amount of five hundred dollars that is not complete with the licensee or any other licensee. The bill would also amend this section to expand the definition of “completion of a delayed deposit transaction” to mean (1) the licensee has presented the maker’s check for payment to a financial institution and has received payment for the check, (2) the licensee has written the maker’s check off as a bad debt after it was returned unpaid by the financial institution, or (3) the licensee has sold the check to a third party after it was returned unpaid by the financial institution.

Section 5 would amend section 45-921 of the Delayed Deposit Services Licensing Act to update provisions regarding disposition of fines.

Section 6 would amend section 45-925 of the Delayed Deposit Services Licensing Act to update an internal reference and repeal provisions made obsolete by amendments proposed in section 4 of the bill.

Section 7 would enact a new section within the Delayed Deposit Services Licensing Act to provide that on or before January 1, 2014, the Director of Banking and Finance shall enter into a contract with a third-party data base provider, to develop, implement, and maintain a statewide data base that, at all times, is accessible to licensees and is accessible to the director. This section would provide that the director shall select the third-party data base provider and shall retain oversight over such provider. This section would provide that the data base shall be used to facilitate compliance by licensees with section 45-919 and to create an annual report pursuant to section 9 of the bill. This section would provide that the data base shall allow a licensee accessing the data base to verify whether a maker has any delayed deposit transactions with any licensee that have not been completed. This section would provide that the third-party data base provider may charge each licensee a verification fee for access to the data base in amounts approved by the director.

Section 8 would enact a new section within the Delayed Deposit Services Licensing Act to provide that if the Director of Banking and Finance has not yet implemented a data base or the data base is not fully operational, the licensee shall verify that a maker does not have a delayed deposit transaction with the licensee that is not complete by way of a data base which the licensee shall maintain of all of its transaction at all its locations. This section would provide that if the director has implemented a data base and the data base is fully operational, the licensee shall access the data base and verify that a maker does not have any transactions in violation of section 45-919. This section would provide that if the director has not yet implemented a data base, the data base is not fully operational, or the licensee is unable to access the data base due to technical difficulties, a licensee may rely upon written verification of the maker that the maker does not have any outstanding delayed deposit transactions with any licensee. This section would provide that the third-party data base provider may impose a data base verification fee, not to exceed one dollar per transaction, for data required to be submitted by a licensee. This section would require that for the first twelve months that the data base is operational, an additional licensing fee of fifty cents per transaction shall be paid to defray the costs of establishing the data base. This section would provide that the director may assess each licensee and each branch office a data base fee not to exceed one hundred dollars to defray the costs of establishing the data base and

that the fee shall terminate on the date the director implements the data base.

Section 9 would enact a new section within the Delayed Deposit Services Licensing Act to provide that the third-party data base provider shall compile an annual report.

Section 10 would enact a new section within the Delayed Deposit Services Licensing Act to provide for limitations on liability.

Section 11 would amend section 45-927 of the Delayed Deposit Services Licensing Act to update provisions regarding disposition of cash funds and disposition of fines.

Section 12 would provide for the repealers of the amendatory sections.

LB965 (Pahls) Change provisions relating to the Nebraska Installment Sales Act, the Residential Mortgage Licensing Act, and the Nebraska Installment Loan Act

Enacted

Effective July 19, 2012

Banking, Commerce and Insurance Committee Priority Bill

This bill was introduced at the request of the Director of Banking and Finance. Its purpose is to amend and update the Nebraska Installment Sales Act to provide efficiencies in the licensing process; to amend and update the Residential Mortgage Licensing Act to coordinate with federal regulations and to improve the enforcement authority of the Department of Banking and Finance; and to provide a coordinating definitional amendment to the Nebraska Installment Loan Act.

INSTALLMENT SALES

Section 1 amends section 45-334 of the Nebraska Installment Sales Act to incorporate new sections 8 and 9 of the bill into the act.

Section 2 amends section 45-335, which is the definitional statute for the Nebraska Installment Sales Act, by adding and defining the terms, “department,” “person,” “Nationwide Mortgage Licensing System and Registry,” and “breach of security of the system.” The latter two terms are necessary to facilitate the amendments in sections 4, 6, 8, and 9 of the bill, which would allow the transition of the licensing process under the Nebraska Installment Sales Act to the Nationwide Mortgage Licensing System and Registry.

Section 3 amends section 45-345 of the Nebraska Installment Sales Act to coordinate with the definition of “department” added to section 2 of the bill.

Section 4 amends section 45-346 of the Nebraska Installment Sales Act to provide transitional procedures for installment sales licensees onto the Nationwide Mortgage Licensing System and Registry, including a change in the annual license renewal date from October 1 to December 31, and to allow a processing fee payable to the System.

Section 5 amends section 45-346.01 of the Nebraska Installment Sales Act to allow a licensee to move

its place of business anywhere without having to apply for a new license. The law previously provided that a move outside a county required re-licensure. Previous law also required a licensee to give ten days prior notice to the Department of Banking and Finance for such move. The time period is increased to thirty days under this amendment.

Section 6 amends section 45-348 of the Nebraska Installment Sales Act to allow for license renewal fees and processing fees to be collected by the Nationwide Mortgage Licensing System and Registry, and to provide that licenses which expire on October 1, 2012, shall be renewed until December 31, 2013. These are necessary transitional procedures and comport with the amendments contained in section 4 of the bill.

Section 7 amends section 45-351 of the Nebraska Installment Sales Act to update language relating to the disposition of fines collected by the Department of Banking and Finance.

Section 8 is a new section in the Nebraska Installment Sales Act providing authority for the Department of Banking and Finance to participate in the Nationwide Mortgage Licensing System and Registry for purposes of licensing under the Nebraska Installment Sales Act, and establishing the requirement that installment sales companies be licensed through the System. The requirements of this section mirror counterpart sections in the Residential Mortgage Licensing Act and the Nebraska Installment Loan Act (Section 45-748 and Section 45-1033.01, respectively.)

Section 9 is a new section in the Nebraska Installment Sales Act setting out guidelines for confidentiality of information and supervisory information-sharing through the Nationwide Mortgage Licensing System and Registry. The requirements of this section mirror counterpart sections in the Residential Mortgage Licensing Act and the Nebraska Installment Loan Act (Section 45-749 and Section 45-1033.02, respectively.)

RESIDENTIAL MORTGAGE LICENSING

Section 10 amends section 45-701 of the Residential Mortgage Licensing Act to incorporate new Sections 13 and 20 of the bill into the act.

Section 11 amends section 45-702, the definitional section of the Residential Mortgage Licensing Act, to include a definition of "purchase-money mortgage" and to expand the definition of the "Nationwide Mortgage Licensing System and Registry" in coordination with sections 2 and 21 of the bill.

Section 12 amends Section 45-703, which is the exemptions section in the Residential Mortgage Licensing Act, to update the exemption for attorneys and the exemption for individuals who conduct an isolated transaction, and to provide new exemptions for governmental entities, the Nebraska Investment Finance Authority (NIFA), individuals who are government or NIFA employees who act as mortgage loan originators or loan processors or underwriters only pursuant to their official duties, and certain nonprofit organizations and their employees. The new exemptions result from rules adopted in 2011 by the United States Department of Housing and Urban Development (HUD) relating to mortgage bankers and mortgage loan originators.

Section 13 is a new section in the Residential Mortgage Licensing Act which authorizes the Director of Banking and Finance to grant a certificate of exemption to a nonprofit organization which promotes affordable housing or provides homeownership education or similar services, and meets requirements that include providing or identifying residential mortgage loans with terms favorable to the borrower and

comparable to mortgage loans and housing assistance provided under government assistance programs. This section also sets out the right to an appeal hearing if a certificate is denied, and the authority of the Department of Banking and Finance to examine the organization's records, revoke a certificate, and to rely on certain reports. This section is based on the 2011 HUD rules.

Section 14 amends section 45-706 of the Residential Mortgage Licensing Act to authorize the Department of Banking and Finance to place a mortgage banker licensee that is a sole proprietorship on inactive status for a period of up to twelve months, and to provide standards for renewal, reactivation, and cancellation of an inactive mortgage banker license.

Section 15 amends section 45-729 of the Residential Mortgage Licensing Act to authorize the Director of Banking and Finance to issue a mortgage loan originator license to a person who has had certain misdemeanors or a felony expunged from his or her record. Previously, unless a person had been pardoned, the application could not be granted. These amendments allow the director to consider the underlying crime, facts, and circumstances of a pardoned or expunged conviction in determining eligibility for a license. This section also authorizes the Department of Banking and Finance to consider a mortgage loan originator license application abandoned if the applicant fails to respond to a notice from the department to correct deficiencies after 120 days, and to issue a notice of abandonment.

Section 16 amends section 45-731 of the Residential Mortgage Licensing Act to provide that an applicant for a mortgage loan originator license may take the required written qualifying test three times, rather than the previous authorization to retake the test three times. These amendments are to comport with the 2011 HUD rules.

Section 17 amends section 45-734 of the Residential Mortgage Licensing Act to add provisions which authorize the Department of Banking and Finance to determine if an inactive mortgage loan originator licensee meets the conditions for licensing in effect at the time a reactivation notice is received.

Section 18 amends section 45-736 of the Residential Mortgage Licensing Act to require mortgage banker licensees to include their unique identifier number on all forms and advertisements. Mortgage loan originator licensees already have this obligation.

Section 19 amends section 45-742 of the Residential Mortgage Licensing Act to include an internal reference to new section 20 of the bill.

Section 20 is a new section in the Residential Mortgage Licensing Act which authorizes the Director of Banking and Finance to issue an emergency order to suspend, limit, or restrict the license of any mortgage banker or mortgage loan originator without notice or hearing if the licensee: fails to file a report of condition or reports required as a condition of the license; fails to increase its surety bond as required; is in an unsafe financial condition; has been indicted, charged with, or found guilty of offenses involving fraud; had its license suspended or revoked in any state for offenses involving fraud; or refused to permit a regulatory examination. This section establishes notification requirements, appeal rights, and emergency hearing provisions for such emergency orders, and provides that if an emergency hearing has not been requested and the emergency order remains in effect sixty days after issuance, the director must initiate additional proceedings against the licensee unless the license was surrendered or expired during the interim.

INSTALLMENT LOANS

Section 21 amends section 45-1002, which is the definitional section of the Nebraska Installment Loan Act, to include other state-regulated financial services entities and industries in the definition of “Nationwide Mortgage Licensing System and Registry,” to coordinate with the amendments in sections 2 and 11 of the bill.

MISCELLANEOUS PROVISIONS

Section 22 provides for the repealers for the amendatory sections.

The bill passed 43-1-5 on March 30, 2012 and was approved by the Governor on April 5, 2012.

LIENS

LB982 (Harr) Provide for the removal of improper or fraudulent liens

Left in Committee

This bill would enact a new section to provide that the Secretary of State may remove a financing statement or other record filed pursuant to Article 9 of the Uniform Commercial Code if the Secretary of State receives a complaint or has reason to believe the filing is fraudulent or improper and gives notice and an opportunity to respond to the secured party and the debtor.

The bill would provide that a person adversely affected by a fraudulent or improper filing may recover damages from the person responsible.

Note: LR483 (B. Harr) calls on the Banking, Commerce and Insurance Committee to study whether Nebraska should update and strengthen its statutes, particularly Uniform Commercial Code, Article 9, part 5, with regard to rejection or removal of fraudulent or otherwise improper financing statements or other records offered for filing in the office of the Secretary of State.

UNCLAIMED PROPERTY

LB1026 (Avery) Change the Uniform Disposition of Unclaimed Property Act to change provisions relating to confidential records

Enacted

Effective July 19, 2012

This bill amends section 69-1317 of the Uniform Disposition of Unclaimed Property Act to repeal provisions which require that the "amount due" of unclaimed property in the records of the State Treasurer shall be treated as confidential.

The bill passed 45-0-4 on April 4, 2012 and was approved by the Governor on April 10, 2012.

REAL PROPERTY

LB44 (McCoy) Change provisions relating to power of sale conferred upon a trustee

Left in Committee

This bill would amend section 76-1005 of the Nebraska Trust Deeds Act to provide that (1) the person selling the trust property under a power of sale need not be named in the trust deed and (2) an error or omission in a trust deed concerning the designation of the trustee authorized to exercise a power of sale does not invalidate the trust deed or the ability of the beneficiary of the trust deed to appoint a successor trustee to exercise the power of sale.

The bill carries the emergency clause.

LB49 (Krist) Provide certain requirements relating to filing of nonconsensual liens

Left in Committee

This bill would enact a new section to provide requirements regarding the filing of nonconsensual liens.

The bill would provide that a nonconsensual lien submitted for recordation at the county recording office shall be accompanied by an envelope with the name and address of the owner of the real property on the envelope, along with the proper postage affixed. Upon recording of the nonconsensual lien, the county recording office shall, using the accompanying envelope, forward a copy of the recorded lien to the owner as addressed on the envelope. If the envelope is not submitted or if it does not have the name and address of the owner on it or the proper postage affixed, the county recording office shall reject the lien.

The bill would provide that it does not apply to mortgages, deeds of trust, or encumbrances in which the parties have or should have knowledge.

LB571 (Price) Change provisions relating to homeowners' association and condominium association liens

Left in Committee

This bill would amend section 52-2001 regarding homeowners' association liens and section 76-874 of the Nebraska Condominium Act to provide for additional requirements and procedures regarding (1) a homeowners' association's statutory lien on a member's real estate for any assessment attributable to real estate or fines imposed against its owner or (2) a unit owners association's statutory lien on a unit for any assessment attributable to that unit or fines imposed against its unit owner. The bill would specify that attorney's fees and costs and other sums due to the association under the declaration or agreement, the sections amended by this bill, or as a result of an administrative, arbitration, mediation,

or judicial decision, as well as other fees, charges, late charges, fines, and interest, are enforceable in the same manner as unpaid assessments. The bill would provide that a lien would be prior to first security interests recorded before the date on which the assessment sought to be enforced became delinquent to the extent of both the common expense assessment and reasonable attorney's fees and costs incurred by the association in enforcing the association's lien. The bill would provide that in an action by an association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver to collect all sums alleged to be due and owing before commencement or during pendency of the action. The bill would reorganize various existing provisions in these sections.

The bill carries the emergency clause.

LB613 (Pirsch) Change certain lien provisions relating to homeowners' associations and condominiums

Left on General File

This bill would amend section 52-2001 regarding homeowners' association liens for assessments and fines and section 76-874 of the Nebraska Condominium Act regarding unit owners association liens for assessments and fines.

The bill would repeal provisions which provide for an association to have a lien on a member's real estate or on an owner's unit for fines imposed against the member or owner.

The bill would provide that a lien is prior to all other liens and encumbrances on real estate or on a unit except, among other things, a mortgage, rather than a "first" mortgage, or a deed of trust recorded before the required notice has been recorded for a delinquent assessment for which enforcement is sought, rather than the date on which the assessment sought to be enforced became delinquent.

The bill would amend section 52-2001 to provide that the definition of "homeowners' association" does not include a "co-owners association organized under the Condominium Property Act" (the 1963 condominium act) as well as does not include a unit owners association organized under the Nebraska Condominium Act (the 1983 condominium act).

EXPLANATION OF COMMITTEE AMENDMENTS

The committee amendments (AM1749) would amend section 52-2001 regarding homeowners' associations and would add a new section to the Nebraska Condominium Act to provide that an association may require an owner who purchases real estate or a unit on or after the effective date of the bill to make payments into an escrow account established by the association until the escrow account balance for that real estate or unit equals six months of assessments.

The committee amendments would provide that escrow payments shall be held in a non-interest-bearing checking account under terms that place the payments beyond the claim of creditors of the association.

The committee amendments would provide that the association may use escrow payments to offset unpaid assessments.

The committee amendments would provide that the association shall return escrow payments to an owner when the owner sells the real estate or unit and the owner has fully paid all assessments.

LB614 (Pirsch) Change provisions relating to homeowners' association and condominium association liens

Left in Committee

OVERVIEW

This bill would outright repeal section 52-2001 regarding homeowners' association liens and enact twelve new sections to be known as the Homeowners' Association Lien Act and would repeal the provisions of section 76-874 of the Nebraska Condominium Act and replace them with provisions which parallel the provisions of the proposed Homeowners' Association Lien Act in sections 1 to 12 of the bill along with terminology adjustments.

The bill would provide that the Homeowners' Association Lien Act creates and provides for the attachment and enforceability of liens against real estate in favor of a homeowners' association for homeowners' association assessments as assessed against an owner's property and not timely paid by the owner.

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would enact a new section to provide for a named act: the Homeowners' Association Lien Act.

Section 2 would enact a new section to provide that except as provided in the act, no nonconsensual lien arises against real estate by reason of an owner's failure to pay assessments assessed by a homeowners' association.

Section 3 would enact a new section to provide definitions: (1) "assessment;" (2) "declaration;" (3) "homeowners' association;" (4) "notice of assessment;" (5) "notice of lien liability;" (6) "owner;" (7) "recording;" and (8) "restricted real estate."

Section 4 would enact a new section to provide that a homeowners' association shall have a lien on restricted real estate for an assessment when: the association has delivered a notice of assessment to the owner; the owner has failed to pay the association; and a notice of lien liability is recorded. This section would provide that a homeowners' association shall not file a notice of lien liability for any assessment unless the notice of lien liability is recorded within two years following the date of delivery of the notice of assessment to the owner.

Section 5 would enact a new section to provide for priority of a homeowners' association lien.

Section 6 would enact a new section to provide that a lien for unpaid assessments is extinguished unless judicial proceedings to enforce the lien are instituted within two years after the date the notice of lien liability is recorded.

Sections 7 to 9 would enact new sections to provide for release and discharge of homeowners' association liens.

Section 10 would enact a new section to provide that the rules applicable to a civil action apply to proceedings to foreclose homeowners' association liens under the act.

Section 11 would enact a new section to provide that a court may order relief and award damages if a homeowners' association acts in bad faith.

Section 12 would enact a new section to provide that, upon written request, a homeowners' association shall furnish to a person with an interest in restricted real estate a recordable statement certifying the amount of any unpaid assessments against the restricted real estate.

Section 13 would amend section 76-874 of the Nebraska Condominium Act by repealing all of its provisions and replacing them with eleven subsections which parallel the homeowners' association provisions in sections 2 to 12 of the bill along with appropriate terminology adjustments.

Section 14 would provide for the repealer of the amendatory section.

Section 15 would provide for the outright repeal of section 52-2001 regarding homeowners' association liens.

Section 16 would provide for the emergency clause.

LB714e (McCoy, Langemeier) Update references and change provisions in the Real Property Appraiser Act

Enacted

Effective March 8, 2012

This bill amends sections 76-2202, 76-2213.01, 76-2223, 76-2228.01, 76-2229.01, 76-2230, 76-2231.01, 76-2232, 76-2236, 76-2241, and 76-2249 of the Real Property Appraiser Act to update internal references to federal acts, the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation, the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course as approved by the Appraiser Qualifications Board, the seven-hour National Uniform Standards of Professional Appraisal Practice Update Course as approved by the Appraiser Qualifications Board, and examinations approved by the Appraiser Qualifications Board.

The bill references the Dodd-Frank Wall Street Reform and Consumer Protection Act, as the act existed on January 1, 2012. (Section 1 of the bill.)

The bill references the Financial Institution Reform, Recovery, and Enforcement Act of 1989, as the act existed on January 1, 2012 rather than January 1, 2010. (Sections 1, 3, 10, and 11 of the bill.)

The bill amends the definition of the Uniform Standards of Professional Appraisal Practice to reference the standards promulgated by the Appraisal Foundation as the standards existed on January 1, 2012

rather than January 1, 2010. (Section 2 of the bill.)

The bill references the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course as approved by the Appraiser Qualifications Board as of January 1, 2012 rather than January 1, 2010. (Sections 4 to 8 of the bill.)

The bill references the seven-hour National Uniform Standards of Professional Appraisal Practice Course, as the course existed on January 1, 2012 rather than January 1, 2010. (Section 4 of the bill.)

The bill references the seven-hour National Uniform Standards of Professional Appraisal Practice Update Course as approved by the Appraiser Qualifications Board as of January 1, 2012 rather than January 1, 2010. (Sections 6 to 9 of the bill.)

The bill references examinations approved by the Appraiser Qualifications Board as of January 1, 2012 rather than January 1, 2010. (Sections 5 to 8 of the bill.)

The bill carries the emergency clause.

The bill passed 49-0-0 with the emergency clause on March 1, 2012 and was approved by the Governor on March 7, 2012.

PUBLIC FUNDS DEPOSIT

LB836e (Pahls) Change provisions relating to deposit and investment of public funds in certificates of deposit and time deposits

Enacted

Effective March 8, 2012

This bill amends section 77-2365.02 to authorize investment or deposit of state or political subdivision funds in FDIC-insured "interest-bearing accounts" (rather than only "certificates of deposit" or "time deposits") issued by out-of-state depository financial institutions as part of deposit placement services, such as cash sweep programs as an alternative to the furnishing of securities or the providing of a deposit guaranty bond pursuant to the Public Funds Deposit Security Act.

The bill carries the emergency clause.

The bill passed 49-0-0 with the emergency clause on March 1, 2012 and was approved by the Governor on March 7, 2012.

LB879 (Pahls) Change a security requirement for depositories of public funds

Enacted

Effective July 19, 2012

This bill amends section 77-2320 to provide that a bank or savings and loan association shall give security to the county "treasurer" rather than the county "clerk" when the bank or savings and loan association secures the deposit of county funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation pursuant to the Public Funds Deposit Security Act.

The bill passed 49-0-0 on March 1, 2012 and was approved by the Governor on March 7, 2012.

LB1004 (Schumacher) Authorize credit unions to receive deposits of public funds

Left in Committee

This bill would amend section 77-2365.01 to allow public funds of the state or political subdivisions to be deposited in state and federally chartered credit unions which meet the requirements of being a qualifying mutual financial institution, except that the bill would further provide that the deposit of such funds with a credit union shall not exceed the amount insured by the National Credit Union Administration.

ECONOMIC DEVELOPMENT

LB205 (Mello, Conrad, Cook, Council, Harr, Larson, McGill, Nordquist) Create the Next Generation Nebraska Commission within the Department of Economic Development

Left in Committee

This bill would provide for establishment of the Next Generation Commission within the Department of Economic Development.

The bill would provide that the commission shall:

- (1) advise and assist the department in activities designed to attract and retain the young adult population;
- (2) develop and make available best practices guidelines for employers to attract and retain young adult employees; and
- (3) submit a report on or before January 15, 2012, January 1, 2013, and January 1, 2015 to the Governor and the Clerk of the Legislature that includes findings and recommendations regarding (a) efforts to attract and retain the young adult population in the state, (b) career opportunities and educational needs of young adults, and (c) the movement of the young adult population between rural and urban areas and between Nebraska and other states.

The bill would provide that the commission shall have fifteen voting members appointed by the Governor and approved by the Legislature and four nonvoting, ex officio members who are members of the Legislature appointed by the Executive Board. No more than eight voting members and no more than two nonvoting members shall come from the same political party. Five voting members shall be from each congressional district. Terms shall be for two years. Voting members shall at least eighteen and less than forty years of age. Members shall serve without compensation and expense reimbursement.

The bill would provide that the commission shall meet at least four times a year. A majority of the voting members shall be necessary for the commission to take substantive action. Two-thirds of the voting members shall be required for approval of a final report.

The bill would provide for a sunset date of January 1, 2015.

LB434 (Pahls) Terminate the Business Development Partnership Act and change funding

Left in Committee

This bill would amend sections 81-1272 and 81-1274 of the Business Development Partnership Act to provide that beginning fiscal year 2011-12, no General Funds shall be appropriated to carry out the Business Development Partnership Act, and that the Business Development Partnership Act will sunset

on January 1, 2015.

This bill was a result of the work of the Banking, Commerce and Insurance Committee pursuant to the process established for standing committees under legislative resolution LR542 during the 2010 interim.

LB448 (Pahls) Change funding for the Nebraska Visitors Development Act

Left in Committee

This bill would amend section 81-1252 of the Nebraska Visitors Development Act to provide that beginning fiscal year 2011-12, no General Funds shall be appropriated to carry out the Nebraska Visitors Development Act.

This bill was a result of the work of the Banking, Commerce and Insurance Committee pursuant to the process established for standing committees under legislative resolution LR542 during the 2010 interim.

TRADEMARKS AND TRADE NAMES

LB886 (Schumacher) Change provisions relating to trademarks and trade names

Enacted

Effective July 19, 2012

This bill amends sections 87-130, 87-132, and 87-134 of the Trademark Registration Act and sections 87-210 and 87-211 of the trade name registration statutes. The acts are administered by the Secretary of State.

Section 1 amends section 87-130 to provide that an application for registration of a trademark shall include the state of organization of applicants that are business entities other than corporations and partnerships. (Corporations and partnerships are already addressed in this section.)

Section 2 amends section 87-132 to provide that a certificate of registration of a trademark shall show the state of organization of registrants that are business entities other than corporations and partnerships. (Corporations and partnerships are already addressed in this section.)

Section 3 amends section 87-134 to provide that a trademark registrant or applicant may record a change of address or state of incorporation or organization upon payment of the recording fee. This section provides that a registrant or an applicant may be required to submit documented proof of its name change at the discretion of the Secretary of State. This section also provides that a registration filed before a change in the trademark laws may be amended to comply with current law upon payment of a recording fee.

Section 4 amends section 87-210 to provide that an application for registration of a trade name shall set forth the state of incorporation of applicants that are business entities other than corporations. (Corporations are already addressed in this section.)

Section 5 amends section 87-211 to provide that a trade name registrant may file a statement of change of its name, street address, and, if a corporation or other business entity, its state of incorporation or organization upon paying a fee of ten dollars. This section also provides that a trade name registrant may be required to submit documented proof of its name change at the discretion of the Secretary of State.

The bill passed 49-0-0 on March 1, 2012 and was approved by the Governor on March 7, 2012.

UNIFORM COMMERCIAL CODE-SECURED TRANSACTIONS

LB853 (McCoy) Change provisions relating to secured transactions filing information

Enacted

Effective July 19, 2012

This bill amends section 9-530 of the Uniform Commercial Code to:

- (1) repeal the requirement that the Secretary of State, upon receipt of a financing statement, shall enter into the centralized computer system the social security number or federal tax identification number of the obligor or obligors, if any, along with other specific document information, and
- (2) repeal the requirement that information maintained by the Secretary of State from financing statements, federal liens, and state tax liens shall be available for inquiry by telephone. No change is made in the requirement that such information shall be available for inquiry in person, in writing, and by electronic media, including computers.

The bill passed 48-0-1 on March 1, 2012 and was approved by the Governor on March 7, 2012.

LB1031 (Harr) Change provisions relating to name of debtor for Uniform Commercial Code financing statements

Enacted

Operative July 1, 2013

This bill amends Uniform Commercial Code Section 9-503 to provide that a financing statement sufficiently provides the name of the debtor, if an individual, if the financing statement provides the name indicated on a "state identification card" as well as driver's license issued to the individual.

The bill provides for an operative date of July 1, 2013.

The bill passed 47-0-2 on March 8, 2012 and was approved by the Governor on March 14, 2012.

BANKING, COMMERCE AND INSURANCE COMMITTEE
INTERIM STUDIES
2012

LR462 (McCoy) Interim study to examine whether Nebraska's insurance laws should be amended to address the sale of ancillary service contracts and ancillary protection product warranties

LR476 (Conrad) Interim study to determine whether Nebraska's business entity statutes should be updated

LR483 (B. Harr) Interim study to examine whether Nebraska should update the Uniform Commercial Code with regard to rejection or removal of fraudulent or otherwise improper financing statements or other records offered for filing with the Secretary of State

LR498 (Pahls) Interim study to examine the processes, legislative and administrative, necessary for the establishment in Nebraska of a health insurance exchange in response to the federal Patient Protection and Affordable Care Act

LR513 (Wightman) Interim study to examine ways in which health benefit policies and contracts could provide coverage for patient-centered medical homes

LR544 (Mello) Interim study to examine economic development programs designed to promote international trade

LR547 (Nordquist) Interim study to gather information about what health benefits are important to Nebraskans, evaluate benchmark plan options available to our state, and allow public input into the process of selecting what benefits will be available

LR560 (Harms) Interim study to review federal and state laws on the practice of businesses such as gas stations, hotels, or other businesses, placing holds on credit cards for more than the amount of the purchase

LR562 (Pahls) Interim study to examine the impact of the banking and finance industry on the economy of the state

LR563 (Christensen) Interim study to examine the constitutionality of AM1603 to LB514, which would provide an additional recovery amount for compensatory or actual damages sustained due to an unreasonable delay or denial by an insurance company

LR588 (B. Harr) Interim study to encourage ways to encourage tourism throughout the State of Nebraska

LR592 (McCoy) Interim study to examine autism and the ways in which the educational, medical, and insurance industries can collaborate to provide successful treatment to children

LR595 (Pirsch) Interim study to examine possible methods to increase direct investment from both domestic and foreign sources in Nebraska's economy

REPORT ON THE PRIORTIZING
OF INTERIM STUDY RESOLUTIONS
Pursuant to Rule 4, Section 3(c)

COMMITTEE: Banking, Commerce and Insurance

DATE: April 10, 2012

The following resolutions were referred to the Committee on Banking, Commerce and Insurance. The committee has prioritized the resolutions in the following order:

<u>Resolution No.</u>	<u>Subject</u>
LR513	Coverage for patient-centered medical homes
LR476	Nebraska business entity statutes update
LR483	Uniform Commercial Code update
LR562	Impact of the banking and finance industry on the economy
LR563	Constitutionality of AM1603 to LB514 regarding insurance delays or denials
LR498	Patient Protection and Affordable Care Act
LR547	Patient Protection and Affordable Care Act
LR592	Examination of autism
LR588	Ways to encourage tourism
LR544	Programs designed to promote international trade
LR595	Direct investment from domestic and foreign sources
LR560	Review federal and state laws regarding holds on credit cards
LR462	Sale of ancillary service contracts