

Session Review

**103rd Legislature
Second Regular Session**

June 2014



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Nancy Cyr, Director
Nebraska Legislature
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P.O. Box 94604
Lincoln, NE 68509-4604
402.471.2221

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Prepared by the Legislative Research Office

Nancy Cyr, Director

Keisha Patent, Legal Counsel

Kate Gaul, Research Analyst

Logan Seacrest, Research Analyst

Mary Rasmussen, Librarian

TABLE OF CONTENTS

INTRODUCTION.....	i
AGRICULTURE COMMITTEE.....	1
APPROPRIATIONS COMMITTEE	7
BANKING, COMMERCE AND INSURANCE COMMITTEE.....	13
BUSINESS AND LABOR COMMITTEE.....	23
EDUCATION COMMITTEE.....	29
EXECUTIVE BOARD.....	39
GENERAL AFFAIRS COMMITTEE	43
GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE.....	47
HEALTH AND HUMAN SERVICES COMMITTEE.....	53
JUDICIARY COMMITTEE.....	63
NATURAL RESOURCES COMMITTEE	73
NEBRASKA RETIREMENT SYSTEMS COMMITTEE.....	81
REVENUE COMMITTEE.....	85
TRANSPORTATION AND TELECOMMUNICATIONS COMMITTEE	101
URBAN AFFAIRS COMMITTEE.....	109
BILL INDEX.....	113
LEGISLATIVE RESOLUTION INDEX.....	125

INTRODUCTION

The following review provides a summary of significant legislative issues addressed during the 103rd Legislature of Nebraska, Second Regular Session. The review briefly describes many, but by no means all, of the issues discussed by the Legislature during the 2014 session. Information gathered from committee counsels and other legislative staff, legislative records, and the *Unicameral Update* is used to produce the review.

Bill summaries and summaries of legislative resolutions proposing constitutional amendments are found under the heading of the legislative committee to which each bill or resolution was referred. Because the subject matter of some legislation relates to more than one committee, cross-referencing notes are included as needed. Bill- and resolution-number indexes are included for ease of reference.

The Legislative Research Office staff acknowledges and thanks the legislative staff who assisted in preparation of this review.

A word about effective and operative dates—

Article III, section 27, of the Nebraska Constitution provides in part that, unless an emergency is declared, any bill passed by the Legislature takes effect three calendar months after the Legislature adjourns sine die. This year, the effective date for all enacted legislation that does not have (1) a specific operative date or (2) the emergency clause is July 18, 2014.

Enacted legislation with a specific operative date takes effect on that date.

If enacted legislation has no specific operative date but passes with the emergency clause, the legislation takes effect the day after the Governor signs it. For example, if a bill passes with the emergency clause and the Governor signs it on April 15, the bill takes effect April 16.

AGRICULTURE COMMITTEE

Senator Ken Schilz, Chairperson

ENACTED LEGISLATIVE BILLS

LB 597—Change Provisions Relating to County Agricultural Societies (*Larson, Davis, and Schilz*)

Prior to the passage of LB 597, a county agricultural society could use property tax collected from a three-and-a-half-cent levy for purchases of real estate or capital construction. LB 597 expands the possible uses of a county property tax levy to allow a county agricultural society to purchase equipment.

LB 597 also allows a county agricultural society to lease property and improvements with county board approval, except if the term of the lease is less than 90 days, approval is not required. Finally, the bill clarifies that any property sold or leased by a county agricultural society can be transferred to the county if the society fails to hold a county fair for two years.

LB 597 passed with the emergency clause 43-0 and was approved by the Governor on February 13, 2014.

LB 768—Change Provisions of the Livestock Brand Act and Estray Provisions (*Schilz and Davis*)

Nebraska's Livestock Brand Act requires cattle located within the statutorily prescribed brand inspection area (brand area) to be inspected by the Brand Committee.

With the passage of LB 768: (1) all Nebraska counties and areas thereof contiguous to the statutorily prescribed brand inspection area are designated a brand inspection service area (service area); and (2) a cattle purchaser or seller or a livestock lender can request the Brand Committee to conduct an inspection within the newly designated service area. Inspections conducted by the Brand Committee in the service area must be conducted under the same terms and conditions as those conducted in the prescribed brand area.

Additionally, LB 768 provides that the inspection fee for requested inspections in the service area is to be 75 cents per

head (the same fee charged for inspections in the brand area). For all other inspections performed outside the brand area, LB 768 codifies the Brand Committee's current practice of imposing a fee to cover the actual inspection expenses, in addition to the inspection fee. The Brand Committee can also collect an amount, not to exceed 30 dollars per hour, for travel and inspection time.

LB 768 eliminates the maximum fee the Brand Committee can charge for inspections of registered feedlots and dairies but retains the existing requirement that the fee-per-thousand-head correspond to the 75 cents per head inspection fee. LB 768 does not change the initial inspection fee for a new registered feedlot or dairy, which is based on capacity. However, the bill expressly provides that the annual renewal fee for registered feedlots or dairies is to be based on average inventory (rather than capacity).

In addition to the information currently required by law, LB 768 requires a bill of sale to include the amount of federal beef checkoff deducted.

Finally, the bill directs the Brand Committee to assume responsibility for disposition of stray livestock taken up in a county within the service area. This provision was originally included in **LB 846**.

While LB 768 was enacted, the Agriculture Committee indefinitely postponed two related bills—**LB 60**, which would have excluded all of Knox County from the brand area, and **LB 654**, which would have expanded the prescribed brand area statewide.

LB 768 passed with the emergency clause 49-0 and was approved by the Governor on April 4, 2014.

LB 884—Name and Change the Exotic Animal Auction or Exchange Venue Act and Change the Livestock Auction Market Act (*Hansen, Johnson, Lathrop, Schilz, and Wallman*)

The Exotic Animal Auction or Exchange Venue Act is created by the passage of LB 884.

The act requires any organizer of an exotic animal auction or exchange venue to obtain a permit from the Department of Agriculture. The permit must be accompanied by verification

that the applicant has contracted the services of a licensed veterinarian to be present at the auction or exchange.

The veterinarian must visually inspect all animals to be sold or transferred and issue necessary certificates for change of ownership. Each animal sold must have an accompanying health certificate, and copies of all certificates must be provided to the department within seven days of the exotic animal auction exchange. The department must administer and enforce the act and adopt and promulgate rules and regulations to carry out the act.

LB 884 also eliminates limitations on the sale of sheep and goats at exotic animal auctions. However, sheep must continue to meet the requirements in the Scrapie Control and Eradication Act, and any dairy goats must have a tuberculosis test when entering the state.

LB 884 resolves an ambiguity whether an exotic animal auction venue is required to be licensed as a Livestock Auction Market when exotic breeds of familiar livestock species are exchanged. Under the bill, the exotic venue is exempt from the more stringent licensing, facility, and operating standards of the Livestock Markets Act as long as the venue organizer has an accredited veterinarian on site during sale days, and any swine, cattle, camelid, sheep, and goat animals are accompanied by a valid health certificate.

LB 884 passed 44-0 and was approved by the Governor on March 28, 2014.

LB 941—Provide for a Dairy Growth Study (*Schilz, Brasch, Davis, Johnson, and Watermeier*)

LB 941 directs the Department of Agriculture to conduct a study of Nebraska's dairy industry and report its findings to the Legislature by November 15, 2014. Funds from the Commercial Feed Administration Cash Fund will be used to finance the study.

The report must include the following: (1) an overview of the dairy industry in the state, (2) a comparison of dairy production to other states, (3) a description of industry processing and marketing components in the state, (4) an evaluation of the potential for expanded production and processing, (5) an evaluation of the potential for expansion of

self-processing and direct marketing in new or expanding markets, (6) any constraints to the establishment of new production operations, (6) a review of public and private programs to stimulate expanded production, and (7) available state incentives and marketing programs for production and processing in surrounding states.

The report can also include recommendations for state government action to expand production and marketing of milk and milk products in Nebraska.

Finally, the bill requires the Agriculture Committee to hold a public hearing on the report.

LB 941 passed 46-0 and was approved by the Governor on March 28, 2014.

LEGISLATIVE BILLS NOT ENACTED

LB 673—Repeal the Black-Tailed Prairie Dog Management Act (*Chambers*)

Laws 2012, LB 473 enacted the Black-Tailed Prairie Dog Management Act. The act authorizes counties to carry out a coordinated management plan to address overpopulation of black-tailed prairie dogs and requires landowners in counties with such plans to effectively prevent the spread of prairie dog colonies to adjacent land.

LB 673 would have repealed the act.

LB 673 failed to advance from committee and died with the end of session.

LB 942—Change Provisions Relating to Packers under the Competitive Livestock Markets Act (*Schilz, Gloor, and Watermeier*)

The Competitive Livestock Markets Act, originally enacted in 1999, recognizes the need for transparency in pricing in livestock markets to maintain the economic health of producers in the state. Current law prohibits any livestock packer, meaning an individual engaged in the business of slaughtering more than 150,000 animals per year, to indirectly or directly own, keep, or feed livestock for more

than five days. This provision is currently applicable to cattle and swine.

LB 942 would have limited the applicability of this provision to cattle, thereby allowing packer ownership of swine. Vertical integration in the pork industry has been prevalent in other states, and proponents of LB 942 asserted that Nebraska's pork industry suffers because of this limitation. Opponents, however, countered that transparency in livestock market pricing and increased competition in the market are vital to the industry.

LB 942 failed to advance from committee and died with the end of session.

APPROPRIATIONS COMMITTEE

Senator Heath Mello, Chairperson

ENACTED LEGISLATIVE BILLS

Biennial Budget Adjustment Package —LB 905, LB 906, LB 130, and LB 949

This year is the midway point in the biennial budget cycle, and therefore, adjustments are required to balance the budget for the remainder of the biennium. Since the budget was passed in 2013, revenue received, as well as projected revenue for the future, have increased significantly. Actual receipts for the 2012-2013 fiscal year increased \$52.4 million above the forecast, and forecasts for the current and upcoming fiscal years were increased by \$64 million and then again by another \$99 million. As a result, state law requires revenue above the certified forecasts, in this case \$134,700,000, to be transferred to the Cash Reserve Fund.

LB 905, LB 906, LB 130, and LB 974 together operate to direct the state's budget. LB 905, introduced by *Speaker Adams at the request of the Governor*, contains the majority of the adjustments. As enacted, the bill includes provisions of **LB 666, LB 678, LB 689, LB 764, LB 797, LB 827, LB 889, LB 891, LB 936, LB 944, LB 1047, LB 1091, and LB 1094.**

Important expenditures authorized by LB 905 include:

- \$25,000,000 added to the Property Tax Credit Relief Fund, bringing the total annual property tax credit program to \$140,000,000 per year, which is approximately \$13 per \$100 of valuation in the state;
- \$31,000,000 to fund water programs pursuant to **LB 1098**, discussed on page 75, \$10,000,000 of which is a one-time expenditure;
- \$17,500,000 to the Game and Parks Commission for deferred maintenance and other projects, including new facilities at Ponca State Park and Arbor Lodge;

- \$10,000,000 for job training programs;
- \$2,500,000 to build four courtyard fountains at the State Capitol Building, as well as over \$11,000,000 to fund the first three years of a ten-year project (at a cost of \$77,000,000 for the entire project) to replace the heating and cooling system in the State Capitol Building;
- \$1,500,000 for Department of Correctional Services maintenance and infrastructure;
- \$12,500,000, of which \$271,128 is authorized for use this year, to acquire, develop, maintain, and upgrade a new motor vehicle title registration database;
- \$1,500,000 for a state ward permanency pilot project;
- \$2,595,048 for a two-percent increase in developmental disability provider rates;
- \$4,745,000 for the developmental disability waiting list;
- \$1,000,000 for community health centers;
- \$1,800,000 for pediatric brain cancer research at the University of Nebraska Medical Center;
- \$400,000 for Excellence in Teaching programs;
- \$2,773,000 for a retirement settlement for employees of the Department of Labor;
- \$152,105 for additional staff for the Office of the Inspector General of Child Welfare;
- \$45,000 to pay three years of dues to the Midwest Rail Compact; and
- \$9,189,157 for inmate expenses, per diem expenses, and mitigation of over-capacity for state correctional facilities.

The net increase in spending over the biennium is negligible, largely due to a substantial decrease in state aid for education. LB 905 funds state aid to education at a total of \$899.9 million for the 2014-2015 fiscal year. This is over \$40 million less than was estimated for this year in the 2013 budget. **LB 725**, discussed beginning on page 30, restores a large portion of education funding by lowering the local effort rate in the school finance formula. However, the funding required by LB 725 is not reflected in the biennial budget, but rather in the appropriation bill that accompanies LB 725.

LB 905 passed with the emergency clause 40-8. However, numerous expenditures, totaling approximately \$65 million, were vetoed by the Governor. A motion to override nearly all of the vetoed items was adopted with a vote of 37-11 on April 1, 2014.

Vetoed expenditures not overridden include:

- Salary expenditures in the Governor's and Lieutenant Governor's offices;
- A salary expenditure for the Public Service Commission;
- Expenditures for electronic health records funded by the Medicaid False Claims Act Cash Fund and a vital records program funded by the Health and Human Services Cash Fund;
- An expenditure to the Nebraska Real Estate Commission for education;
- A transfer from the Medicaid False Claims Act Cash Fund to the Medical Assistance Program, which would supplement Medicaid after some of its funds were appropriated to the Supreme Court; and
- An expenditure to the Nebraska Arts Council for a stipend program.

LB 906, introduced by *Speaker Adams at the request of the Governor*, authorizes fund transfers to carry out the provisions of LB 905. The bill includes provisions of **LB 738**, **LB 873**, **LB 874**, **LB 940**, **LB 1004**, **LB 1033**, and **LB 1046**.

LB 906 creates several cash funds and appropriates money to carry out the expenditures authorized by LB 905. LB 906 passed with the emergency clause 41-7. The Governor vetoed certain line items in the bill, but the Legislature adopted a motion for the bill to become law notwithstanding the objections of the Governor with a vote of 39-9 on April 1, 2014.

LB 130, introduced by *Senator Mello*, strikes obsolete language relating to completed transfers and authorizes two transfers from the state's Cash Reserve Fund: (1) \$14,500,000 to the Nebraska Capital Construction Fund and (2) \$50,500,000 to the General Fund. These transfers are necessary to implement LB 905.

LB 130 passed with the emergency clause 44-4. The Governor vetoed certain line items in the bill related to job training, water, the Game and Parks Commission, and capital construction at the State Capitol.

However, the Legislature adopted a motion for the bill to become law notwithstanding the objections of the Governor with a vote of 39-9 on April 1, 2014.

Considered part of the budget package, LB 949, introduced by the *Business and Labor Committee*, approves certain claims made against the state. The bill passed with the emergency clause 48-0 and was approved by the Governor on March 29, 2014.

LB 974—Change Provisions Relating to Special Education Appropriations, State Agency Preaudit Practices, and Powers and Duties of the Department of Administrative Services and Provide and Change Reporting Requirements for the Department of Health and Human Services (*Mello, Campbell, Harms, and Krist*)

Laws 2012, LB 949 required the Department of Health and Human Services (department) to submit strategic plans for the Division of Children and Family Services for budgeting purposes through the biennium ending in 2017. LB 974 extends this requirement through the biennium ending in 2019.

LB 974 also adds this strategic planning requirement through the biennium ending in 2019 for other divisions of the department, including the Division of Behavioral Health, the Division of Developmental Disabilities, and the Division of Medicaid and Long-term Care.

Each strategic plan must identify the purposes of the program, key goals, fair measures of progress, and benchmarks for improving on key goals. By September 15, 2015 and September 15, 2017, each division must submit an electronic report, identifying progress toward the key goals made in the previous 12 months, to the Legislature's Health and Human Services Committee and Appropriations Committee.

Four other bills were amended into LB 974:

- **LB 745**, which changes references to "state-owned vehicles" to allow trucks and vans in the fleet; changes the process for lost warrants to allow for replacement copies; allows the Materiel Division of the Department of Administrative Services (DAS) to purchase service contracts without competitive bidding if the price is established by General Services Administration or competitively bid by a group of states; and changes the date on which agencies must submit reports to the Governor regarding proposed building renewal projects from December 15 of each year to September 15 of every even-numbered year.
- **LB 837**, which allows agencies with seven or more employees to conduct their own preaudits, subject to monitoring by the DAS accounting bureau. For agencies with fewer than seven employees, preaudits must be conducted by the accounting bureau or an agency authorized to conduct preaudits as designated by the DAS director.
- **LB 969**, which allows, for fiscal year 2014-2015, spending on special education programs to increase by 10 percent, up from five percent.
- **LB 1023**, which updates references to reports prepared by the DAS director. The bill also requires copies of these reports to be submitted to the Legislative Fiscal Analyst.

LB 974 passed with the emergency clause 44-0 and was approved by the Governor on April 2, 2014.

LB 1114—Change and State Intent Relating to Funding for Economic Development Programs and Change a Termination Date (*Mello and Hadley*)

LB 1114 extends the life of the Business Innovation Act by extending the act's termination date to December 1, 2021.

In addition, administration of a pilot program for high growth businesses in the state is transferred from the Small Business Innovation Act to the Business Innovation Act.

The bill creates the High Growth Business Development Cash Fund, to be administered by the Department of Economic Development. Fifty thousand dollars are appropriated to the fund to contract with a private nonprofit organization to provide research, analysis of best practices in other states, and recommendations on ways to support and increase venture capital in the state. The organization must submit a report of its findings to the Legislature by December 1, 2014.

LB 1114 passed 44-0 and was approved by the Governor on April 2, 2014.

BANKING, COMMERCE AND INSURANCE COMMITTEE

Senator Mike Gloor, Chairperson

ENACTED LEGISLATIVE BILLS

LB 254—Eliminate a Termination Date for Anticancer Medication and Provide Insurance Coverage for Autism Spectrum Disorder and Funding for Amino Acid-Based Elemental Formulas (*Adams and Coash*)

Three emotionally charged, medical insurance-related issues found a last-minute home in LB 254. As originally introduced, LB 254 would have updated statutory references to the Nebraska Educational Television Commission. The bill was heard by the Education Committee in 2013.

Mandated insurance coverage for the treatment of autism spectrum disorder (originally prescribed in **LB 505**); a state-funded plan to provide amino acid-based elemental formulas for children with severe digestive disorders (**LB 218** and **LB 397**); and the removal of the sunset provision for oral/intravenous cancer drug parity (**LB 883**) were amended into LB 254 on Select File.

The amendment capped last-minute maneuvering by supporters to move the measures in the closing days of the legislative session. Previously, all three bills were part of an amendment proposed in **LB 799** (discussed beginning on page 21) that stalled under a filibuster.

LB 254 requires some health plans in Nebraska to cover the screening, diagnosis, and treatment of an autism spectrum disorder for individuals under 21 years of age. Many policies are exempt from the autism coverage mandate, including disease-specific and limited-benefit coverage policies, self-funded benefit plans to the extent not preempted by federal law, and qualified health plans sold through and outside of the Affordable Care Act exchange. Further, the requirement affects policies issued on or after January 1, 2015.

The bill caps coverage for behavioral health treatments at 25 hours per week, but prohibits limits on other services and

treatments. Further, autism coverage cannot be subject to dollar limits, deductibles, copayments, or coinsurance provisions that are less favorable than equivalent provisions applicable to a general physical illness under a particular policy.

Another component of LB 254 directs the Department of Health and Human Services (DHHS) to establish a state-funded program providing amino acid-based elemental formulas for the diagnosis and treatment of certain severe childhood digestive disorders.

One can of an elemental formula can cost \$50 or more and lasts days. Infants who need the special food usually outgrow the condition by the time they turn a year. However, many insurers do not cover the cost of elemental formula, unless it is delivered via a feeding tube. As originally proposed, the cost for the formula would have been borne by insurers through a mandated coverage.

To qualify for the state-funded program, elemental formulas must be ordered by a physician and deemed medically necessary for the treatment of a disease or disorder. An individual can receive up to 50 percent of the actual out-of-pocket cost of the formulas, not to exceed \$12,000, in a 12-month period.

Available funds for the program, distributed on a first-come, first-served basis, are capped at \$250,000 each fiscal year for fiscal year 2014-2015 and fiscal year 2015-2016. LB 254 contains appropriations to fund and administer the program.

Finally, LB 254 removes the December 31, 2015 termination date of a requirement for insurers to provide equal coverage for oral and intravenous anticancer drugs. Requiring parity in coverage was enacted via Laws 2012, LB 882. The termination date was attached because of uncertainty over the impact of the pending federal health care reform law.

LB 254 passed with the emergency clause 48-0 and was approved by the Governor on April 21, 2014.

LB 700—Adopt the Risk Management and Own Risk and Solvency Assessment Act, Provide Requirements for Certain Health Care Sharing Ministries, and Change Provisions Relating to Insurance Rules and Regulations, Definitions, Cease and Desist Orders, and Risk-Based Capital (Schumacher)

LB 700 gives the Director of Insurance (director) another regulatory tool to evaluate the financial solvency of insurers domiciled in the state. The bill also contains provisions originally introduced in four separate measures.

The original provisions of LB 700 adopt the Risk Management and Own Risk and Solvency Assessment Act, requiring insurers to maintain a risk management framework and to perform own risk solvency assessments. The assessments must be available annually to the director upon request. LB 700 exempts domestic insurers writing less than \$500 million of annual direct written and unaffiliated assumed premium and insurance groups writing less than \$1 billion of annual direct written and unaffiliated assumed premium.

The bill defines an own risk and solvency assessment to mean a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group. The assessment contains the material and relevant risks associated with the insurer's or insurance group's current business plan and the sufficiency of capital resources to support those risks.

The assessments can be shared only as allowed in the act to assist the director in the performance of his or her duties. LB 700 provides strict safeguards for the information contained in the assessments or information that is otherwise obtained by the director in carrying out provisions of the bill, declaring such information and assessments to be proprietary and confidential, not subject to public disclosure or subpoena.

Other measures enacted via LB 700 include:

- A provision declaring that “health care sharing ministries” are not to be considered as engaging in the business of insurance for purposes of Nebraska’s insurance laws. A health care sharing

ministry is defined as a faith-based nonprofit organization that is tax-exempt under the Internal Revenue Code and provides for the financial or medical needs of participants through contributions from one participant to another. (This provision was originally introduced in **LB 993**.)

- Three changes to the rulemaking authority of the Director of Insurance, allowing rather than requiring him or her to adopt rules and regulations pertaining to the (1) Burial Pre-Need Sale Act; (2) the Motor Club Services Act; and (3) financial conglomerates that agree to be supervised by the director on a consolidated basis. In requesting the changes, the director indicated there had been no need for rule-making in any of these instances. (The changes were originally introduced in **LB 926**.)
- Amendments to the Producer-Controlled Property and Casualty Insurer Act and the Insurers and Health Organizations Risk-Based Capital Act to update both of the acts with recent changes adopted by the National Association of Insurance Commissioners as required by accreditation standards. (The updates were originally introduced in **LB 715**.)
- Eliminating the requirement for an administrative hearing when the Director of Insurance issues a cease and desist order to a motor vehicle service contract provider pursuant to the Motor Vehicle Service Contract Reimbursement Insurance Act. A provider can still request a hearing. The changes make cease and desist orders consistent across all the entities regulated by the Department of Insurance. (This proposal was originally introduced in **LB 688**.)

LB 700 passed 46-0 and was approved by the Governor on April 22, 2014.

LB 717—Change Provisions Relating to the Real Property Appraiser Act and Professional Qualifications (*Gloor*)

With the enactment of LB 717, Nebraska adopts federally required changes pertaining to credentialing real property appraisers so that appraisers in Nebraska can continue to appraise property in federally related transactions. In Nebraska, such transactions comprise the majority of all mortgage loan activity, according to the bill's proponents.

LB 717 changes requirements for real property appraisers at each level of credential. A trainee real property appraiser must complete all education requirements within five years preceding application for a credential, with the exception of the 15-hour National Uniform Standards of Professional Appraisal Practice Course. The bill adds requirements pertaining to criminal record and character; how a trainee real property appraiser qualifies for an upgraded credential; and scope of practice.

LB 717 adds qualifications for real property appraisers to supervise trainee appraisers; increases the college-level education requirements for licensed residential real property appraisers and certified residential real property appraisers; and allows the completion of a degree program in real estate from an accredited degree-granting college or university to count toward the qualifying education requirements for all credentials.

Further, LB 717 adds background checks and standards for screening new and existing credential holders. Although federal standards only require background screening for new appraisers, states are strongly encouraged to also screen currently credentialed appraisers.

The screening process imposed via LB 717 requires all new applicants to submit two copies of legible, ink-rolled fingerprint cards or equivalent electronic fingerprint submissions to the Real Property Appraiser Board. Renewing appraisers will be randomly required to submit fingerprints. The board sends fingerprint data to the State Patrol for a national criminal history record check and can charge a fee of no more than \$100 for each criminal history record check.

LB 717 passed with the emergency clause 47-0 and was approved by the Governor on April 3, 2014.

LB 749—Adopt the Nebraska Model Business Corporation Act (*Harr*)

LB 749 repeals Nebraska’s Business Corporation Act and replaces it with the Nebraska Model Business Corporation Act (NMBCA), containing updates recommended by the American Bar Association (ABA) committee that has, since 1950, promulgated a national model business corporation act.

The NMBCA governs how businesses operate in the state, including how they are organized, mergers, and dissolutions, as well as filing and reporting requirements. Nebraska updated its Business Corporation Act in 1995, but has adopted few of the ABA recommendations made since that time, according to the bill’s introducer. Having state law consistent with other states is generally considered to be good for business.

LB 749 passed 48-0 and was approved by the Governor on March 28, 2014.

LB 751—Adopt the Nebraska Benefit Corporation Act (*Conrad and Mello*)

LB 751 recognizes a new corporate entity, called a benefit corporation, with the purpose of achieving public good while making money for its shareholders. Benefit corporations are subject to the requirements of the Nebraska Benefit Corporation Act, which is adopted via LB 751, but also remain subject to the Nebraska Model Business Corporation Act and any other statutes pertinent to its specific type of business.

An existing corporation can become a benefit corporation by amending its articles of incorporation or by merger with a pre-existing benefit corporation. An amendment or merger must be approved by a two-thirds majority vote of each class of the business’ shareholders. A benefit corporation can convert to a regular corporation using the same procedures.

As the stated purpose in its articles of incorporation, a benefit corporation can identify a general public benefit or one or more specific public benefits. The selection of a specific public benefit does not constrain the public benefit corporation from also operating for a general public benefit. A general public benefit means the benefit corporation must

operate in a fashion so as to have a material positive impact on society and the environment.

Specific public benefits identified in LB 751 include: (1) providing low-income or underserved individuals or communities with beneficial products or services; (2) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business; (3) protecting or restoring the environment; (4) improving human health; (5) promoting the arts, sciences, or advancement of knowledge; (6) increasing the flow of capital to entities with a purpose to benefit society or the environment; and (7) conferring any other particular benefit on society or the environment.

LB 751 passed 44-0 and was approved by the Governor on April 2, 2014.

LB 755—Adopt the Standard Valuation Act for Valuation of Insurance Reserves (*Gloor*)

LB 755 adopts the National Association of Insurance Commissioners (NAIC) Standard Valuation Act, which amends Nebraska law governing the establishment of reserves held by life insurers.

Reserves are the liabilities an insurance company is legally required to maintain on its balance sheet with respect to the expected future claims of the company.

LB 755 requires Nebraska's Director of Insurance (director), no later than July 1, 2017, to adopt a valuation manual that substantially conforms to the model valuation manual developed by NAIC. The director must use the manual to annually value the reserves for all outstanding life insurance contracts, accident and health insurance contracts, and deposit-type contracts issued by companies on or after the operative date of the valuation manual.

The model valuation manual contains the NAIC recommendations adopted after 10 years of study and reflects an industry-approved plan to shift to a principle-based method of calculating reserves. Proponents said the change allows insurers to establish reserves using methods and assumptions tailored to the type of insurance being written and, therefore, will result in more appropriate reserves being held. Contracts written before the operative

date of the manual can continue to use the formulaic methodologies and assumptions in current use.

LB 755 passed 48-0 and was approved by the Governor on March 28, 2014.

LB 788—Change Provisions Relating to Real Estate Loans, Fiduciary Accounts, Decedents’ Estates, Hearsay Exceptions, Mortgages, Trust Deeds, and Safe Deposit Boxes (Schumacher)

As originally introduced, LB 788 would have clarified that municipal bondholders have priority to get paid in the event an issuing city were to declare bankruptcy. However, as amended on Select File, the original content was struck and replaced with provisions originally introduced in **LB 151, LB 775, LB 810, LB 815, LB 819, and LB 988.**

LB 788 addresses accessing financial information when persons die. The bill provides exceptions to the disclosure of confidential information, allowing banks and other corporations to release information regarding date of death valuations and beneficiary designations for property in their possession. Further, LB 788 creates a process for gaining entry into a decedent’s safe deposit box for the limited purpose of locating a will, deed to a burial plot, or burial instructions.

The bill also:

- Creates an acquired or integrated business records exception to Nebraska’s hearsay rule;
- Prohibits local governments from enacting ordinances or resolutions that interfere with the enforcement or servicing of any real estate loan agreement or any mortgage, deed of trust, or other security instrument by which a loan is secured. The prohibition does not apply to ordinances or resolutions pertaining to tax increment financing;
- Brings state law into compliance with federal regulations regarding the pledging of securities for trust funds awaiting investment or distribution; and

- Conforms provisions regarding the way debts or obligations and future advances can be secured pursuant to a mortgage or trust deed covering an interest in real property.

LB 788 passed 45-0 and was approved by the Governor on April 22, 2014.

LB 876—Require a Bodily Injury Exception from a Pollutant Exclusion in Certain Insurance (*Howard*)

Homeowner’s insurance policies can no longer deny claims arising from carbon monoxide poisoning with the passage of LB 876.

Under LB 876, any homeowner’s or owner’s, landlord’s, and tenant’s policy that includes a pollution exclusion must include an exception to the exclusion for bodily injury sustained within a building and caused by smoke, fumes, vapor, or soot from a heating or ventilation system.

The change applies to policies issued or delivered in Nebraska on or after January 1, 2015.

LB 876 passed 48-0 and was approved by the Governor on April 10, 2014.

LEGISLATIVE BILLS NOT ENACTED

LB 799—Change a Filing Requirement for Insurance Companies (*Carlson*)

LB 799 would have deleted a 100-year-old requirement on insurers in Nebraska to report the salaries received by the companies’ officers.

A pending committee amendment would have required insurers to continue to file the salary information in their annual financial statements with the state Department of Insurance but would have provided the information remain confidential.

The bill’s supporters said the disclosure amounted to an unfair burden on insurers to release proprietary information. Opponents of the bill, who led a successful filibuster against

it, said the salary information served to inform policy holders making decisions on insurance products.

LB 799 advanced to General File, where numerous amendments and motions were filed, including a bracket motion that was later withdrawn. Among the adopted amendments were measures providing health coverage to autistic children and children with severe digestive disorders, and the removal of a termination date providing parity in cancer drug coverage. When it became apparent that LB 799 would not advance, those provisions were amended into **LB 254** (discussed beginning on page 13).

A motion to recommit the bill to committee was pending as debate on the bill stalled, and LB 799 died with the end of the session.

BUSINESS AND LABOR COMMITTEE

Senator Steve Lathrop, Chairperson

ENACTED LEGISLATIVE BILLS

LB 560—Change Provisions of the Nebraska Wage Payment and Collection Act (*Mello*)

According to the introducer, the primary goal of LB 560 is to offer some protections from wage theft to hard-working Nebraska wage earners.

As enacted, LB 560 authorizes the Commissioner of Labor to investigate possible violations of the Nebraska Wage Payment and Collection Act (WPCA) and impose an administrative penalty, if he or she believes a violation has occurred.

Specifically, the bill allows the commissioner to subpoena records and witnesses during an investigation relating to the enforcement of the WPCA, when the information sought is reasonable in scope and relevant to the investigation. If the investigation reveals a possible WPCA violation, the commissioner can issue a citation and impose an administrative penalty of \$500 for the first offense and \$5,000 for a second or subsequent offense.

The employer has 15 working days after issuance of the citation to contest it, and the commissioner must hold a hearing in accordance with the Administrative Procedure Act.

LB 560 also requires an employer to provide each employee, on each regular payday, a wage statement detailing, at a minimum, the employer's name, number of hours worked, wages earned, and deductions made. The wage statement can be delivered electronically or by mail and must be available at the employee's usual place of employment during working hours for all shifts. (Originally prescribed in **LB 903**, these provisions were added to LB 560 via adoption of the Standing Committee amendments.)

LB 560 passed 42-0 and was approved by the Governor on April 2, 2014.

LB 765—Change the Wage Payment and Collection Act (Conrad)

LB 765 requires any employer who pays wages with a payroll debit card to comply with the compulsory-use requirements prescribed in the federal Electronic Fund Transfer Act. (The compulsory-use requirements prohibit an employer from requiring an employee, as a condition of employment, to establish an account with a particular financial institution, for purposes of receipt of electronic fund transfers.)

Additionally, any employer who pays wages with a payroll debit card:

- (1) Must allow employees at least one means of fund access withdrawal per pay period, but not more frequently than once per week, at no cost to employees; and
- (2) Cannot pass along to his or her employees any fees or costs he or she might incur in connection with paying wages by payroll debit card.

LB 765 passed 46-0 and was approved by the Governor on April 10, 2014.

LB 800—Provide for Designation of Enterprise Zones and Preferences in Certain Business Incentive Programs (Mello, Ashford, Cook, Harms, and Nordquist)

With the passage of LB 800, the Legislature revitalizes the concept of enterprise zones—an economic development tool originally created via the enactment of Laws 1992, LB 1240.

Generally, to be eligible for designation as an enterprise zone a specific geographic area must be experiencing declining population and high levels of poverty and unemployment. The city council, village board, county board, or tribal government makes application to the Department of Economic Development (DED) for an enterprise-zone designation. Once an area is designated an enterprise zone, projects are encouraged—through preferences, grants, and other incentives—to locate within the zone to stimulate economic growth and reinvigorate the area.

LB 800 authorizes DED to designate up to five areas throughout the state as enterprise zones. Applications for designation must be submitted within six months of the adoption of

updated rules and regulations. Only one enterprise zone can be located within a city of the metropolitan class (Omaha), and only one can be located within a city of the primary class (Lincoln). A designation continues for 10 years.

Projects undertaken within enterprise zones receive preferences for funding from the Affordable Housing Trust Fund, Job Training Cash Fund, Site and Building Development Fund, and Business Innovation Act.

LB 800 passed 49-0 and was approved by the Governor on April 9, 2014.

LB 961—Provide for a Fire Fighting Compact, Change Workers’ Compensation Provisions, and Require Coverage for Volunteer Firefighters, Change Provisions of the Nebraska Hospital-Medical Liability Act, the Nebraska Construction Prompt Pay Act, and the Employment Security Law (*Cook and Mello*)

As originally introduced, LB 961 would have made the exclusive remedy protection for the employer inapplicable in cases in which the Nebraska Workers’ Compensation Court determined that an employee’s injury was due to the employer’s willful negligence.

Adopted Standing Committee amendments struck the bill’s original provisions and replaced them with provisions of **LB 820**, **LB 895**, and **LB 951**. As LB 961 advanced through the legislative process, provisions of **LB 363** and **LB 559** were also amended into the bill.

As enacted, LB 961:

- Authorizes the Governor to make Nebraska a member of the Great Plains Interstate Fire Compact. Member states, which include North Dakota, South Dakota, Wyoming, and Colorado, work together to prevent and control forest fires in the Great Plains region of the United States.
- Increases the total amount recoverable under the Nebraska Hospital-Medical Liability Act from any and all health care providers and the Excess Liability Fund for any occurrence resulting in injury or death of a patient to \$2,250,000, for any occurrence after December 31, 2014.

- Changes provisions of the Nebraska Construction Prompt Pay Act and caps the retainage amount at 10 percent of the amount specified in the contract. Additionally, if the project is at least 50 percent complete pursuant to the contract, no more than 5 percent of any additional progress payment can be withheld as retainage. The bill requires the owner or owner's representative to pay all retainage for work completed pursuant to the construction contract within 45 days after substantial completion of the project. In turn, the contractor must pay all retainage due a subcontractor within 10 days after receipt of the retainage when the subcontractor successfully completes his or her work under the subcontract.
- Provides that the compensation rate to be paid to any member of a volunteer fire department in any rural or suburban fire protection district, city, village, or nonprofit corporation or to any member of a volunteer emergency medical service, for injuries resulting in disability or death received in the performance of his or her duties is one and one-half times (a) the maximum state average weekly wage or (b) his or her wages from his or her regular employer, whichever is greater.
- Clarifies that a lump-sum settlement that is not required to be submitted for approval to the Nebraska Workers' Compensation Court is final, unless fraudulently procured.
- Creates a short-time compensation program. Generally, a short-time compensation program is a voluntary program that allows employers to temporarily reduce the normal work hours for designated employees. To offset the employees' wages lost because of reduced work hours, designated employees are eligible for partial unemployment benefits. Employers wishing to participate in a short-time compensation program must submit a detailed short-time compensation plan to the Commissioner of Labor. The commissioner must approve the plan within 30 days after submission. At a minimum, the plan must (1) identify the designated employees, (2) provide notification to the designated employees, (3) certify that reduction of work hours is in lieu of layoffs, (4) guarantee that additional employees will not be hired, and (5) maintain health and retirement benefits as though the designated employees' work hours have not been reduced.

LB 961 passed 47-0 and was approved by the Governor on April 16, 2014.

LEGISLATIVE BILLS NOT ENACTED

LB 943—Change the Minimum Wage Rate (*Nordquist*)

LB 943 would have gradually increased the state's minimum wage rate from \$7.25 per hour to \$9.00 per hour over the next three years. The bill advanced to General File with Standing Committee amendments. The Standing Committee amendments added the provisions of **LB 947**, which would have gradually increased the minimum wage for tip earners from \$2.13 to 70 percent of the regular minimum wage over the next three years.

Supporters of the measure believed wage increases were necessary to enable hard-working families to make ends meet. Opponents countered that the increases would burden small businesses and limit the ability of businesses to hire certain workers.

LB 943 failed to advance from General File and died with the end of session.

EDUCATION COMMITTEE

Senator Kate Sullivan, Chairperson

ENACTED LEGISLATIVE BILLS

LB 438—Change the Accountability System for Schools and School Districts under the Quality Education Accountability Act (*Adams*)

The goal of the Quality Education Accountability Act is to hold public schools accountable for providing quality education to their students. Using a combination of indicators—such as test scores and graduation rates—the act measures a school’s performance towards achieving that goal. With the passage of LB 438, the Legislature provides a tool designed to improve the performance of those low-performing Nebraska schools and improve the educational quality for students attending those schools.

Specifically, LB 438 directs the State Board of Education to designate schools with the lowest performance levels as priority schools. No more than three schools can have a priority school designation at any one time.

For each designated priority school, the Commissioner of Education establishes an intervention team to assist the school. The intervention team works with the priority school’s staff, administration, and board of education to develop a progress plan. The progress plan must identify issues negatively impacting the school, and develop and implement strategies to improve the school’s performance, including specific actions required to be performed or completed by the school in order to remove the priority school designation.

The state board must annually review any progress plan and determine whether modifications are needed. If a school is designated a priority school for five consecutive years, the state board must reevaluate the progress plan and determine whether (1) the plan should be substantially changed, (2) a completely new plan should be developed, or (3) an alternative school administrative structure is needed.

LB 438 directs the commissioner to annually report to the Governor, Legislature, and chairperson of the Legislature's Education Committee on all schools designated as priority schools. Among other things, the report must include a summary of each school's progress plan and level of progress.

LB 438 passed with the emergency clause 48-0 and was approved by the Governor on April 9, 2014.

LB 546—Eliminate and Change Provisions Relating to the Review of Postsecondary Capital Construction Projects (Kolowski)

Pursuant to LB 546, the Coordinating Commission for Postsecondary Education will no longer review capital construction projects proposed by the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges. However, the Legislature, or the Executive Board of the Legislative Council if the Legislature is not in session, is still required to review and approve or disapprove such capital construction projects.

Additionally, all capital construction projects proposed by any nonprofit corporation created by the Board of Regents or Board of Trustees must be submitted for review and approval or disapproval to the Legislature, or the Executive Board if the Legislature is not in session, when any of the following fund sources are used for the repayment of all or any part of the bonds of the nonprofit corporation: (1) state general funds; (2) funds received by the University of Nebraska or any state college for purposes of reimbursing overhead costs and expenses in connection with any federal or other grant or contract; (3) tuition; or (4) the state's operating investment pool investment income.

LB 546 passed 40-2 and was approved by the Governor on March 26, 2014.

LB 725—Change Provisions Relating to Local Effort Rate Yield under the Tax Equity and Educational Opportunities Support Act (Sullivan)

With the passage of LB 725, the local effort rate, which was scheduled to be reduced from \$1.03 to \$1.00 beginning with

the 2015-2016 school fiscal year, will now be reduced to \$1.00 beginning with the 2014-2015 school fiscal year.

The local effort rate is applied to a school district's valuation to arrive at the yield from the local effort rate. The local effort rate yield is the measure of property tax resources used to calculate equalization aid under the Tax Equity and Educational Opportunities Support Act (TEEOSA).

Practically, reducing the local effort rate reduces the amount schools are expected to receive from property taxes and results in an increase in state aid by approximately \$35 million.

LB 725 also changes the calculation of the student growth adjustment correction (another TEEOSA component). Rather than using the average daily membership and the estimated average daily membership to calculate the correction, LB 725 requires the correction be calculated using actual student growth for a school fiscal year and the estimated student growth for that year.

LB 725 passed with the emergency clause 44-0 and was approved by the Governor on April 2, 2014.

LB 740—Change Residency Requirements for Postsecondary Education Purposes for Veterans and their Families (*Crawford, Davis, Kolowski, Scheer, Coash, and Garrett*)

With the passage of LB 740, a military veteran who has been off active duty for two years or less, or his or her spouse or dependent, who enrolls in a Nebraska public college or university will be considered a Nebraska resident for tuition purposes if he or she (1) registers to vote in Nebraska and (2) demonstrates objective evidence of intent to be a Nebraska resident.

Pursuant to LB 740, if a spouse or dependent is younger than 18 years of age, he or she is not required to register to vote until he or she is 18 years old, and objective evidence of intent to be a Nebraska resident is demonstrated by a Nebraska driver's license or state identification card.

If the veteran receives tuition benefits from the Yellow Ribbon program, he or she is not eligible for the residency tuition

benefit prescribed in LB 740; however, the veteran's spouse or dependent continues to be eligible. (The Yellow Ribbon program is a joint program between the federal Veterans Administration and state postsecondary educational institutions, which pays the difference between resident tuition and nonresident tuition for eligible veterans and other military personnel.)

LB 740 passed 48-0 and was approved by the Governor on March 28, 2014.

LB 923—Provide for the Position of State School Security Director and Require Training on School Security, Suicide Awareness and Prevention, and Tornado Preparedness for School Personnel and Provide for a Concussion Protocol (McGill and Murante)

As originally introduced, LB 923 required all public school nurses, teachers, counselors, school psychologists, administrators, and any other appropriate school personnel to have at least one hour of suicide awareness and prevention training as part of their annual in-service training. In addition to its original provisions, as enacted LB 923 includes provisions of **LB 741**, **LB 782**, and **LB 872**.

For purposes of providing leadership and support for safety and security in Nebraska's public schools, LB 923 creates the position of state school security director within the State Department of Education.

As prescribed in LB 923, the state school security director must: (1) collect safety and security plans and any other security information from every Nebraska school system; (2) recommend minimum standards for school security on or before January 1, 2016; (3) complete an assessment of each public school building on or before August 31, 2017; (4) identify deficiencies in school security; (5) establish security awareness and preparedness tools and training programs; (6) establish instructional programs for staff, students, and parents to address the underlying causes of school violence; (7) oversee suicide awareness and prevention training; (8) establish tornado preparedness standards; and (9) respond to inquiries and requests for assistance relating to school security from private, denominational, and parochial schools.

LB 923 also directs each approved or accredited public, private, denominational, or parochial school to establish a return to learn protocol for students who have sustained concussions. The protocol must recognize that students who have sustained concussions and returned to school might need additional assistance, both academically and medically, as they fully recover.

LB 923 passed 45-0 and was approved by the Governor on April 22, 2014.

LB 967—Change Provisions Relating to Accountant Licensing Examination Accreditation, Education Funding, Compensation of Members of the Board of Educational Lands and Funds, Education Regulation, Teaching, Early Childhood Education Programs, Distance Education Programs, and Postsecondary Institutions (*Education Committee*)

According to the Introducer’s Statement of Intent, LB 967 is the result of LR 182, a 2013 interim study resolution, which studied Nebraska’s school finance system. As the bill advanced through the legislative process, in addition to its original provisions, portions or provisions of **LB 129, LB 754, LB 835, LB 842, LB 958, LB 984, and LB 1069** were amended into the bill.

Following is a brief summary of the many provisions of LB 967.

LB 967 changes the allocation from the Education Innovation Fund for the next two fiscal years. For fiscal year 2014-2015, the bill increases the amount transferred to the Excellence in Teaching Cash Fund from \$1 million to the first \$1,200,000; specifies that \$2 million is to be allocated for distance education equipment and incentives; transfers \$1 million to the School District Reorganization Fund; directs that up to \$145,000 is to be used by the State Department of Education (department) to implement districtwide administration of a standard college admission test authorized in Neb. Rev. Stat. sec. 79-759; and allocates \$335,000 to local school systems as grants awarded by the department to help schools evaluate and improve their career education programs.

For fiscal year 2015-2016, \$1,200,000 is to be transferred to the Excellence in Teaching Cash Fund; \$2,500,000 is to be allocated for distance education equipment and incentives; \$1 million is to be transferred to the School District Reorganization Fund; and up to \$145,000 is to be used by the department for districtwide administration of a standard college admission test. Of the amount remaining, \$3 million is to be retained by the Education Innovation Fund and transferred to the Nebraska Education Improvement Fund on June 30, 2016; and any remainder will be allocated to local systems as grants awarded by the department to help schools evaluate and improve their career education programs. (The remainder is estimated to be \$344,000.)

LB 967 also provides that any funds received as transfers or allocations from the Education Innovation Fund in fiscal year 2014-2015 or 2015-2016, which have not been used for their designated purposes will be transferred on or before August 1, 2016, to the Nebraska Education Improvement Fund, unless originally allocated for early childhood education or reorganization support grants.

The bill reinstates and increases the per diem for members of the Board of Educational Lands and Funds. Until October 1, 2011, board members received a per diem of \$40 per day for each day's time actually engaged in the performance of their duties. The per diem was eliminated in 2011 as a budget-cutting measure. LB 967 provides board members a per diem of \$50 per day for each day's time actually engaged in the performance of their duties.

Additionally, LB 967 specifically authorizes local school boards to make expenditures for supplies, equipment, travel, meals, and lodging for school programs and activities, including extracurricular and interscholastic activities, appropriate for the benefit, government, and health of students in the district.

Under LB 967, the teacher education and instructional time allowances prescribed in the Tax Equity and Educational Opportunities Support Act (TEEOSA) will be reduced and eliminated during the next two fiscal years. The two allowances are to be reduced by 50 percent for fiscal year 2015-2016 and eliminated completely in fiscal year 2016-2017. (Allowances for school district expenditures for specific purposes are factored into the TEEOSA formula. The allowances reduce the amount of basic funding available in the formula.)

To support consolidating school districts, LB 967 authorizes payment of support grants to newly reorganized Class III school districts. The support grants replace expired incentive provisions for payments previously awarded to consolidating districts. Each support grant will equal \$125,000 times the number of districts consolidating into the new Class III district, except that if the total support grants exceed the amount of money in the School District Reorganization Fund, the grants will be reduced proportionately.

LB 967 declares the Legislature's intent to assure that (1) every family in Nebraska has access to high-quality early childhood education programs for, at a minimum, the school year prior to the school year for which the child will be eligible to attend kindergarten, and (2) any additional funds appropriated for early childhood education grants be used to assist schools and community-based organizations in working together to expand access.

The bill also requires the Early Childhood Training Center to approve training for the Step Up to Quality Child Care Act.

LB 967 directs the Commissioner of Education to appoint a student achievement coordinator to evaluate and coordinate existing resources for effective programs to increase achievement across the state and review poverty plans and limited English proficiency plans submitted to the department to identify and determine best practices. The achievement coordinator must have background and training in addressing the unique educational needs of students in poverty, limited English proficient students, and highly mobile students.

Finally, LB 967 eliminates outdated references to the North Central Association of Colleges and Universities, updates special education definitions, and includes private postsecondary career schools in any interstate reciprocity agreements for postsecondary distance education.

LB 967 passed with the emergency clause 44-0 and was approved by the Governor on April 2, 2014.

LB 1103—Provide a Statewide Vision for Education (Education Committee)

Legislators signaled their commitment to develop and provide a statewide vision for public education in Nebraska

by passing LB 1103. Supporters of the measure believe a statewide vision is necessary to ensure that all Nebraska students receive a quality education and the state's education resources are strategically directed to maximize education quality.

Specifically, LB 1103 directs the Legislature's Education Committee to undertake a strategic planning process to create a statewide vision for education in Nebraska. As part of the planning process, the committee will work with individuals and representatives of educational interests, taxpayer groups, the business community, and any other interested entities throughout the state, gathering ideas and information about all aspects of education. Additionally, the committee will hold at least three public hearings in locations throughout Nebraska that represent a variety of educational situations to provide citizens an opportunity to share their concerns, opinions, and ideas.

The committee must submit a report to the Legislature no later than December 31, 2014.

LB 1103 passed with the emergency clause 43-0 and was approved by the Governor on April 2, 2014.

LEGISLATIVE BILLS NOT ENACTED

LB 682—Require Formation of Allied School Systems (Scheer)

As introduced, LB 682 would have required a Nebraska public school district with fewer than 650 students in grades kindergarten through 12 for at least two consecutive years to form an allied school system with at least three other similarly situated school districts, so that the allied system included at least 1,300 students.

For purposes of articulating district roles and responsibilities, member districts would have entered into an interlocal agreement. At a minimum, the agreement would have required member districts to have the same yearly calendar and daily class schedule. Member districts could continue to have their own individual extracurricular activities and schedules.

Additionally, all employees of each member district would have remained employees of the individual member district, and nothing in the bill would have required member districts to combine or coordinate revenue, spending, taxation, state aid, or any other elements relating to financing.

LB 682 advanced to General File, with Standing Committee amendments.

The committee amendments would have continued to authorize the formation of allied systems. While each allied system would continue to be based on an agreement of at least four member districts, the committee amendment would have allowed an allied system to continue with a minimum of three member districts.

Additionally, the committee amendments would have prohibited the transfer of a district from one allied system to another. And, if districts within an allied system chose to merge at a later date and the new, reorganized district continued to be part of the allied system, the original districts would be counted as separate districts for purposes of the three-district minimum.

At the request of the introducer, LB 682 was bracketed until April 17, 2014, and died with the end of session.

EXECUTIVE BOARD

Senator John Wightman, Chairperson

ENACTED LEGISLATIVE BILLS

LB 1016—Provide for Acquisition and Sale of State Aircraft and a Transfer from the Cash Reserve Fund (*Krist and Bloomfield*)

Government officials in Nebraska will have access to a new state airplane thanks to LB 1016.

The bill earmarks \$3.6 million for the Department of Aeronautics to purchase a new five-passenger Beechcraft King Air. The new aircraft replaces an aging 1982 Piper Cheyenne currently used by the Governor and other government officials. The old plane will be sold to fund preventive maintenance costs on the new aircraft.

LB 1016 also removes the option for state officials to charter or lease a plane and restricts use of the new aircraft to official state business. A quarterly report of agencies using the aircraft, the names of each passenger, purposes for the flight, and other trip information will be filed with the Clerk of the Legislature.

Last year, the Governor's Office proposed purchasing a 2001 Beechcraft plane from the University of Nebraska Foundation for \$2.2 million. Instead, the Legislature commissioned an independent study, which concluded a new aircraft would be safer and last longer. The new plane will be under warranty for five years, and the cost includes training two pilots and a mechanic.

LB 1016 passed with the emergency clause 34-5 and was approved by the Governor on March 28, 2014.

LEGISLATIVE BILLS NOT ENACTED

LR 397CA—Constitutional Amendment to Require Public Recording and Preservation of Votes of Public Officials (Lautenbaugh, Brasch, Larson, and Murante)

Every vote taken by elected officials in Nebraska would have been a matter of public record, had a proposed constitutional amendment been put on the ballot.

LR 397CA would have added a section 31 to Article I of the Nebraska Constitution, requiring that every vote by an elected official in the conduct of public duties be recorded in a public meeting and preserved for public inspection.

Under the amendment, public entities would have been prohibited from holding secret ballots. This would have applied to every elected body in the state, including the Legislature, where committee leadership has been traditionally decided by secret ballot.

LR 397CA failed to advance from committee and died with the end of session.

LB 976—Adopt the Redistricting Act (*Karpisek and Wallman*)

The politically fraught process of redistricting would have been handed over to an independent commission under LB 976. Once every 10 years, based on the results of the decennial census, the Nebraska Legislature redraws district boundaries for the U.S. House of Representatives, Legislature, Public Service Commission, University of Nebraska Board of Regents, State Board of Education, and Nebraska Supreme Court.

Patterned after a system used in Iowa and other states, LB 976 would have created an independent, bipartisan commission to draft new district boundaries. The six-member panel of citizens would have included a Democrat and

Republican from each of Nebraska's three congressional districts.

The Independent Redistricting Advisory Commission would have been tasked with creating "equally distributed, contiguous and compact districts," without regard to demographic or political considerations.

The maps drafted by the independent commission would have been subject to legislative approval. The act would have given lawmakers up to three votes on the new district boundaries. If a consensus could not be reached by the third vote, final approval would have been up to the Nebraska Supreme Court.

Proponents argued that an independent body, free from political self interest, could be more objective when drawing electoral districts. Opponents mounted a filibuster of the bill, arguing that relying on unelected appointees, rather than lawmakers, would not make the process any less political. Various technical objections were also raised.

A vote to invoke cloture on LB 976 failed and the bill died with the end of session.

GENERAL AFFAIRS COMMITTEE

Senator Russ Karpisek, Chairperson

ENACTED LEGISLATIVE BILLS

LR 41CA—Constitutional Amendment Authorizing Legislation for Licensing and Regulating Wagering on Live or Replayed Horse Races (*Lautenbaugh and Karpisek*)

Historic horse racing machines could become a fixture at Nebraska racetracks if LR 41CA, a proposed constitutional amendment, is passed by voters.

In 2012, lawmakers passed LB 806, which statutorily authorized wagering on historic horse races. Governor Heineman vetoed the measure, and the motion to override the veto fell short. In 2013, LR 41CA was introduced and advanced to Select File. This year, lawmakers passed the proposal, which amends Article III, section 24, of the Nebraska Constitution, allowing the historic horse racing machines at racetracks.

Historic horse racing machines let gamblers bet on past horse races. The machines create parimutuel pools from wagers placed on prerecorded horse races. The races are randomly selected and replayed on a video monitor. Information regarding odds, jockeys, and track conditions is provided on screen before the race begins, but the actual race is not identified. The machines would only be allowed at thoroughbred racetracks.

The amendment also provides for the distribution of revenue from taxes on historic horse racing proceeds. After payment of regulatory expenses, 49 percent is earmarked for elementary and secondary education, 49 percent for property tax reductions, and 2 percent is allocated to the Compulsive Gamblers Assistance Fund.

Amendment proponents argue the machines are necessary to revive Nebraska's struggling horse racing industry and save jobs. Opponents counter that historic horse racing machines are essentially slot machines in disguise, a stealth attempt to expand gambling in the state. Voters will have the final say on November 4, 2014, when the amendment appears on the general election ballot.

LR 41CA passed 30-17 and was presented to the Secretary of State on April 7, 2014.

LB 863—Change Provisions Relating to Cemeteries and Alcohol Sales, Prohibit Sales to and Use of Vapor Products and Alternative Nicotine Products by Minors, Prohibit Certain Sales of Tobacco Products, and Adopt by Reference Provisions of the National Electrical Code (*Karpisek*)

Minors will no longer be able to buy electronic cigarettes under LB 863, a bill that also makes various changes to state liquor laws. The language banning the sale of e-cigarettes to minors was originally prescribed in **LB 861**.

Electronic cigarettes, also known as e-cigarettes, use a battery-powered heating element to vaporize liquid nicotine cartridges that are inhaled by the user. Viewed as a healthier alternative to traditional cigarettes, the popularity of e-cigarettes has grown rapidly in recent years. However, proponents of restricting the sale of e-cigarettes argue that their long-term health effects need more study.

Under the new law, it is illegal for minors to buy or use the devices, and it is illegal for retailers to sell them to minors. Both crimes are misdemeanors, carrying the same penalties as similar tobacco infractions. Stores selling e-cigarettes must keep them behind the counter in a secure display case.

LB 863 also makes various changes to state liquor laws. First, the bill removes an antiquated petition and voting procedure requirement in the Nebraska Liquor Control Act for the sale of hard liquor by the drink. Second, the bill incorporates

provisions from **LB 888**, which allows local authorities to approve off-sale alcohol purchases until 2 a.m. Third, **LB 1052** was amended into the bill to allow licensed retailers to issue tasting cards to customers for distilled spirits.

The bill also includes provisions from two other bills, **LB 855** and **LB 680**, that make minor changes to cemetery and electricity regulations, respectively.

LB 863 passed with the emergency clause 48-0 and was approved by the Governor on April 9, 2014.

LEGISLATIVE BILLS NOT ENACTED

LR 416CA—Constitutional Amendment to Authorize Casino Gaming, Provide for a Local Vote, and Provide for Distribution of Tax Proceeds (*Karpisek*)

Voters would have had the chance to decide if casino gambling should be allowed in Nebraska, had LR 416CA been adopted.

Before the Legislature can change state gambling laws, the Constitution must be amended by voters. LR 416CA, if approved by voters, would have directed the Legislature to develop regulations and taxation plans for casino gaming. Then, it would be up to city and county governing bodies to place a measure on local ballots authorizing casinos in their respective jurisdictions.

The proposal would have committed 50 percent of any new taxes on gambling proceeds towards property tax relief. The remainder would have been split between educational programs, the Game and Parks Commission, and the Department of Natural Resources. One percent of tax proceeds would have been credited to the Compulsive Gamblers' Assistance Fund.

The Nebraska Constitution has been amended to allow for horse racing, keno, and a state lottery. For these reasons,

proponents argued that gambling is already a reality in Nebraska, and by outlawing casinos, the state is losing tax revenue to states such as Iowa where casinos are allowed. Opponents countered that casino gambling is a quantifiably different entity, generating zero net economic activity while exposing Nebraskans to the problems associated with gambling addiction.

LR 416CA did not advance from committee and died with the end of session.

GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE

Senator Bill Avery, Chairperson

ENACTED LEGISLATIVE BILLS

LB 661—Provide for Voter Registration on the Secretary of State's Website and Use of Department of Motor Vehicle Records (*Krist, Mellow, and Conrad*)

Registering to vote in Nebraska will be only a few mouse clicks away under LB 661.

The bill, which allows voters to register on the Secretary of State's website, is the latest effort to increase the efficiency and convenience of voter registration. Voters' identities will be verified using the electronic signatures associated with their drivers' licenses or state ID cards. Proponents say cross-checking voter information with Department of Motor Vehicles (DMV) records has the added potential to eliminate election fraud.

A paperless registration system will be developed, giving the DMV the ability to electronically transmit completed registrations to county election officials and the authority to send social security numbers to the Secretary of State's office. Programming and hardware costs for the new system are expected to be about \$130,000.

LB 661 passed 44-0 and was approved by the Governor on March 31, 2014.

LB 946—Change Provisions Relating to Bond Elections, County Surveyor Elections, School Board Elections, Administration and Conduct of Elections, Vacancies, Presidential Electors, and Threshold Amounts under the Nebraska Political Accountability and Disclosure Act (Murante)

LB 946 is an omnibus package that makes a plethora of changes to Nebraska’s election law.

Among its many provisions, LB 946:

- Shifts a deadline from noon to 8 p.m. for voters to submit a statement declaring that an early ballot was lost or destroyed.
- Permits election officials to forgo sending a ballot to voters who fail to respond to a special election notice, and to send instructions on how to obtain a ballot instead.
- Allows special elections for Class III, IV, or V school districts to be held in conjunction with the primary or general election in cities governed by a home rule charter.
- Ensures that appointees to the counting boards that tally votes during elections receive at least minimum wage.
- Makes technical changes to reporting thresholds in the Nebraska Political Accountability and Disclosure Act.

LB 946 also contains provisions originally included in six other bills:

- **LB 167**, which requires presidential electors to take a pledge promising to cast their ballots for the presidential and vice presidential candidates who receive the most votes in their districts.
- **LB 219**, which allows an unaffiliated voter during an election year to either petition onto the general election ballot or be nominated by a political party to get on the ballot.

- **LB 726**, which changes the number of members on Class II and Class III school boards and outlines their election process.
- **LB 743**, which clarifies when terms for elected officials start.
- **LB 833**, which defines the process for electing or appointing county surveyors.
- **LB 1084**, which clarifies how vacancies are filled on city councils.

LB 946 passed 43-0 and was approved by the Governor on April 2, 2014.

**LB 1048—Require Delivery of the Official Election Calendar and Change and Eliminate Political Party Provisions
(Murante, Avery, Lautenbaugh, and Mello)**

LB 1048 gives political parties more flexibility in the timing of their primary elections.

Under the bill, political parties are required to file a plan with the Secretary of State for selecting national convention delegates by December 1 of the year preceding the presidential election. The plans must stipulate that 80 percent of delegates commit to a presidential candidate based on the caucus or primary results. Previously, delegates were not required to abide by primary or caucus results.

Additionally, LB 1048 requires primary or caucus winners receive either all the delegates, or a proportion of the delegates based on the number of votes received by candidates with 15 percent or more of the total vote. The plan, filed with the Secretary of State, must also specify whether delegates were chosen using a primary election, caucus, or combination of the two.

The Secretary of State will deliver a final election calendar to the headquarters of each state party within 10 days of its publication.

LB 1048 passed 49-0 and was approved by the Governor on April 9, 2014.

LEGISLATIVE BILLS NOT ENACTED

LR 393CA—Constitutional Amendment to Change Signature Requirements for Initiative Petitions (*Murante, Bloomfield, Dubas, Lautenbaugh, Nelson, Scheer, Schumacher, and Garrett*)

Petition organizers would have needed to collect fewer signatures to put issues before voters under LR 393CA.

The proposed constitutional amendment would have amended Article III, section 2, of the Constitution, decreasing the number of signatures required for an initiative petition to be successful.

The amendment would have reduced, from seven percent of registered voters to three percent, the number of petition signatures required to put a potential law on the ballot. For such an initiative to succeed, at least three percent of registered voters in two-fifths of Nebraska counties would have to sign it.

The number of signatures needed for an initiative calling for a constitutional amendment would have been reduced from 10 percent of registered voters to five percent. The distribution of those signatures would not have been changed. As before, a successful petition would have required five percent of registered voters in two-fifths of Nebraska counties.

Proponents of LR 393CA argued that lowering petition requirements would improve the ability of ordinary Nebraska residents to have a voice on state policy. Opponents of the measure countered that the lower signature thresholds

would make it easier for wealthy organizations outside the state to influence the initiative process.

LR 393CA did not advance from committee and died with the end of session.

LR 411CA—Authorize Municipalities and Counties to Exercise Powers in Matters of Local Concern and to Eliminate Home Rule Charters (*Karpisek*)

LR 411CA would have made it clear in the Nebraska Constitution that matters not handled by the state are left to local governments to decide.

LR 411CA would have granted local governments authority over any matter not deemed a “statewide concern” by the Legislature. Under the amendment, the Legislature would have been able to delegate its power, so that matters of “local concern” could be decided by city and county officials, without legislative action.

Currently, jurisdictional matters are decided by the judicial branch. The amendment would have expanded the Legislature’s authority to decide jurisdictional issues between state and local concerns.

LR 411CA did not advance from committee and died with the end of session.

LB 935—Require Legislative Approval to Move State Services (*Gloor, Dubas, and Sullivan*)

The Governor would have needed legislative approval to move major state services had LB 935 been enacted.

The proposal was the result of Governor Heineman’s decision to move the Central Nebraska Veterans’ Home from Grand Island to Kearney. The Governor decided on Kearney for the

new \$121 million, 225-bed facility after a site selection process ranked the city first. The existing veterans' home has been located in Grand Island for the past 127 years.

LB 935 would have required legislative approval of plans to move state services with budgets over \$15 million. The plan submitted by agencies would have included the justifications, goals, and costs of a move, along with potential site alternatives and economic offsets planned for the community losing services. Exceptions to the bill included Nebraska colleges and universities, courts and constitutional offices, the Public Service Commission, and the State Department of Education.

Prior to floor debate on the bill, an amendment stripped out provisions that would have applied the bill retroactively to the Central Nebraska Veterans' Home project. Proponents said the bill would have increased transparency, preventing feuds between cities in a zero-sum game of winners and losers. Opponents said that the competitive bidding process already in place is sufficiently fair and open.

LB 935 failed to advance from General File and died with the end of session.

HEALTH AND HUMAN SERVICES COMMITTEE

Senator Kathy Campbell, Chairperson

ENACTED LEGISLATIVE BILLS

LB 132—Adopt the Indoor Tanning Facility Act and Change Membership Provisions for Boards Appointed under the Uniform Credentialing Act (*Nordquist, Avery, Campbell, and Howard*)

LB 132 creates the Indoor Tanning Facility Act, which prohibits individuals younger than 16 years of age from using tanning equipment in a commercial tanning facility unless accompanied by a parent or legal guardian.

Additionally, tanning facility operators must get a signed statement from the parent or legal guardian each time a person younger than 16 wishes to use tanning equipment, and individuals must provide proof of age prior to tanning. Tanning facilities face a civil fine of \$100 for allowing persons younger than 16 to tan without the presence of the parent who signed the statement.

The bill also requires facilities to post warning signs advising patrons of the dangers of overexposure to ultraviolet radiation.

Finally, LB 132 adds an owner of a tanning facility to the membership of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art.

LB 132 passed 40-1 and was approved by the Governor on March 28, 2014.

LB 276—Change Provisions of the Early Intervention Act, the Medical Assistance Act, the Tax Equity and Educational Opportunities Support Act, and the Special Education Act (Nordquist and Campbell)

LB 276 broadens the services for which schools can seek Medicaid reimbursement for Medicaid-eligible special education students and creates a distribution formula to allow schools to receive a portion of the federal reimbursement through Medicaid.

Previously, schools could seek Medicaid reimbursement for physical therapy, occupational therapy, and speech therapy services only. LB 276 adds to the list audiology services; counseling; mental health services; nursing; personal assistance; medical transportation; vision-related services; and early and periodic screening, diagnosis, and treatment services for children. The bill requires the Department of Health and Human Services (DHHS), after consulting the State Department of Education (SNDE), to seek a state Medicaid plan amendment from the federal government to allow the additional services.

The bill further requires DHHS and SNDE to jointly revise the statewide billing system for accessing federal Medicaid funds for special education and related services provided by school districts. The revision must streamline and simplify the claims process, update reimbursement rates, and incorporate the new services available through the state plan amendment. The reimbursement rates must be updated at least every five years thereafter. LB 276 allows DHHS to retain federal Medicaid funds for administering the billing system.

The bill continues to assure funding for the Early Intervention Act by providing a direct General Fund appropriation to DHHS for early intervention services.

LB 276 passed 48-0 and was approved by the Governor on April 22, 2014.

LB 359—Change Asset and Income Limitations for Certain Programs of Public Assistance and Change Eligibility Redeterminations Relating to a Child Care Subsidy (Cook and Nordquist)

LB 359 contains two measures aimed at helping poor families better themselves financially.

The bill (1) increases the percentage of a household's gross earned income that must be disregarded when determining continued eligibility for the state's child care subsidy program and (2) removes 529 college savings plans, student scholarships, and work-study income from asset limit tests for the child care subsidy program and the Supplemental Nutritional Assistance Program. The latter provision was originally introduced in **LB 732**.

As enacted, LB 359 provides that 10 percent of a family's gross earned income is disregarded upon redetermination for continued eligibility for the child care subsidy. Supporters said the change allows low-income, working families to receive modest wage increases without sacrificing the child care assistance that assures continued employment. Additionally, proponents said removing the education benefits from asset limits allows low-income families the opportunity to improve their job skills without sacrificing the support programs they currently need.

LB 359 passed 44-0 and was approved by the Governor on April 2, 2014.

LB 526—Change Provisions Relating to Use of Pharmaceutical Agents by Optometrists (Howard)

Changing a health care practitioner's scope of practice is rarely without controversy, as battles over turf and competency, patient safety, and training requirements usually follow. LB 526 did not break this mold.

Dubbed the "eye wars" by the bill's sponsor, LB 526 grants limited authority to optometrists previously reserved to ophthalmologists. Bills granting optometrists expanded scope of practice have been before the Legislature regularly in past sessions.

Amendments to LB 526 substantially narrowed the scope of the bill in a last-minute compromise between ophthalmologists and optometrists that played out on the floor of the Legislature. As enacted, LB 526 allows optometrists to use pharmaceutical agents for therapeutic purposes, including an epinephrine autoinjector for treatment of anaphylaxis and the authority to prescribe oral steroids, oral glaucoma agents, and oral immunosuppressive agents.

LB 526 passed 45-0 and was approved by the Governor on April 22, 2014.

LB 660—Provide for Extension of a Pilot Project and a Contract Relating to Case Management (*Krist, Watermeier, Mello, Dubas, and Coash*)

LB 660 authorizes the Department of Health and Human Services (DHHS) to extend a pilot project to contract for lead agency case management of child welfare services in Nebraska's eastern service area. The contract must be extended prior to June 30, 2014.

The pilot project for lead agency case management was one of numerous legislative fixes proposed and enacted in 2012 in response to the state's troubled roll out of child welfare privatization. Laws 2012, LB 961 required all child welfare case managers be employees of DHHS, except in the eastern service area where the pilot project was authorized.

If DHHS extends the pilot project, LB 660 requires the Legislature to complete an evaluation of the pilot project prior to December 31, 2014. The Legislature can hire a consultant and use all necessary resources for the evaluation.

LB 660 passed with the emergency clause 43-0 and was approved by the Governor on April 2, 2014.

LB 690—Create the Aging Nebraskans Task Force and Require a Grant Application (*Bolz and Harms*)

LB 690 requires the Department of Health and Human Services (DHHS) to seek a federal grant to aid the state in developing a comprehensive and coordinated system of home and community-based long-term care services.

The grants are authorized under the Affordable Care Act in a program called the State Balancing Incentive Payments Program (BIPP). These grants provide states with enhanced federal Medicaid matching funds to expand home and community-based programs with the goal of reducing nursing home admissions.

To qualify for a BIPP grant, Nebraska must agree to make administrative changes, such as establishing a single point of entry for clients seeking services under the grant and providing case management to those clients. Further, the state must agree to use a standard assessment instrument for eligibility determinations and cannot adopt stricter eligibility requirements than those in place as of December 31, 2010.

LB 690 also creates the Aging Nebraskans Task Force for the purpose of developing a statewide strategic plan to address the needs of the state's elders and to plan for long-term care services. The task force includes five legislative members, the chief executive officer of the Department of Health and Human Services, and the Chief Justice of the Supreme Court. Rounding out the task force are an additional four members selected to represent stakeholders. Only legislative members of the task force are voting members. The task force terminates on June 30, 2016.

LB 690 passed 32-11. The bill was vetoed by the Governor, but senators voted 30-12 to override the veto.

LB 853—Change and Rename Acts, a Register, and an Advisory Committee Relating to Children and Young Adults and Require Case Manager Training as Prescribed (McGill)

LB 853 builds upon legislation enacted in 2013 to provide comprehensive transition services to foster children who age out of the state's foster care system.

The Young Adult Voluntary Services and Support Act (Laws 2013, LB 216) required the Department of Health and Human Services to seek a state plan amendment to allow it to extend services to former foster youth age 19 and older. The act also created an advisory committee, whose recommendations regarding how the state should implement the program led to the introduction of LB 853.

LB 853 renames the act the Young Adult Bridge to Independence Act and makes several changes to the program for former state wards. Among them:

- The requirement that former wards must be regularly attending school or training programs to receive services is dropped.
- Payments made on behalf of a ward for whom a guardian has been appointed no longer terminate at age 19 if the ward is participating in the bridge to independence program.
- The Department of Health and Human Services (DHHS) must provide information about community resources to youth choosing to terminate the voluntary services and support agreement entailed in the bridge to independence program. Youth who remain in the program until age 21 must receive a written termination notice and information about beneficial community resources.
- If DHHS determines a former ward is ineligible for the program, an independence coordinator must explain the termination proceeding to the former ward, including how to re-establish eligibility if the former ward so wishes.
- The juvenile court must be notified within 45 days that a youth has signed an extended services agreement; the bill also extends jurisdiction for permanency reviews to the juvenile court.

LB 853 makes several clarifying changes, including that health care powers of attorney made for former wards be at the youth's option and that extended guardianship and adoption subsidies are intended for the benefit of the youth. Another component of LB 853 pertains to the Child Protection Act, which is renamed the Child Protection and Family Safety Act.

Substantially, the bill authorizes an "alternative response" to how reports of child abuse and neglect are investigated by DHHS. Proponents of the change cite poverty as a factor in many cases where child neglect is initially reported. In such cases, additional supports or services may be warranted rather than criminal prosecution or removing the child from the home, as in a traditional response to reports of abuse and neglect.

Alternative response requires a comprehensive assessment be made of (1) child safety; (2) the risk of future child abuse or neglect; (3) family strengths and needs; and (4) the provision of or referral for necessary services and supports. Alternative response does not include an investigation or a formal determination as to whether child abuse or neglect has occurred, and the subject of the report is not entered in the central registry of child protection cases.

Decisions on whether a case should be handled as an alternative response or as a traditional response are made by the Review, Evaluate, and Decide Team, composed of DHHS staff, including no fewer than two supervisors or administrators and two staff knowledgeable about DHHS policies and practices. County attorneys, law enforcement, and child advocacy center staff can attend team reviews by request. The bill provides criteria to be used in a comprehensive review of referred cases and a means by which alternate response cases can be transferred to traditional response if a child is deemed unsafe.

To introduce the change, LB 853 directs DHHS, in consultation with the Children's Commission, to develop an alternative response implementation plan. Once the plan has been developed, DHHS can begin implementing it in up to five alternative response demonstration project locations within the state. After an evaluation of the initial alternative response sites by DHHS, LB 853 authorizes DHHS to add another five demonstration sites, evaluate these, and add additional sites. The findings from each evaluation must be shared with the Children's Commission and the Legislature, with the evaluation of the initial sites due by November 15, 2015. The bill authorizes DHHS to operate alternative response sites until July 1, 2017. Continued use after that date requires legislative authorization.

LB 853 also contains provisions originally introduced in **LB 790** requiring all child welfare case managers, whether employed by DHHS or a contracting agency, to receive the same initial training. Supporters hope the change will lead to greater consistency in the performance of case managers and also qualify the state for federal funding under Title IV-E of the Social Security Act.

The bill requires DHHS to create a formal system for measuring and evaluating the quality of case manager training. Case manager training can be conducted by DHHS

or one or more contracting agencies. After initial training, all case managers must complete a formal competency assessment process.

LB 853 passed 42-0 and was approved by the Governor on April 2, 2014.

LEGISLATIVE BILLS NOT ENACTED

LB 887—Adopt the Wellness in Nebraska Act (*Campbell, Conrad, Cook, Dubas, Haar, McGill, and Wallman*)

For the second consecutive legislative session, a proposal to expand Medicaid as allowed under the federal Affordable Care Act (ACA) fell to a filibuster.

Unlike its predecessor proposal, which was a simple expansion of Medicaid eligibility to the previously ineligible population of childless, low-income adults, LB887 proposed a combination of Medicaid managed care and private health care premium support to cover an estimated 54,000 Nebraskans who fall in the ACA “coverage gap.”

That gap came about after the U.S. Supreme Court ruled the federal government could not require states to expand their Medicaid programs to cover the new eligibility group. The ACA had counted on this group—too poor to qualify for tax credits available to persons buying health insurance in the health care exchanges but who did not meet eligibility requirements for traditional Medicaid—to get coverage by expanding Medicaid eligibility.

LB 887 would have enacted the Wellness in Nebraska Act (WIN). The intent of the act would have been to expand access to health coverage “in a manner that assures fiscal responsibility, safeguards the interests of Nebraska taxpayers, and provides accountability and oversight.”

WIN would have provided health care coverage to eligible individuals in two distinct ways: the WIN Marketplace or WIN Medicaid. Both delivery systems would have required the Nebraska Department of Health and Human Services to apply for a Medicaid expansion demonstration waiver because each proposed a delivery system outside the usual Medicaid rules.

The WIN Marketplace would have offered premium assistance to purchase qualified health plans on the state health benefit exchange created pursuant to the ACA or employer-sponsored insurance. WIN Medicaid would have been available to individuals with incomes at or below 100 percent of the federal poverty level or at or below 133 percent of the federal poverty level for individuals who are medically frail or have exceptional medical conditions.

LB 887 advanced to General File, but stalled when a motion to invoke cloture failed. The bill died with the end of session.

LB 916—Eliminate Integrated Practice Agreements and Provide for Transition-to-Practice Agreements for Nurse Practitioners (Crawford, Campbell, Gloor, Watermeier, Hansen, Krist, and Cook)

Current Nebraska law requires the advanced nurse specialties of nurse practitioner and nurse midwife to operate with a licensed physician under an integrated practice agreement requiring each to work collaboratively within the framework of their respective scopes of practice. Proponents of LB 916 say this represents an outdated model of health care with the physician at the top of a pyramid and all other health care providers subordinate to him or her. Today's model is more like a circle, with the patient in the middle and all of the providers working as a team to provide care.

LB 916 would have removed the requirement that nurse practitioners must have an integrated practice agreement with a physician. Doing so, supporters said, would help address the primary care and mental health shortages in underserved parts of the state and increase the retention and recruitment of nurse practitioners to Nebraska.

As amended by the committee, LB 916 would have replaced the integrated practice agreement with a transition-to-practice agreement. The new practice agreement still would have required nurse practitioners receive 2,000 hours of supervision, but did not require the supervisor to be a physician.

The bill would have defined the new agreement as a collaborative agreement between a nurse practitioner and a supervising provider. A supervising provider could have been

a physician, osteopathic physician, or a nurse practitioner licensed and practicing in Nebraska in the same practice specialty, related specialty, or field of practice as the nurse practitioner being supervised. Nurse practitioners would have needed 10,000 hours of practice to serve as a supervising provider.

LB 916 passed 43-0 on the final day of the legislative session but was subsequently vetoed by the Governor.

JUDICIARY COMMITTEE

Senator Brad Ashford, Chairperson

ENACTED LEGISLATIVE BILLS

LB 390—Change Provisions Relating to Unlawful Possession of a Firearm at a School and Emergency Management Act Provisions (*Christensen, Kintner, and Pirsch*)

With the passage of LB 390, the Governor can no longer restrict the firearm rights of Nebraskans during emergencies.

LB 390 amends the Emergency Management Act, removing the Governor's power to prohibit the use, sale, transfer, and transportation of firearms. The bill also prohibits the seizing of lawfully possessed firearms unless they are taken by authorities while defending themselves, during the arrest of a suspect, or as evidence in an investigation. Finally, the Governor cannot require firearm registrations during an emergency, unless registration was already required before the emergency.

Proponents of LB 390 argue that in the improbable event social order breaks down during an emergency and law enforcement can no longer provide protection, Nebraskans should be able to use firearms to protect themselves and their property. Similar laws have been enacted in 34 other states and are under consideration in Iowa and Colorado.

Two other bills related to firearms and emergency powers were amended into LB 390. These included provisions originally in **LB 694**, allowing firearms on school grounds for use in historical reenactments, hunter education, or as part of a color guard; and **LB 772**, enabling the adjutant general to spend up to \$25,000 on certain emergencies in the absence of a declaration of a state of emergency by the Governor.

LB 390 passed 45-0 and was approved by the Governor on April 22, 2014.

LB 464—Change Provisions Relating to the Juvenile Justice System, Arraignment, Court Jurisdiction, Services for Juveniles and Families, and Truancy (Ashford)

Nebraska's ongoing juvenile justice reforms continued with LB 464, which requires most minors to be tried in juvenile court and loosens the state's truancy law.

In 2010, the Legislature passed a truancy measure that required children who miss more than 20 days of school to be referred to the county attorney's office, even if those absences were excused. School districts struggled to implement the law and parents expressed concern that legitimate absences could result in unwarranted legal ramifications.

Under LB 464, school officials are given additional flexibility to cooperate with parents and students to address absences. The bill requires school districts to develop attendance plans that must be reviewed by a newly created 10-member Council on Student Attendance. This council replaces the three-member Truancy Intervention Task Force established in 2010.

The plans developed by schools can take into account extenuating circumstances for absences and provide support for: (1) physical or behavioral health issues; (2) educational counseling and evaluation; (3) community-based assistance; and (4) family or student counseling.

Under the bill, schools can only report students who have missed more than 20 days of school if the plan to address those absences fails. Absences based on illnesses will not be referred to the county attorney, and families will be notified before a case is referred to a county attorney.

In addition to the truancy provisions, LB 464 also requires that most defendants younger than 18 years of age be tried in

juvenile court, rather than adult court. Under the bill, all misdemeanors and Class IIIA and IV felonies must be initiated in juvenile court. Class I, II, and III felonies committed by minors age 14 and older can still originate in adult court. Prosecutors also have the option of transferring any case to adult court if the juvenile was 16 or 17 at the time of the offense.

Provisions of **LB 1093** were also included in the final version of LB 464, expanding the definition of “juvenile facilitated conferencing” and transferring \$450,000 from the Department of Health and Human Services to the state court administrator’s budget.

LB 464 passed 46-0 and was approved by the Governor on April 15, 2014.

LB 811—Change Provisions Relating to Controlled Substances, Prescriptions, and Certain Assault Provisions (Schilz, Avery, Brasch, Carlson, Coash, Davis, Dubas, Haar, Janssen, Kintner, Kolowski, Watermeier, McCoy, Mello, Smith, and Lautenbaugh)

LB 811, an update to Nebraska’s drug laws, was broadened in an attempt to ban future versions of synthetic drugs.

The bill targets new versions of synthetic cannabinoids that are already illegal under the Uniform Controlled Substances Act. Regular updates are necessary because drug manufacturers continually tweak the chemical formulas to circumvent state and federal laws. The new law attempts to mitigate the need for annual updates, by revising the Uniform Controlled Substances Act to outlaw substantially similar imitations of synthetic drugs that may be developed in the future.

In addition to new drug policies, LB 811 increases the penalties for assaulting first responders while they are on duty. The provisions, originally contained in **LB 752**, make it

a felony to assault firefighters and emergency medical technicians, adding them to a list of officials that already includes police officers, correctional officers, and health and human services workers.

LB 811 passed 46-0 and was approved by the Governor on April 22, 2014.

LB 907—Add, Change, and Eliminate Provisions Relating to Criminal Justice, Incarceration, Probation, Parole, and Legal Education Financial Assistance (*Ashford, Avery, Harms, Krist, Lathrop, Mello, and Cook*)

This session, lawmakers took the first steps toward addressing chronic prison overcrowding in Nebraska.

Nebraska Department of Correctional Services facilities are currently at 155 percent capacity, a level which puts Nebraska at risk of a civil rights lawsuit. If such a suit went to federal court, a judge could order the construction of a new prison, a multimillion-dollar proposition that lawmakers are trying to avoid. Without substantial changes, the prison population is projected to be at 188 percent of capacity by 2020.

In order to ease overcrowding, LB 907 provides \$14.5 million to prison reentry initiatives and increases access to incarceration alternatives for nonviolent offenders. The new funding includes:

- \$5 million for the Office of Probation Administration to expand mental health and substance abuse services;
- \$3.8 million to the Office of Probation Administration to expand reporting centers;
- \$5 million to the Department of Correctional Services for vocational and life skills programs; and
- \$200,000 to establish the Nebraska Center for Justice Research at the University of Nebraska at Omaha.

Additionally, the Department of Correctional Services must develop a personalized reentry plan for each inmate. This reentry plan must be near completion by the time an inmate has served 80 percent of his or her sentence. A newly created Reentry Administrator will oversee the new reentry policy. Prior to and after inmates are released, parole officers must assist inmates with housing and health care options. To expand parole while simultaneously maintaining public safety, parolees can be monitored via global position systems.

LB 907 also creates the Nebraska Justice Reinvestment Working Group and enlists the Council of State Governments (CSG) to create a plan to reduce prison overcrowding. CSG's Justice Reinvestment Initiative has extensive experience helping states reform their prison systems through enhanced probation opportunities and reentry programs. Nebraska is the 19th state to undertake the Justice Reinvestment process.

The provisions of two other bills were amended into LB 907. The first, **LB 808**, provides \$500,000 to expand a student loan assistance program, designed to encourage attorneys to practice law in rural Nebraska. The second, **LB 932**, so-called "Ban the Box" legislation, prohibits public employers (with the exception of law enforcement agencies and school districts) from inquiring about an individual's criminal history on an initial job application, delaying any background check until later in the hiring process.

LB 907 passed with the emergency clause 46-0 and was approved by the Governor on April 16, 2014.

LB 920—Adopt the Public Guardianship Act (*Coash, Ashford, Brasch, Davis, Harms, Lathrop, McGill, Schilz, Seiler, Watermeier, and Wallman*)

Until recently, Nebraska was the only state without a dedicated Office of the Public Guardian. But with the passage of LB 920, Nebraskans unable to manage their own affairs will have an official state entity to contact for help.

The new Office of the Public Guardian is designed to offer legal guardianship to some of the state's most vulnerable

residents. Under the old system, a county court could appoint a guardian or conservator to represent individuals unable to make health, financial, or legal decisions for themselves due to age, disability, or mental illness. However, in some instances no one was willing or able to serve in that role.

The new Office of the Public Guardian will only step in as a last resort, if a family member or other suitable guardian is unavailable. The new office will include a director, deputy director, and up to 12 associate public guardians. The office is tasked with either providing guardianship directly or offering education, training, and support to existing guardians and conservators. The bill also provides \$2.4 million over the next two years for a new Public Guardianship Cash Fund.

The measure stems from an auditor's report last year that found a single woman was serving as guardian or conservator for 688 people in 60 counties, and had stolen \$35,000 intended for her court-appointed wards. The new law limits guardians to representing no more than 40 individuals.

LB 920 passed 44-0 and was approved by the Governor on April 2, 2014.

LB 998—Change Provisions Relating to Disposition of Human Remains, Offenses Related to the Person, Sexual Exploitation, Labor and Sex Trafficking, the Sex Offender Registration Act, and Driving under the Influence (*Karpisek and Hadley*)

LB 998 is an omnibus package that eases penalties for ignition interlock violations, outlaws the practice of “upskirting,” and updates human trafficking statutes.

Individuals convicted of drunk driving in Nebraska must drive using an ignition interlock device, which prevents a vehicle from starting if the driver has a blood alcohol content (BAC) of .03 or higher. Until now, convicted drunk drivers who operated a motor vehicle without an ignition interlock device could be convicted of a Class IV felony, punishable by

up to five years in prison and a \$10,000 fine. LB 998 reduces the penalty for operating a motor vehicle without an ignition interlock device installed to a Class I misdemeanor, punishable by up to a year in prison and a \$1,000 fine. The harsher penalty would still apply if a driver's BAC is above .02

The contents of several other bills were amended into LB 998. Most notably, provisions originally contained in **LB 1034** prohibit a practice known as "upskirting," in which an explicit photo or video is taken of a subject without consent. Previously, state statute only restricted such photography in places where individuals had an expectation of privacy, such as restrooms. The new law extends these privacy protections to all public and private locations.

In addition, provisions originally contained in **LB 933** update state human trafficking statutes to include debt bondage, deportation threats, exploitation of disabilities, and the use of drugs as a means of control.

Finally, LB 998 incorporates portions of **LB 441**, clarifying the Nebraska Probate Code rules for organizing funerals.

LB 998 passed with the emergency clause 49-0 and was approved by the Governor on April 9, 2014.

LB 1001—Allow Growth and Cultivation of Industrial Hemp by the Department of Agriculture or a Postsecondary Institution (*Wallman and Bloomfield*)

Growing industrial hemp in Nebraska is now legal under certain circumstances via LB 1001.

The Legislature stopped short of full hemp legalization, as the measure only makes hemp cultivation legal for research purposes. As enacted, LB 1001 limits hemp production to postsecondary institutions and the state Department of Agriculture. The research provision stems from the recent federal farm bill that allows industrial hemp production for research purposes, but not commercial use. The Department of Agriculture is also required to draft rules and regulations for industrial hemp cultivation.

Hemp can be used in a variety of industrial products, including rope and seed oil. Both hemp and marijuana are derived from the same plant species, although they are genetically different. Unlike recreational marijuana, hemp has very little tetrahydrocannabinol, or THC, the active ingredient that produces a marijuana high. The ban on plants containing over 0.3% THC content remains in place.

LB 1001 passed 39-2 and was approved by the Governor on April 2, 2014.

LEGISLATIVE BILLS NOT ENACTED

LB 485—Prohibit Discrimination Based Upon Sexual Orientation as Prescribed (*Conrad, Chambers, Howard, Dubas, and Nordquist*)

A measure to ban job discrimination on the basis of sexual orientation failed following a filibuster this session.

State statute currently prohibits employment discrimination on the basis of race, color, religion, sex, disability, marital status, or national origin. However, individuals who get fired because of their sexual orientation or gender identity currently have no legal recourse.

LB 485 would have added sexual orientation and gender identity to the list of protected classes. It would have applied to public entities, state contractors, and all businesses with 15 or more employees, with an exemption for religious organizations. The proposal was similar to a nondiscrimination ordinance passed by the Omaha City Council in 2013.

Proponents considered the measure a fundamental civil rights issue and said expanding employment protections would mitigate brain drain and attract socially minded corporations to the state. Opponents argued that the measure violated the First Amendment rights of private employers, who should be able to make hiring decisions without governmental interference.

A vote to invoke cloture on LB 485 failed and the bill died with the end of session.

NATURAL RESOURCES COMMITTEE

Senator Tom Carlson, Chairperson

ENACTED LEGISLATIVE BILLS

LB 402—Change Provisions Relating to Community-Based Energy Development Projects (*Mello, Davis, Dubas, and Schilz*)

LB 402 amends the Rural Community-Based Energy Development (C-BED) Act to encourage more local ownership of energy generation facilities. Previously, the act applied only to wind generation facilities. LB 402 expands the number of entities that can qualify for benefits under the act to include energy generation projects using biomass, solar, or landfill gas as the fuel source.

The bill also changes several other requirements for an entity to qualify for tax credits under the act, including:

- Reducing the percentage of gross power purchase agreements required to flow to qualified owners or the local community from 33 percent to 25 percent.
- Expanding the definition of “payment to the local community” to include lease and easement payments to landowners; contract payments for materials, engineering, construction, environmental, geotechnical, procurement, meteorological, or legal services; or payment for parts and materials manufactured, assembled, or fabricated in Nebraska or by a Nebraska company with at least five Nebraska resident employees.
- Eliminating some limitations as to ownership structure of a C-BED project and adding domestic corporations organized in Nebraska and cooperative corporations organized and domiciled in Nebraska as “qualified owners” under the act.
- Reducing gross power purchase agreement payments from the life of the project to 20 years.

LB 402 passed 43-0 and was approved by the Governor on April 2, 2014.

LB 699—Change Hunting Permit and Hunter Education Program Provisions and Require Reports Regarding a Data Base for Acquiring Firearms (*Larson, Coash, and Davis*)

Hunting permits have generally been unavailable to persons with developmental disabilities, thereby limiting the accessibility of youth hunting programs to some who would like to participate. LB 699 seeks to remedy this by allowing persons with developmental disabilities to obtain a hunting permit, subject to certain requirements.

A person purchasing a permit must first obtain a license-permit exemption certificate issued by the Game and Parks Commission. A person is eligible for an exemption certificate at no cost as long as (1) no court or mental health board has found him or her to be a current danger to himself, herself, or others and (2) the person has written authorization from a physician that he or she is at all times capable of understanding and following directions and is not a danger to himself or herself while hunting. Any person issued an exemption certificate must be accompanied at all times while hunting by a person who is at least 19 years old, does not have a disability, and has completed hunter education requirements.

The bill also amends the hunter education requirements for bow hunting and firearms by eliminating provisions requiring 10 hours of classroom education or independent study sufficient to pass an examination conducted by the commission.

As enacted, LB 699 includes provisions of **LB 392**. These provisions repeal Neb. Rev. Stat. sec. 28-1211, which enacted the permissive firearms sales and delivery provisions prescribed in federal law. As the provision was no longer authorized by federal law, repeal was necessary.

Finally, LB 699 includes provisions originally prescribed in **LB 1035**. The bill requires the Nebraska State Patrol and Department of Health and Human Services to report the following to the Legislature every six months: persons unable to purchase or possess firearms; records shared with the National Instant Criminal Background Check System by category or persons; change in the number of shared records and change in the number of records by category; number of records existing but unable to be shared because the records

are incomplete; and the number of hours or days during which the database was unable to share records.

LB 699 passed with the emergency clause 43-0 and was approved by the Governor on April 2, 2014.

LB 1098—Change Membership and Powers and Duties of the Nebraska Natural Resources Commission (*Carlson, Christensen, Davis, Kolowski, and Schilz*)

Laws 2013, LB 517 created the Water Funding Task Force, which met regularly throughout 2013 and issued a report to the Legislature in December. The report prescribed several recommendations as to how the state can manage its water resources.

Those recommendations included: focusing on stable sources of funding for projects; a system to distribute funds using evaluation criteria; regional management systems; integrated management plans for all natural resources districts (NRDs); continued research and measurement; meaningful contribution of water users in decision-making and sharing the cost; and retention of local control that integrates basin-wide planning and statewide projects. The task force also specifically recommended restructuring the Natural Resources Commission (commission) to oversee administration of funding for projects throughout the state.

As enacted, LB 1098 implements the recommendations.

LB 1098 adds 11 members to the commission, each representing certain groups with an interest in water management. New members are to be appointed by the Governor, represent diverse geographic regions, have broad knowledge of and experience with water issues, and recognize the importance of both water quality and quantity.

LB 1098 authorizes administration of the Water Sustainability Cash Fund, which is funded by the biennial budget bills with a mix of cash and general funds, totaling \$31 million. It is intended that an additional \$11 million will be transferred into the fund each year. Money in the fund is to be used to finance water projects related to increasing streamflow, compliance with compacts and other interstate agreements, remediating or mediating threats to drinking water, decreasing aquifer depletion, promoting integrated

management plans, addressing municipalities' sewer overflow concerns, using cost-effective solutions, and enhancing water productivity and quality.

The types of projects eligible for funding are categorized into four groups: (1) research, data, and modeling; (2) rehabilitation of water supply infrastructure, new infrastructure, and flood prevention; (3) conjunctive management, storage, and integrated management of ground and surface water; and (4) compliance with interstate compacts, state contracts, or federal law. LB 1098 encourages distribution of funds to the entire state as equitably as possible and prioritizes projects resulting from federal mandates.

Funding for projects is available in the form of grants or loans, with certain limitations placed on NRDs and municipalities. Applications for funds are submitted to the Department of Natural Resources (department) for review by the department director, who then makes recommendations on approval to the commission. Once approved by the commission, any entities involved in organizing and managing the project will enter into an agreement with the department to set out the terms of the grant or loan. Projects can be transferred to a successor, and the state retains a lien on any program, project, or activity for which a valid agreement exists.

LB 1098 requires biennial reports to the Legislature's Appropriations Committee on the status of the Water Sustainability Cash Fund, beginning in fiscal year 2019-2020, so the committee can review necessary funding levels.

Several other bills were amended into LB 1098. **LB 391**, intended to address issues affecting federal reservoirs, clarifies that a reservoir cannot store water if water is required downstream for irrigation or if a reservoir holds a senior right. (The word "downstream" was not previously included, creating some confusion.)

A certification date for nonirrigators who hold an irrigation right is also amended by the inclusion of **LB 686**. In river basins with integrated management plans, irrigators can certify by June 1, rather than March 1, of each year whether they will forgo irrigating in order to avoid paying the occupation tax required to irrigate.

LB 1098 also incorporates provisions of **LB 710**, which requires a public hearing prior to a vote by any NRD board to enter into any water augmentation project.

LB 723, a bill referred to the Revenue Committee, was also amended into LB 1098. The bill allows a county assessor, when determining comparable sales, to take into account differences in well capacity or water availability due to local, state, or federal regulatory action or a limited source to the extent that the limitations have affected the sales price of the land. These limitations can be taken into account only when data is available from a government entity to show any regulatory actions or source limitations.

Additional provisions to strengthen the planning requirements under the Nebraska Ground Water Management and Protection Act were added to LB 1098. The provisions were offered as a compromise after lawmakers discussed **LB 1074**. As introduced, LB 1074 would have changed the way in which river basins were determined by the department to be fully appropriated or over appropriated. The intent of the bill was to enhance planning in the Republican River basin, where NRDs are not currently designated as over appropriated.

The compromise included in LB 1098 requires NRDs, together with the department, to develop a basin-wide plan within three years for any river basin of three or more NRDs, which have all created an integrated management plan for all or substantially all (85 percent) of the district. All parties, including each NRD and the department, must agree to the basin-wide plan. Any basin-wide plan must address a balance between water uses and supplies, compliance with any compact or agreement, and a timeline to meet goals and objectives. The integrated management plans of each individual NRD must conform to all requirements within the basin-wide plan, but can include additional programs or controls.

The bill requires public hearings before a basin-wide plan can be adopted, and data and collaboration from other interested parties can be accepted in developing the plan. The Interrelated Water Review Board handles any dispute between NRDs and the department in creating the plan.

A basin-wide plan must be reviewed by the department and affected NRDs every five years to analyze the actions taken in

the basin and any progress towards meeting the plan's objectives. The review process must identify any changes that need to be made, and public comment will be accepted on the recommendations. The department must also submit a report to the Legislature on the analysis and progress of the basin-wide plan.

LB 1098 passed with the emergency clause 48-0 and was approved by the Governor on April 16, 2014.

LB 1115—Appropriate Funds to the Nebraska Power Review Board for a Study and State Public Policy (Davis, Brasch, Dubas, Haar, Schilz, Seiler, Smith, and Sullivan)

LB 1115 authorizes the Nebraska Power Review Board (board) to conduct a study of state, regional, and national transmission infrastructure and policy as well as any future needs in these areas for Nebraska customers and utilities.

The board will receive input from a working group that includes members of the Legislature; State Energy Office; Department of Economic Development; public power districts and electric providers; renewable energy development companies; municipalities; Southwest Power Pool; Western Area Power Administration; transmission system owners, operators, and developers; environmental interests; and other interested parties.

The bill emphasizes the importance of developing renewable energy sources for export. Specifically, the purposes of the study are to identify transmission and generation constraints and opportunities, legal and regulatory requirements, national and regional transmission operations and plans, markets for export, potential barriers and opportunities for export, and economic development of benefits of expanded transmission connections.

LB 1115 appropriates \$200,000 to fund the study and requires a report to be submitted to the Legislature and the Governor by December 15, 2014.

LB 1115 passed with the emergency clause 47-0 and was approved by the Governor on April 16, 2014.

LEGISLATIVE BILLS NOT ENACTED

LB 671—Eliminate Provisions Relating to Hunting and Killing of Mountain Lions (*Chambers*)

Laws 2012, LB 928 authorized the Nebraska Game and Parks Commission (commission) to institute a hunting season for mountain lions. The commission implemented the inaugural mountain lion hunting season in 2013.

LB 671 would have repealed the authorization for a mountain lion hunting season, but as amended by the Standing Committee amendments, would have preserved the ability for farmers and ranchers to protect their livestock and poultry by any means necessary.

The debate became contentious as proponents of the measure questioned the necessity of a hunting season based upon the uncertainty of the size of the state's mountain lion population. Opponents cited overwhelming support of the original legislation in 2012, the recency of implementing the hunting season, and the protection of hunting as a pastime in the state.

LB 671 passed 28-13 but was vetoed by the Governor on March 28, 2014. A motion to override the veto failed 24-21, and a motion to reconsider the override vote failed 28-21.

LB 965—Change Public Policy Provisions and Findings Required by the Nebraska Power Review Board Relating to the Provision of Electric Service (*Haar*)

LB 965 would have added additional policy intent language in provisions related to the Nebraska Power Review Board (board). Currently, when granting applications for electricity power generation or transmission line permits, the board considers only whether the project will serve public convenience and necessity and whether the project is the most economically feasible without unnecessary duplication.

LB 965 would have required a cost/benefit analysis by the board for projects valued at more than \$50 million. Costs would have been defined as fuel costs, regulatory compliance costs, energy portfolio costs, environmental impacts including climate change, health impacts related to energy

production, water usage, and the impact of customer-owner dollars sent out of state. Benefits would have been defined as economic benefits, efficient use of resources, diversification, and beneficial impacts to water or other environmental impacts. Both costs and benefits locally and statewide would have been considered.

LB 965 was bracketed on General File and died with the end of session.

NEBRASKA RETIREMENT SYSTEMS COMMITTEE

Senator Jeremy Nordquist, Chairperson

ENACTED LEGISLATIVE BILLS

LB 759—Require Reports, Define Terms, Change Investment Provisions, and Provide Powers and Duties Relating to Retirement Systems (*Mello, Ashford, Krist, Lathrop, and Nordquist*)

LB 759 requires any political subdivision that offers a defined benefit retirement plan, which was open to new members on January 1, 2004, to file with the Nebraska Retirement Systems Committee (1) written notification that the political subdivision offers such a plan, (2) a copy each year of the most recent annual actuarial valuation of the retirement plan, and (3) a report each year plan contributions do not equal the actuarial requirement for funding or the plan's funded ratio is less than 80 percent.

At a minimum, the report prescribed in subsection (3) must include an analysis of the plan conditions and recommendations to correct the funding deficiencies and maintain the plan. According to the bill's primary introducer, the report requirement gives the Legislature some oversight over those local defined benefit plans and encourages political subdivisions to adopt best practices to ensure those retirement plans remain solvent.

If the political subdivision does not file the required reports, the Auditor of Public Accounts can audit the political subdivision, or cause it to be audited, at the political subdivision's expense.

Standing Committee amendments adopted to LB 759 added provisions originally prescribed in the following bills:

LB 713, which increases from \$1 million to \$6 million the maximum amount of time deposit open accounts made available to banks, capital stock financial institutions, and qualifying mutual financial institutions willing to meet the

rate and other requirements of the Nebraska Capital Expansion Act.

LB 918, which removes a limitation on investment options for participants in the county and state employees defined contribution plans. Prior law required a stable return account to be offered as an investment option. Removing this requirement gives the State Investment Officer more flexibility.

LB 929, which inserts a definition for the term “sex-neutral basis” for purposes of the police officer and firefighter retirement acts in cities of the first class. The definition allows a city to use either the insurance or annuity tables when they are available or a formula to find sex-neutral payouts when the tables are not available. Federal law requires police officer and firefighter retirement benefits to be calculated on a “sex-neutral basis.”

LB 977, which adds a city of the primary class and public power districts to the list of exempt entities that can offer investment in a fund as long as the investment is a prudent investment. (Other exempt entities include a city of the metropolitan class, a metropolitan utilities district, and a county in which a city of the metropolitan class is located.)

LB 759 passed 47-0 and was approved by the Governor on April 9, 2014.

LB 1042—Provide for Repayments by School Employees Rejoining a Retirement System (*Nordquist*)

When a member of the School Employees Retirement system terminates his or her employment and withdraws all of his or her accumulated employee system contributions, the member gives up all earned service credits (i.e., relinquishes his or her creditable service). If he or she again becomes a school employee and retirement system member, he or she can buy back the relinquished creditable service.

LB 1042 allows a current member of the School Employees Retirement system, who rejoined the system before April 17, 2014, to apply and complete repayment to repurchase his or her creditable service within six years (by April 17, 2020). Any member who rejoins the system on or after April 17, 2014, who wants to repurchase relinquished service credit

must file an application and complete repurchase within five years of rejoining the system.

The cost of repurchase of creditable service is the amount of the withdrawn contribution plus an amount equal to the current actuarial assumed rate of return for the period repaid. (The current actuarial rate of return is eight percent.)

Additionally, beginning July 1, 2014, new employees in the School Employees Retirement system and the Class V (Omaha) School Employees Retirement system will not be eligible to purchase extra service credit years until they have acquired at least 10 years of creditable service. Employees hired before such date can continue to purchase extra service credit years after five years of creditable service. (These provisions were originally prescribed in **LB 1041**.)

Finally, LB 1042 directs the Public Employees Retirement Board to obtain, as part of the state's actuarial services necessary to administer the state's retirement systems, an annual valuation report of each of the defined benefit and cash balance plans administered by the board. The annual valuation reports must be presented to the Nebraska Retirement Systems Committee at a public hearing.

LB 1042 passed with the emergency clause 48-0 and was approved by the Governor on April 16, 2014.

REVENUE COMMITTEE

Senator Galen Hadley, Chairperson

Nebraska Tax Modernization Committee

LR 155, adopted by the Legislature in 2013, created the Tax Modernization Committee, a special legislative committee. The committee's report to the Legislature in December 2013 included several recommendations, many of which shaped the legislation referred to the Revenue Committee this session.

The Tax Modernization Committee's recommendations included the following:

Property Tax

- Increase the state aid commitment to schools to offset property tax use and reduce property taxes as a share of total state and local taxes.
- Reduce agricultural land value percentages to reduce the rate of tax on this value.
- Raise homestead exemption program income guidelines to increase the number of low-income households who would qualify.
- Offset the regressivity of the property tax by providing relief to households having a higher burden of property tax on their household income. Consider circuit breaker programs for renters, high property tax burden households, and farm owner operators.
- Recommend further study and analysis of residential valuation classification.

Income Tax

- Adjust the income bands within the income tax brackets annually for inflation.
- Maintain Nebraska's current income tax rates, at this time. While Nebraska's top marginal rate is high, the effective rate or tax burden is comparable to other states, both regionally and nationally. This is a policy matter for further analysis and discussion.
- Raise the provisional income thresholds used to calculate taxable Social Security benefits should be raised to exclude more Social Security income for low income taxpayers. Further study of any additional exemption of retirement income is recommended.
- Adjust the first corporate tax bracket from \$100,000 to \$250,000 of taxable income at the rate of 5.58 percent. The top bracket rate of 7.81 percent would apply to the excess over \$250,000. A threshold of \$5 million net Nebraska taxable income should be established to recapture the benefit of the lower rate on the first \$250,000 of taxable income.

Sales Tax

- Exempt repair and replacement parts for agricultural machinery and equipment from sales and use tax. This recommendation was originally made by the Syracuse Tax Study, conducted in 1986, and should be implemented to make Nebraska more competitive with its surrounding states.
- Further review and analysis should be conducted to determine the appropriate consumer services to be added to the sales tax base. No business to business services should be taxed.
- Implement a refundable credit through the income tax system to offset the tax paid by low-income households on utilities. Nebraska is the only one of the surrounding states that taxes residential utilities.
- Amend Nebraska's sales and use tax laws as necessary to ensure it is in compliance with all aspects of the Streamlined Agreement and the Main Street Fairness Act.

ENACTED LEGISLATIVE BILLS

LB 96—Exempt Repair or Replacement Parts for Agricultural Machinery and Equipment from Sales and Use Tax (*Dubas, Bloomfield, Brasch, Carlson, Christensen, Karpisek, Kintner, Larson, Lathrop, Pirsch, Schilz, Seiler, Wallman, and Watermeier*)

The Tax Modernization Committee specifically recommended enacting a sales and use tax exemption on repairs and replacement parts for agricultural machinery. This exemption was also recommended in the 1986 Syracuse Tax Study, and legislation to do so has been introduced numerous times over the intervening years. The sale of agricultural equipment and machinery is already exempt from sales and use taxes.

LB 96 exempts the sale, lease, or rental of and the storage, use, or consumption of repair or replacement parts for agricultural machinery and equipment used in commercial agriculture. The bill also ends the current refund program available for purchases of repairs or replacement parts for all sales after October 1, 2014.

LB 96 passed 40-0 and was approved by the Governor on April 2, 2014.

LB 191—Adopt the Nebraska Job Creation and Mainstreet Revitalization Act, Provide Tax Credits, and Change Certain Valuation Provisions as Prescribed (*Nordquist, Ashford, Coash, Cook, Dubas, Howard, Johnson, Kintner, Lathrop, Mello, and Schilz*)

LB 191 creates the Nebraska Job Creation and Mainstreet Revitalization Act, which provides an incentive for redevelopment and preservation of historical property.

The new act offers nonrefundable income tax credits for 20 percent of eligible expenditures up to a maximum credit of \$1,000,000. Eligible expenditures include costs incurred to improve property including rehabilitation and remodeling. These credits are available for owners of historically significant real property, which is defined as any building or structure, other than a single-family detached residence,

listed on the National Register of Historic Places, state listed, or subject to a local preservation ordinance.

To qualify for the credits, a property owner must first apply with the State Historic Preservation Officer (officer) and be approved. The officer can approve up to \$15 million in total credits in each calendar year. Work must begin on the project within 24 months of project approval. Within the first 12 months after the building is placed into service, the owner must apply for final approval to ensure the work substantially conforms to the application. Failure to comply with these requirements results in denial of the credits. The Department of Revenue (department) reviews the applications for final approval and can make certain adjustments to the credit amount. Prior to issuance of the tax credit certificate, each applicant must pay a fee of one quarter of one percent of the total credit, which is credited to the Civic and Community Center Financing Fund.

As a condition of receiving tax credits, a lien is placed on the property. If the officer determines that the property is not in substantial conformance with the application at any time within five years after the property is placed into service, the department can foreclose on the lien. If foreclosure occurs, the credits are subject to recapture. The amount of recapture decreases from 100 percent in year one to 20 percent in year five.

A person receiving tax credits under the act can transfer, sell, or assign up to 50 percent of the credits. If the applicant is a political subdivision, the entire amount of the credits can be transferred, sold, or assigned. The department must be notified of any transfer and will develop a system to track all tax credits issued.

Tax credits under the act begin January 1, 2015. The program will stop accepting new applications on December 31, 2018, and all credits issued must be used by December 31, 2024. LB 191 also creates the Nebraska Job Creation and Mainstreet Revitalization Fund to be administered by the Nebraska State Historical Society.

Additionally, LB 191 includes provisions of **LB 885**. LB 885 allows an owner of vacant lots or unimproved property, which is owned by the same person and located in the same subdivision or in the same taxing district, to elect to have the lots or property taxed as one parcel. Any such property will

be assessed using the income approach, including a discounted cash flow analysis. If the county assessor believes this approach does not result in an actual value, the information can be presented to the county board of equalization, which is then authorized to petition the Tax Equalization and Review Commission for consideration.

LB 191 passed 45-0 and was approved by the Governor on April 16, 2014.

LB 474—Change Provisions Relating to Occupation Taxes (*Krist and Mello*)

Following actions in Omaha to impose an occupation tax on cigarettes to fund a cancer research center, LB 474 originally imposed several limitations on the ability of cities to use this type of tax retroactively to July 2012. However, the original provisions of LB 474 were replaced with those of **LB 488**.

As enacted, LB 474 limits the authority of cities to impose an occupation tax on cigarettes, alcohol, and motor vehicles, all of which are subject to state excise tax. A city's authority to impose any occupation tax on unprepared food items, which are exempt from state sales tax, is also limited. The bill does not limit prepared food or alcohol purchases by consumers (the state excise tax is levied on manufacturers and wholesalers) from being subject to an occupation tax. The new limitations apply to all classes of cities and business improvement districts and are not retroactive.

LB 474 also requires each new occupation tax to include a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing the tax.

LB474 passed with the emergency clause 45-0 and was approved by the Governor on March 26, 2014.

LB 814—Redefine Sales Price, Change Sales and Use Tax Provisions Relating to ATVs and UTVs, and Change Duties of Sellers in the Distribution of Sales Tax Revenue to Provide Funding to the Game and Parks Commission (Avery, Brasch, Carlson, Haar, Johnson, Kintner, Kolowski, Schilz, Smith, Wallman, and Watermeier)

Last session, the Legislature spent many hours discussing LB 362, which would have designated funding for Game and Parks Commission (commission) use to upgrade facilities and perform deferred maintenance. The 2013 bill would have increased motor vehicle taxes in order to provide additional funding to the commission. However, that bill did not garner enough votes. As a result, funding the commission's needs was a topic of discussion again.

This year two bills, LB 814 and **LB 841**, were introduced as ways to provide a stable funding source for the commission.

LB 814 creates the Game and Parks Commission Capital Maintenance Fund. For all sales on or after October 1, 2014, proceeds from the sales and use taxes on motorboats, personal watercraft, all-terrain vehicles (ATVs), and utility-type vehicles (UTVs) will be deposited into the fund. (Originally, the provisions relating to ATVs and UTVs were contained in LB 841.)

The commission can use the fund to build, repair, renovate, rehabilitate, restore, modify, or improve any infrastructure within its authority. The diversion of revenue from sales and use taxes to the fund ends October 1, 2019.

LB 814 also changes the way in which sales and use taxes are collected. Currently, sales and use taxes are collected from the purchaser by the retailer and remitted to the Department of Revenue. However, there are many out-of-state purchases for which use tax is not reported when the item is used in Nebraska.

To remedy this loss of revenue, LB 814 requires that sales and use taxes on motorboats, personal watercraft, ATVs, and UTVs is to be collected by the county treasurer when the purchaser obtains a certificate of title. If the purchaser does not obtain a certificate of title, he or she is responsible for paying the tax to the county treasurer within 30 days of purchase. The

county treasurer remits all tax payments to the department by the 15th of each month.

LB 814 also includes provisions of **LB 982**. LB 982 changes some applicable definitions for ATVs and UTVs relating to size, weight, and tires, thereby expanding the kinds of vehicles classified as ATVs and UTVs. In addition, LB 982 clarifies that after-market or retrofitted vehicles in these categories are not eligible for registration in the state.

LB 814 passed 43-1 and was approved by the Governor on April 2, 2014.

LB 851—Change Revenue and Taxation Provisions on Nonresident Owners under the Motor Vehicle Registration Act (*Hadley*)

LB 851 largely makes technical changes to the Nebraska Revenue Act of 1967. The bill:

- Establishes a three-year statute of limitations on refundable tax credits, which is the same limitation period allowed for filing refund claims for overpayments.
- Allows the Department of Revenue to issue an assessment within six years against a taxpayer who fails to file a sales tax return, files a fraudulent return, or underreports the amount of sales or use tax due.
- Ensures provisions eliminating certain reporting under the Nebraska Advantage Act are applicable to all applications, not just those applications after a certain date.
- Increases information-sharing regarding the New Markets Job Growth Investment Act between the Department of Revenue and the Department of Insurance.
- Requires cities to notify the Department of Revenue regarding approved projects pursuant to the Nebraska Advantage Transformational Tourism and Redevelopment Act.
- Changes the definition of an ethanol facility to remove a reference to the Nebraska Ethanol Production Incentive Program, which no longer exists.

- Creates a rebuttable presumption that a resident operator of a recreational vehicle is the actual owner and liable for all taxes and fees due, thereby limiting the ability of corporations or other business entities from registering these vehicles in other states if the operator lives in Nebraska.

LB 668, a bill heard by the Banking, Commerce, and Insurance Committee, was amended into the bill. LB 668 changes procedures for satisfying a possessory lien by sale of the property when notice of the sale is mailed.

LB 681, which harmonizes provisions regarding delinquent tax sales relating to land banks to ensure the intent of Laws 2013, LB 97 and Laws 2013, LB 341 are preserved, was also amended into the bill.

LB 851 includes provisions of **LB 761**, which requires the Department of Revenue to enter into at least one contract for the purpose of identifying nonfilers, underreporters, or nonpayers with an outstanding tax liability of at least \$5,000. The contract must be entered into by the end of 2014.

A portion of **LB 979** was also included in LB 851, which clarifies that tax sale certificates sold and issued between January 1, 2010, and December 31, 2014, are governed by the laws in effect on December 31, 2009.

LB 851 passed with the emergency clause 49-0 and was approved by the Governor on April 9, 2014.

LB 867—Change Distribution of Certain Tax Payments to Municipalities, Create Exemptions from Sales and Use Tax, and Change Provisions Relating to Review of Tax Information by Municipalities (*Hadley and Mello*)

Laws 2012, LB 209 allowed municipal governments to review sales tax information for businesses within the municipality.

This year, LB 867 makes two changes to the laws governing this review. First, the bill clarifies that use tax information is also included in the review. Second, under the 2012 law, only a municipal employee was allowed to review the records. LB 867 allows an individual other than a municipal employee to

review the information if the individual contracts with the city to provide accounting or administrative services.

Like many other bills that were passed this session, LB 867 includes provisions of numerous other bills:

- **LB 150**, which exempts natural gas used as vehicular fuel from receipts by a metropolitan utilities district for purposes of paying fees to the applicable municipality until January 1, 2020, clarifies energy equivalents for compressed and liquefied natural gas, and exempts energy purchases for use in compression of natural gas as a vehicular fuel from sales and use tax.
- **LB 159**, which exempts sales of currency and bullion from sales and use tax.
- **LB 783**, which requires sales tax revenue and new sales tax revenue to be certified quarterly, rather than annually, for purposes of the Sports Arena Facility Financing Assistance Act, and allows the Department of Revenue to transfer funds to the appropriate political subdivisions on a quarterly basis beginning April 2014.
- **LB 809**, which exempts purchases by a historic automobile museum of items displayed or held for display, that are reasonably related to the purpose of the museum from sales and use tax.
- **LB 829**, which exempts U.S. postage charges on direct mail, which are separately stated on an invoice, from sales and use tax.
- **LB 1043**, which exempts deeds transferring property without consideration to certain nonprofit organizations from the documentary stamp tax.

LB 867 passed with the emergency clause 49-0 and was approved by the Governor on April 2, 2014.

LB 986—Change Homestead Exemption Income Limitations (Revenue Committee)

LB 986 addresses concerns raised throughout the Tax Modernization Committee hearings in regard to the onerous property tax burden on homeowners.

LB 986 increases the income limitations and evens out the declining scale of property tax relief under the homestead exemption program. The brackets, as adjusted, will continue to rise at the rate of inflation from 2014.

As enacted, LB 986 includes **LB 850**, which allows for a homestead exemption for persons with a developmental disability with certification from the Department of Health and Human Services.

LB 986 passed with the emergency clause 43-0 and was approved by the Governor on April 2, 2014.

LB 987—Adjust Individual Income Tax Brackets for Inflation and Exempt Social Security Benefits from Income Taxation (Revenue Committee, Ashford, Krist, Mello, and Nordquist)

LB 987 directly addresses recommendations from the Tax Modernization Committee to index the individual income tax brackets for inflation to avoid what is known as “bracket creep,” i.e. when a person’s income rises with inflation and moves them into a higher tax bracket. Adjustments to the brackets are to be made by the Department of Revenue in accordance with cost-of-living increases as described in the Internal Revenue Code.

LB 987 also reduces the number of people who pay state income tax on their social security income. Beginning in 2015, social security income is exempt from the individual income tax if (1) federal adjusted gross income is \$58,000 or less for married filing joint returns, or (2) federal adjusted gross income is \$43,000 or less for all other taxpayers.

In addition to the social security exemption, LB 987 includes provisions of **LB 75**. As enacted, LB 987 provides some tax relief for military personnel by addressing military retirement income. Military retirees are allowed to select from two options: (1) exclude 40 percent of military retirement benefit income from federal adjusted gross income for seven consecutive years; or (2) exclude 15 percent of military retirement benefit income from federal adjusted gross income for all taxable years after the taxpayer turns 67 years of age. The retiree must make this one-time election within two years after the date of his or her retirement.

LB 987 passed 44-0 and was approved by the Governor on April 2, 2014.

LB 1067—Change Sales and Use Tax Refund Provisions, Extend Sunset Dates under Certain Tax Incentive Laws, and Change Provisions of the Angel Investment Tax Credit Act (Hadley)

Tax credits available pursuant to the Nebraska Advantage Act, the Nebraska Advantage Research and Development Act, the Employment and Investment Growth Act, the Nebraska Advantage Rural Development Act, and the Nebraska Advantage Microenterprise Tax Credit Act were set to end in 2015. LB 1067 extends the tax credits under these programs until 2017.

The Angel Investment Tax Credit Act, enacted in 2011, was also amended by incorporating provisions of **LB 475**. The bill defines “investment date” for purposes of the act, requires investors to provide documentation of the investment date to the Director of Economic Development, and clarifies how long qualified investors and funds have to notify the director that an investment has been made. A provision is added to specify that information collected to administer and enforce the act, which is not required to be reported, may be confidential and not available to the public.

LB 1067 also requires the Department of Revenue to notify municipalities of refunds of sales and use taxes under the Nebraska Advantage Act and the Employment and Investment Growth Act.

LB 1067 passed with the emergency clause 49-0 and was approved by the Governor on April 9, 2014.

LB 1087—Create a Homestead Exemption for Disabled Veterans, Widows, and Widowers (Pirsch)

LB 1087 expands the homestead exemption for certain disabled veterans and unremarried widows or widowers of veterans. Veterans and unremarried widows or widowers of veterans have been eligible for a decrease in property taxes through the homestead exemption, subject to certain income limitations. This bill changes the exemption to a total exemption of 100 percent of the value of the homestead,

regardless of the value of the homestead or the income of the eligible persons, beginning in 2015.

The exemption is available to (1) veterans with a 100 percent service-connected disability who are discharged under honorable conditions, (2) unremarried widows or widowers of veterans who were discharged under honorable conditions and died as a result of a service-connected disability, and (3) unremarried widows or widowers of veterans whose death was service-connected while on active duty.

LB 1087 passed 48-0 and was approved by the Governor on April 2, 2014.

LEGISLATIVE BILLS NOT ENACTED

LR 423CA—Constitutional Amendment to Provide that Residential Real Property may be Classified Separately for Property Taxation (*Nordquist, Harr, and Mello*)

Following the common theme through the Tax Modernization Committee proceedings that property taxes were overly burdensome, LR 423CA would have added an exception to the uniformity clause relating to property taxation in Article VIII, section 1 of the Nebraska Constitution to address the property tax burden on homeowners.

The resolution would have allowed the Legislature to provide for a different method of taxation for residential real property by creating a separate class of property. Valuation within the class of residential real property would have been required to be uniform and proportionate for all residential real property. The language would have mirrored the constitutional language addressing the valuation of agricultural land.

LR 423CA did not advance from the committee and died with the end of session.

Change Valuation of Agricultural Land—LB 101, LB 145, LB 618, LB 670, LB 813, and LB 1038

The Tax Modernization Committee heard considerable testimony on the reliance of local political subdivisions, namely schools, on property taxes levied on agricultural land. Due to quickly rising prices in agricultural land over the

course of the past few years, property taxes have increased significantly in many areas of the state. The committee recommended lowering the percentage of market value at which to levy taxes.

Several bills were introduced. However, the Revenue Committee did not advance any of the bills, and they died with the end of session. The following bills related to taxation of agricultural land.

- **LB 101**, introduced by *Senators Watermeier, Davis, and Scheer*, would have lowered the value of agricultural land for purposes of taxation by school districts only.
- **LB 145**, introduced by *Senators Brasch and Coash*, would have lowered the value of agricultural land for purposes of taxation from 75 percent of market value to 65 percent.
- **LB 618**, introduced by *Senator Karpisek*, would have created an Agricultural Land Valuation Task Force to evaluate the use and implementation of the income capitalization approach to valuation of agricultural land rather than using a comparable sales approach.
- **LB 670**, introduced by *Senator McCoy*, would have lowered the value of agricultural land for purposes of taxation from 75 percent of market value to 65 percent over a period of three years.
- **LB 813**, introduced by *Senators Hansen, Bloomfield, Brasch, Carlson, Christensen, Davis, Dubas, Johnson, Larson, Nelson, Schilz, Seiler, Watermeier, Wightman, and Kintner*, would have lowered the value of agricultural land for purposes of taxation from 75 percent of market value to 65 percent over a period of two years.
- **LB 1038**, introduced by *Senators Dubas and Davis*, would have created a nonrefundable income tax credit for property tax paid on agricultural land for the amount by which property taxes paid exceed five percent of the taxpayer's federal adjusted gross income.

While all of these bills died with the end of session, the discussion regarding the share of property taxes paid by owners of agricultural land will most certainly continue.

LB 1057—Change the Distribution of Sales and Use Tax Revenue and Provide Duties for the Department of Revenue (Davis, Christensen, Hansen, Harms, Karpisek, Kintner, Mello, Schilz, Seiler, and Wallman)

LB 1057 related to a recommendation of the Tax Modernization Committee. The bill would have credited sales tax revenue collected from sales by out-of-state online retailers, should Congress approve such a law, to the Property Tax Credit Cash Fund for the first 12 months any such revenue was collected.

While Congress has failed to act thus far, states have been advocating for a federal law, such as the Marketplace Fairness Act, to allow states to better capture tax revenue by expanding the authority of states to tax these sales. Many expect Congressional action on this topic, and other bills likely will be introduced in the Legislature in the future.

LB 1057 advanced to General File and died with the end of session.

LB 1092—Authorize Issuance of Highway Construction Bonds (Dubas, Campbell, Davis, Gloor, Johnson, Krist, Lautenbaugh, Mello, Nordquist, Scheer, Schilz, and Sullivan)

Article XIII, section 1 of the Nebraska Constitution authorizes the Legislature to issue bonds for construction of roads and repay such bonds with any state revenue closely related to the use of highways. While the authority exists, the Legislature has rarely exercised it. The Legislature authorized a bond issuance of \$20 million in 1969, \$20 million to be used prior to 1977, and up to a maximum of \$50 million in 1988.

While not used often, proponents of LB 1092 asserted that authorizing bonding at this time would be a valuable supplement to the Build Nebraska Act, enacted in 2011 to direct one-quarter cent of state sales tax to highway funding, to complete projects that have been held up by a lack of funding. Opponents stated that the best way to fund state expenditures was to pay as you go, not to incur any debt. Amendments were adopted to lower the bond authorization amount, initially set at \$400 million, to \$200 million and to restrict interest rates that could be applied.

Pursuant to the Constitution, a three-fifths vote (30 votes) of the Legislature is required to authorize highway construction bonds.

LB 1092 failed to pass on Final Reading with a vote of 27-16 and died with the end of session.

TRANSPORTATION AND TELECOMMUNICATIONS COMMITTEE

Senator Annette Dubas, Chairperson

ENACTED LEGISLATIVE BILLS

LB 383—Provide for Military Honor Plates and Change Certain License Plate Fee Provisions (*Janssen*)

LB 383 creates a new specialty license plate, the Military Honor Plate, for currently serving or honorably discharged veterans of the nation's armed services.

The bill directs the Department of Motor Vehicles (DMV) to design license plates honoring persons who have served or are serving in the United States Army, Navy, Marine Corps, Coast Guard, Air Force, or National Guard. The design must reflect the official emblem, seal, or other official image of each service branch and be approved by the branch holding the copyright prior to any plate being issued.

Persons wishing to qualify for the plates must first establish their status as service members or veterans with the Department of Veterans' Affairs. The DMV must verify an applicant's eligibility using the Veterans' Affairs registry before issuing Military Honor plates. This is the same system developed to verify when an individual qualifies to have the word "veteran" stamped on his or her driver's license.

The plates, which will be available beginning January 2, 2016, can be issued in either the regular state alphanumeric plate style or as personalized message plates.

LB 383 sets an additional fee of \$5 for an alphanumeric Military Honor Plate and \$40 for a personalized plate. The \$5 fee and 75 percent of the \$40 fee is credited to the Nebraska Veteran Cemetery System Operation Fund. The remaining 25 percent of the \$40 fee is credited to the DMV Cash Fund. However, if the manufacturing cost of the plates exceeds the amount charged as a regular plate fee (currently set at \$3.50), then the difference between the manufacturing costs and the fees charged is credited to the Highway Trust Fund instead of the veteran cemetery fund. The bill specifies plates are to be

designed to limit the manufacturing cost to equal to or less than the amount charged for the plates.

The bill eliminates a \$5 fee previously charged to individuals for a license plate identifying them as former prisoners of war or Purple Heart recipients.

During Select File, the bill's sponsor proposed an amendment to LB 383 in the spirit of the session's ongoing discussion of mountain lion hunting (LB 671, page 79.) The amendment would have created a Mountain Lion Protection Plate, with the fee going to the Game and Parks Educational Fund to support youth education programs relating to wildlife conservation practices. After some discussion as to the seriousness of the amendment and whether it was appropriately attached to a bill honoring military service men and women, the amendment was withdrawn.

LB 383 passed 48-0 and was approved by the Governor on April 22, 2014.

LB 446—Define Salvage to include Flood Damage under the Motor Vehicle Certificate of Title Act (Avery)

Catastrophic weather events such as Super Storm Sandy produce more than misery for the areas directly affected. Natural disasters also produce a flood of water-damaged vehicles, which are cosmetically cleaned and sold to unsuspecting buyers. LB 446 aims to prevent Nebraskans from unwittingly buying flood-damaged vehicles.

The bill adds "flood damaged" to the definition of "salvage" under the Motor Vehicle Certificate of Title Act, requiring flood-damaged vehicles to receive a salvage title in Nebraska. "Flood damaged" is defined as having been "submerged in water to the point that rising water has reached over the floorboard, has entered the passenger compartment, and has caused damage to any electrical, computerized, or mechanical components."

The designation of flood damaged does not apply to vehicles passing an inspection conducted by either an insurance claim representative or a vehicle repairer. The inspection must indicate the vehicle (1) has no electrical, computerized, or mechanical components damaged by water or (2) had water

damage to one or more of those components, but all damaged components were repaired or replaced.

LB 446 passed 44-0 and was approved by the Governor on February 13, 2014.

LB 816—Authorize Use of Electronic Forms of Evidence of Insurance for Purposes of Motor Vehicle Registration
(Murante)

With enactment of LB 816, Nebraska joins over 30 other states that authorize digital proof of insurance.

LB 816 amends the Motor Vehicle Registration Act to allow Nebraska motorists to provide proof of insurance through display of an electronic image on a portable electronic device. Paper cards remain acceptable also.

The bill provides that using a tablet or cell phone to prove insurance does not amount to consent for law enforcement to access other contents of the device. Individuals presenting electronic proof of insurance assume liability for any damage done to the device during the exchange.

According to the Property Casualty Insurers Association of America, no states allowed digital proof of insurance in 2011, seven states had done so by the end of 2012, and, by the end of 2013, 31 had made the change, including all of Nebraska's neighboring states.

LB 816 passed 48-0 and was approved by the Governor on April 10, 2014.

LB 983—Change Licensing Provisions and Operating Restrictions for Commercial Motor Vehicles, Farm Vehicles, and Other Vehicles as Prescribed
(Dubas)

LB 983 provides the vehicle for several measures pertaining to commercial drivers, including measures originally introduced in **LB 249** and **LB 981**. The changes are intended to bring Nebraska into compliance with federal law and avoid the loss of federal highway dollars.

LB 983 tightens requirements designed to deter fraud in the issuance of commercial drivers' licenses (CDLs) and ensure

Nebraska-issued CDLs meet requirements in other states. The bill provides penalties for fraudulently acquiring a CDL. Persons who are convicted of fraud related to the issuance of their CDLs face being disqualified from operating a commercial motor vehicle for at least one year.

CDL applicants must provide proof of United States citizenship or lawful work status and Nebraska residence, unless the applicants qualify as non-domiciled applicants. Non-domiciled applicants are (1) persons who live in states that do not issue CDLs because the federal government has decertified their program; (2) non-U.S. citizens with lawful status for work purposes; or (3) persons who reside in another state but are attending driver training schools in Nebraska.

Additionally, the bill renames what was previously called the “learner’s permit commercial.” The new statutory term is “commercial learner’s permit” (CLP). All applicants for a new CDL and current CDL holders seeking to change from a Class B to a Class A license must first have a CLP. Further, a CLP must be held for 14 days prior to taking the skills test required for a CDL. The CLP is valid for 180 days and cannot be renewed more than twice in a two-year period. A person driving with a CLP must be accompanied by a driver with a valid CDL. (Previously, the training driver was simply required to be 21 years of age.)

Additionally, LB 983 exempts farmers, ranchers, their family members, and employees from the requirement to possess a CDL while transporting farm supplies or farm products in a covered farm vehicle in the state and within 150 miles of their farm. The bill provides a definition for covered farm vehicle. Excluded from this definition are vehicles that are a combination truck-tractor and semitrailer (1) operated by persons under 18 years of age or (2) used to transport placarded hazardous materials.

LB 983 amends the definition of “emergency vehicle” in Nebraska statutes to comply with the federal definition, assuring that emergency vehicle drivers do not need a commercial driver’s license. The bill also adds new provisions related to medical certification requirements for commercial drivers who drive in interstate commerce.

Finally, LB 983 prohibits commercial vehicle drivers, drivers of nine- to 15-passenger vans, and school bus drivers from

using handheld cell phones while driving, unless in an emergency. The bill also prohibits passenger van and school bus drivers from texting while driving. (Commercial vehicle drivers were already prohibited from texting while driving.) A violation of these provisions constitutes a traffic infraction that could result in a fine of between \$200 to \$500 and the loss of three points from the violator's driver's license.

LB 983 passed with the emergency clause 42-0 and was approved by the Governor on March 28, 2014.

LB 1039—Change Provisions Relating to Size, Weight, and Load for Farm Equipment (*Dubas*)

LB 1039 allows commercial haulers to act as agents of farm equipment dealers when hauling farm equipment to or from the dealer's place of business. The change allows those haulers to operate under the same set of load requirements granted farm equipment dealers under the Nebraska Rules of the Road and exempts them from having to get a special permit.

LB 1039 permits commercial haulers to follow the same width, height, and length restrictions reserved for farm equipment dealers when operating as the dealer's agent. Testifiers at the bill's hearing said the different requirements resulted in unnecessary delays and confusion. LB 1039's introducer said the law had not been changed in 50 years. The provisions dated to a time when there were more farm equipment dealers, and only those dealerships had the equipment and expertise to move farm equipment.

LB 1039 requires farm equipment haulers to carry a signed statement from the dealer to prove they are acting as a representative of the dealer. The statement must be dated and is valid for 90 days. The change does not require dealers to provide insurance coverage for farm equipment haulers.

LB 1039 passed 48-0 and was approved by the Governor on April 10, 2014.

LEGISLATIVE BILLS NOT ENACTED

LB 393—Change Helmet and Eye Protection Provisions Regarding Motorcycles (*Bloomfield, Brasch, Christensen, Davis, Janssen, Karpisek, Kintner, Krist, Larson, Murante, Scheer, and Schilz*)

In 1988 the Legislature passed a bill requiring motorcyclists to wear helmets. Since then bills attempting to modify or repeal that mandate have become routine. Prior to LB 393, the full Legislature last debated repeal in 2010.

LB 393 would have exempted persons 21 or older from the requirement to wear a helmet while riding a motorcycle or moped but would have required they wear eye protection. The bill defined eye protection to mean eyeglasses, goggles, protective face shields attached to helmets, or windshields mounted on motorcycles or mopeds.

The pending Standing Committee amendments would have prohibited persons under 48 inches tall from riding on a motorcycle unless they were at least 16 years of age.

After eight hours of debate on General File, a motion to invoke cloture failed and LB 393 died with the end of the session.

LB 807—Change Provisions Relating to Provisional Operator’s Permits, Interactive Wireless Communication Devices, and Occupant Protection Systems and Update References to Certain Federal Provisions (*Harms, Ashford, Avery, Conrad, Cook, Dubas, Garrett, Haar, Howard, Kolowski, Krist, Lathrop, McGill, Mello, Nelson, Nordquist, Scheer, Seiler, Sullivan, Watermeier, and Wightman*)

Violations of Nebraska law pertaining to the use of seat belts, texting while driving, and several other limitations on youthful drivers are secondary offenses, meaning one has to be stopped for another law violation to be cited for not wearing a seat belt or texting while driving. LB 807 proposed to make these violations primary offenses.

In addition to bumping up the seat belt and texting prohibitions to primary offenses, the bill would have required seat belts be worn by every occupant of a motor vehicle. Current law requires only front-seat passengers and backseat passengers younger than 18 years of age to be buckled up.

Using a cell phone while driving with a provisional, school, or learner's permit and the curfew and passenger restrictions on drivers holding a provisional permit would have also become primary offenses under the bill.

LB 807 did not advance from committee and died with the end of session.

URBAN AFFAIRS COMMITTEE

Senator Amanda McGill, Chairperson

ENACTED LEGISLATIVE BILLS

LB 679—Change Notice Requirements Relating to Zoning, Redevelopment Projects, and Neighborhood Associations (Mello)

Neighborhood associations can elect to receive notice of zoning or redevelopment plan hearings electronically under the provisions of LB 679.

By law, neighborhood associations in a city of the metropolitan class (Omaha) must be notified of proposed zoning changes to property located within their boundaries. Previously, notification was sent via certified mail. LB 679 allows neighborhood associations to choose to be notified by email or regular, certified, or registered mail.

LB 679 also requires the initial notice to neighborhood associations to be provided at least 10 working days prior to the hearing on the proposed zoning change.

In provisions applicable to cities of any class and villages, when notification of a change in a redevelopment plan must be provided to affected neighborhood associations, LB 679 authorizes notification be provided via email or regular, certified, or registered mail.

LB 679 passed 47-0 and was approved by the Governor on April 10, 2014.

LB 1012—Change Provisions Relating to Blighted Areas under the Community Development Law (Schilz)

LB 1012 exempts redevelopment projects on formerly used defense sites from the statutory limit on how much property a city can declare as blighted.

A declaration that an area is “blighted” is a qualifying step for cities to use tax-increment financing (TIF) for redevelopment

projects. Cities were first authorized to use TIF for redeveloping formerly used defense sites in 2013 via LB 66.

However, all such sites fall outside city corporate limits. Cities were unsure how or if declaring the sites blighted would affect the cap on blighted properties. Metropolitan, primary, and first-class cities cannot designate more than 35 percent of the city as blighted; second-class cities cannot designate more than 50 percent of the city as blighted; and villages cannot designate more than 100 percent of the village as blighted.

LB 1012 clarifies that formerly used defense sites do not count against a city or village cap on blighted property.

LB 1012 passed with the emergency clause 43-0 and was approved by the Governor on April 2, 2014.

LB 1014—Change Provisions for Election of Metropolitan Utilities District Board of Directors (*Murante and Cook*)

The Metropolitan Utilities District (MUD) was the sole remaining political subdivision in the Omaha area to use at-large elections, but that changes under the provisions of LB 1014. The bill authorizes the MUD board of directors to divide the district's territory into seven election subdivisions.

The subdivisions must be composed of substantially equal population and be compact and contiguous. The board is charged with redistricting after each federal decennial census. The new boundaries must follow county and precinct lines wherever practicable.

LB 1014 provides that, if the board passes a resolution to change to district elections before February 1, 2016, each currently serving board member is to be assigned to a particular election subdivision for the remainder of his or her term. The board members do not have to reside in the assigned subdivisions. The bill further provides for a staggered election process, beginning with the first two districts in the 2018 statewide election cycle. By January 2023, all board members will have been elected by district. Elected board members must reside in the district they are seeking to represent.

LB 1014 passed 47-0 and was approved by the Governor on March 28, 2014.

Bill Index

LB 96	Exempt Repair or Replacement Parts for Agricultural Machinery and Equipment from Sales and Use Tax	87
LB 101	Change Valuation of Agricultural Land	96
LB 130	Biennial Budget Adjustment Package	7
LB 132	Adopt the Indoor Tanning Facility Act and Change Membership Provisions for Boards Appointed under the Uniform Credentialing Act	53
LB 145	Change Valuation of Agricultural Land	96
LB 191	Adopt the Nebraska Job Creation and Mainstreet Revitalization Act, Provide Tax Credits, and Change Certain Valuation Provisions as Prescribed	87
LB 254	Eliminate a Termination Date for Anticancer Medication and Provide Insurance Coverage for Autism Spectrum Disorder and Funding for Amino Acid-Based Elemental Formulas	13
LB 276	Change Provisions of the Early Intervention Act, the Medical Assistance Act, the Tax Equity and Educational Opportunities Support Act, and the Special Education Act	54

LB 359	Change Asset and Income Limitations for Certain Programs of Public Assistance and Change Eligibility Redeterminations Relating to a Child Care Subsidy	55
LB 383	Provide for Military Honor Plates and Change Certain License Plate Fee Provisions	101
LB 390	Change Provisions Relating to Unlawful Possession of a Firearm at a School and Emergency Management Act Provisions	63
LB 393	Change Helmet and Eye Protection Provisions Regarding Motorcycles.....	106
LB 402	Change Provisions Relating to Community-Based Energy Development Projects	73
LB 438	Change the Accountability System for Schools and School Districts under the Quality Education Accountability Act	29
LB 446	Define Salvage to Include Flood Damage Under the Motor Vehicle Certificate of Title Act	102
LB 464	Change Provisions Relating to the Juvenile Justice System, Arraignment, Court Jurisdiction, Services for Juveniles and Families, and Truancy	64
LB 474	Change Provisions Relating to Occupation Taxes	89
LB 485	Prohibit Discrimination Based Upon Sexual Orientation as Prescribed	70

LB 526	Change Provisions Relating to Use of Pharmaceutical Agents by Optometrists	55
LB 546	Eliminate and Change Provisions Relating to the Review of Postsecondary Capital Construction Projects.....	30
LB 560	Change Provisions of the Nebraska Wage Payment and Collection Act	23
LB 597	Change Provisions Relating to County Agricultural Societies	1
LB 618	Change Valuation of Agricultural Land	96
LB 660	Provide for Extension of a Pilot Project and a Contract Relating to Case Management	56
LB 661	Provide for Voter Registration on the Secretary of State's Website and Use of Department of Motor Vehicle Records	47
LB 670	Change Valuation of Agricultural Land	96
LB 671	Eliminate Provisions Relating to Hunting and Killing of Mountain Lions	79
LB 673	Repeal the Black-Tailed Prairie Dog Management Act	4
LB 679	Change Notice Requirements Relating to Zoning, Redevelopment Projects, and Neighborhood Associations	109
LB 682	Require Formation of Allied School Systems	36

LB 690	Create the Aging Nebraskans Task Force and Require a Grant Application	56
LB 699	Change Hunting Permit and Hunter Education Program Provisions and Require Reports Regarding a Data Base for Acquiring Firearms	74
LB 700	Adopt the Risk Management and Own Risk and Solvency Assessment Act, Provide Requirements for Certain Health Care Sharing Ministries, and Change Provisions Relating to Insurance Rules and Regulations, Definitions, Cease and Desist Orders, and Risk-Based Capital	15
LB 717	Change Provisions Relating to the Real Property Appraiser Act and Professional Qualifications	17
LB 725	Change Provisions Relating to Local Effort Rate Yield under the Tax Equity and Educational Opportunities Support Act	30
LB 740	Change Residency Requirements for Postsecondary Education Purposes for Veterans and their Families.....	31
LB 749	Adopt the Nebraska Model Business Corporation Act	18
LB 751	Adopt the Nebraska Benefit Corporation Act	18
LB 755	Adopt the Standard Valuation Act for Valuation of Insurance Reserves	19

LB 759	Require Reports, Define Terms, Change Investment Provisions, and Provide Powers and Duties Relating to Retirement Systems	81
LB 765	Change the Wage Payment and Collection Act	24
LB 768	Change Provisions of the Livestock Brand Act and Estray Provisions	1
LB 788	Change Provisions Relating to Real Estate Loans, Fiduciary Accounts, Decedents' Estates, Hearsay Exceptions, Mortgages, Trust Deeds, and Safe Deposit Boxes	20
LB 799	Change a Filing Requirement for Insurance Companies	21
LB 800	Provide for Designation of Enterprise Zones and Preferences in Certain Business Incentive Programs	24
LB 807	Change Provisions Relating to Provisional Operator's Permits, Interactive Wireless Communication Devices, and Occupant Protection Systems and Update References to Certain Federal Provisions	106
LB 811	Change Provisions Relating to Controlled Substances, Prescriptions, and Certain Assault Provisions	65
LB 813	Change Valuation of Agricultural Land	96

LB 814	Redefine Sales Price, Change Sales and Use Tax Provisions Relating to ATVs and UTVs, and Change Duties of Sellers in the Distribution of Sales Tax Revenue to Provide Funding to the Game and Parks Commission	90
LB 816	Authorize the Use of Electronic Forms of Evidence of Insurance for Purposes of Motor Vehicle Registration	103
LB 851	Change Revenue and Taxation Provisions on Nonresident Owners Under the Motor Vehicle Registration Act	91
LB 853	Change and Rename Acts, a Register, and an Advisory Committee Relating to Children and Young Adults and Require Case Manager Training as Prescribed	57
LB 863	Change Provisions Relating to Cemeteries and Alcohol Sales, Prohibit Sales to and Use of Vapor Products and Alternative Nicotine Products by Minors, Prohibit Certain Sales of Tobacco Products, and Adopt by Reference Provisions of the National Electrical Code	44
LB 867	Change Distribution of Certain Tax Payments to Municipalities, Create Exemptions from Sales and Use Tax, and Change Provisions Relating to Review of Tax Information by Municipalities	92
LB 876	Require a Bodily Injury Exception from a Pollutant Exclusion in Certain Insurance	21

LB 884	Name and Change the Exotic Animal Auction or Exchange Venue Act and Change the Livestock Auction Market Act	2
LB 887	Adopt the Wellness in Nebraska Act	60
LB 905	Biennial Budget Adjustment Package	7
LB 906	Biennial Budget Adjustment Package	7
LB 907	Add, Change, and Eliminate Provisions Relating to Criminal Justice, Incarceration, Probation, Parole, and Legal Education Financial Assistance	66
LB 916	Eliminate Integrated Practice Agreements and Provide for Transition-to-Practice Agreements for Nurse Practitioners	61
LB 920	Adopt the Public Guardianship Act	67
LB 923	Provide for the Position of State School Security Director and Require Training on School Security, Suicide Awareness and Prevention, and Tornado Preparedness for School Personnel and Provide for a Concussion Protocol	32
LB 935	Require Legislative Approval to Move State Services	51
LB 941	Provide for a Dairy Growth Study	3
LB 942	Change Provisions Relating to Packers under the Competitive Livestock Markets Act	4
LB 943	Change the Minimum Wage Rate	27

LB 946	Change Provisions Relating to Bond Elections, County Surveyor Elections, School Board Elections, Administration and Conduct of Elections, Vacancies, Presidential Electors, and Threshold Amounts under the Nebraska Political Accountability and Disclosure Act	48
LB 949	Biennial Budget Adjustment Package	7
LB 961	Provide for a Fire Fighting Compact, Change Workers' Compensation Provisions, and Require Coverage for Volunteer Firefighters, Change Provisions of the Nebraska Hospital-Medical Liability Act, the Nebraska Construction Prompt Pay Act, and the Employment Security Law	25
LB 965	Change Public Policy Provisions and Findings Required by the Nebraska Power Review Board Relating to the Provision of Electric Service	79
LB 967	Change Provisions Relating to Accountant Licensing Examination Accreditation, Education Funding, Compensation of Members of the Board of Educational Lands and Funds, Education Regulation, Teaching, Early Childhood Education Programs, Distance Education Programs, and Postsecondary Institutions	33
LB 974	Change Provisions Relating to Special Education Appropriations, State Agency Preaudit Practices, and Powers and Duties of the Department of Administrative Services and Provide and Change Reporting Requirements for the Department of Health and Human Services	10

LB 976	Adopt the Redistricting Act	40
LB 983	Change Licensing Provisions and Operating Restrictions for Commercial Motor Vehicles, Farm Vehicles, and Other Vehicles as Prescribed	103
LB 986	Change Homestead Exemption Income Limitations	93
LB 987	Adjust Individual Income Tax Brackets for Inflation and Exempt Social Security Benefits from Income Taxation	94
LB 998	Change Provisions Relating to Disposition of Human Remains, Offenses Related to the Person, Sexual Exploitation, Labor and Sex Trafficking, the Sex Offender Registration Act, and Driving under the Influence	68
LB 1001	Allow Growth and Cultivation of Industrial Hemp by the Department of Agriculture or a Postsecondary Institution	69
LB 1012	Change Provisions Relating to Blighted Areas under the Community Development Law	109
LB 1014	Change Provisions for Election of Metropolitan Utilities District Board of Directors	110
LB 1016	Provide for Acquisition and Sale of State Aircraft and a Transfer from the Cash Reserve Fund	39
LB 1038	Change Valuation of Agricultural Land	96

LB 1039	Change Provisions Relating to Size, Weight, and Load for Farm Equipment.....	105
LB 1042	Provide for Repayments by School Employees Rejoining a Retirement System.....	82
LB 1048	Require Delivery of the Official Election Calendar and Change and Eliminate Political Party Provisions	49
LB 1057	Change the Distribution of Sales and Use Tax Revenue and Provide Duties for the Department of Revenue	98
LB 1067	Change Sales and Use Tax Refund Provisions, Extend Sunset Dates under Certain Tax Incentive Laws, and Change Provisions of the Angel Investment Tax Credit Act	95
LB 1087	Create a Homestead Exemption for Disabled Veterans, Widows, and Widowers	95
LB 1092	Authorize Issuance of Highway Construction Bonds	98
LB 1098	Change Membership and Powers and Duties of the Nebraska Natural Resources Commission	75
LB 1103	Provide a Statewide Vision for Education	35
LB 1114	Change and State Intent Relating to Funding for Economic Development Programs and Change a Termination Date	12

**LB 1115 Appropriate Funds to the Nebraska Power Review
Board for a Study and State Public Policy 78**

Resolution Index

LR 41CA	Constitutional Amendment Authorizing Legislation for Licensing and Regulating Wagering on Live or Replayed Horse Races	43
LR 393CA	Constitutional Amendment to Change Signature Requirements for Initiative Petitions	50
LR 397CA	Constitutional Amendment to Require Public Recording and Preservation of Votes of Public Officials.....	40
LR 411CA	Authorize Municipalities and Counties to Exercise Powers in Matters of Local Concern and to Eliminate Home Rule Charters	51
LR 416CA	Constitutional Amendment to Authorize Casino Gaming, Provide for a Local Vote, and Provide for Distribution of Tax Proceeds	45
LR 423CA	Constitutional Amendment to Provide that Residential Real Property may be Classified Separately for Property Taxation	96

