

BUSINESS AND LABOR
COMMITTEE

NEBRASKA LEGISLATURE

SUMMARY OF 2015 LEGISLATION

One Hundred Fourth Legislature
First Session

Senator Burke Harr, Chair
Senator Dave Bloomfield, Vice-Chair
Senator Ernie Chambers
Senator Sue Crawford
Senator Laura Ebke
Senator Jerry Johnson
Senator John McCollister

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SUMMARY OF BILLS ENACTED IN 2015

LB 271 (Ebke) Change and eliminate provisions of the Employment Security Law

Sections 1, 2, 3 LB 271 is primarily a technical bill that removes dates that have passed:

- Base period (July 1, 2011)
- Unemployment Trust Fund (March 2, 2001)
- Wages (Dec. 31, 1985)
- Benefits paid under a supplemental unemployment benefit plan (March 2, 2001)
- Worksite (Jan. 1, 2012)
- Employer
 - As defined by Employment Security Law (prior to May 27, 1971 and after Dec. 31, 1971)
 - State employer (prior to Sept. 2, 1977 and after Dec. 31, 1977)
 - As defined by §48-604(4)(b), (c) and (d) (after Dec. 31, 1971)
- Employment
 - As defined by services performed in the employ of an Indian tribe as defined in 26 U.S.C. 3306 (u) (as such section existed on March 2, 2001)

Section 4 The Commissioner of Labor will receive a salary rather than a salary plus a sum as determined by the Governor.

Section 5 Because the benefit years for Sept. 30, 2006 and prior have passed, LB 271 amends how unemployment benefits are computed by eliminating the provisions accounting for the time period prior to Sept. 30, 2006.

Section 6 and 7 Because the tax years prior to Jan. 1, 2010 have closed, the bill eliminates the requirement of combined taxes filing and quarterly wage reports for employers whose annual payroll for either of the two preceding calendar years equaled or exceeded \$500,000 based on years beginning before Jan. 1, 2010.

Section 8 makes technical changes.

Section 9 Since no nonprofit today could become subject to the Employment Security Law on Jan. 1, 1972 as the date has passed, the bill eliminates this provision where a nonprofit organization may elect to become liable for payments in lieu of contributions.

Section 10 removes the requirement that repaid benefits must be remitted to the State Treasurer, and instead funds will be remitted to the Commissioner of Labor for credit to the Unemployment Compensation Fund.

Section 11 Since claimant benefit years of year 2000 and prior have passed, the bill eliminates the designated dates of Dec. 31, 1995 and Dec. 31, 2000 for determining benefit amounts.

Section 12 repealer.

The committee amendment replaces the bill and amends dates referencing federal laws as they existed on January 1, 2015 rather than March 2, 2001.

LB 334 (Mello) Repeal the Nebraska Workforce Investment Act

The federal Workforce Investment Act of 1998 (WIA) was the principal workforce development legislation, which provided funds to address the employment and training needs of adults, dislocated workers and youth. WIA created a comprehensive workforce investment system intended to be customer-focused, to help citizens access the tools they need to manage their careers through information and high quality services, and to help U.S. companies find skilled workers.

In August of 2000, Nebraska implemented the Nebraska Workforce Investment Act pursuant to Governor Johann's Executive Order No. 00-02 and was codified into law via LB 193 (2001).

On July 22, 2015, President Obama signed the Workforce Innovation and Opportunity Act (WIOA). WIOA replaces the federal Workforce Investment Act of 1998. WIOA is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the economy.

WIOA takes effect on July 1, 2015, the first full program year after enactment, unless otherwise noted. The federal Department of Labor will issue further guidance on the timeframes for implementation of the provisions related to the programs administered by the Department. The expected timeline is Spring 2015.

Section 1 repeals the Nebraska Workforce Investment Act.

The committee amendment adds an emergency clause to the bill.

LB 480 (Harr) Change provisions relating to the Nebraska Workers' Compensation Act

LB 480 amends section 48-119 to provide for the date compensation benefits begin if the disability continues for forty-two days or longer rather than six weeks or longer. LB 480 is a place holder bill.

The committee amendment replaces bill with the following sections:

Section 1 reflects the principles found in LB 158. It would, under the Workers' Compensation Act, deny benefits if an employee knowingly and willfully made false statements regarding his/her physical or medical condition by acknowledging that he/she is able to perform the essential functions of the job based on the employer's job description.

Section 2 contains the issues found in LB 363. It clarifies that employees are not responsible for any finance charges or late penalty payments as a result of medical services rendered by a provider pursuant to 48-120(1)(a).

Section 3 reflects the principles found in LB 133. It amends section 48-125 and revises the interest rate applicable to an award of workers' compensation benefits in which an attorney's fee is permitted. It changes the rate provided in section 45-104.01 (14%) to a rate calculation of 6

percentage points above the bond investment yield, as published by the U.S. Secretary of Treasury. Effective April 16, 2015, the judgment interest rate is 2.137%.

Section 4 includes LB 600, which expands the authority to invest trust assets held in irrevocable workers' compensation trusts to allow for investments in the same manner as corporate trustees holding retirement or pension funds for governmental employees as found in section 30-3209(1)(a) through (i). It provides that if the assets fall below the acceptable amount required by the compensation court, the trustor must deposit additional assets to continue to satisfy the minimum security amounts required. It also provides that the trustee cannot invest assets into stocks, bonds or other obligations of the trustor.

Section 5 adds Sections 1 and 2 to the Act.

Section 6 repealer.

LB 554 (Business and Labor Committee) Provide for payment of claims against the state

LB 554 was introduced by the Business & Labor Committee at the request of the Department of Administrative Services, Risk Management Division. This bill introduces the claims against the State that are required by statute to be reviewed and approved by the Legislature.

The committee amendment adds two tort claims arising from the same accident against the State of Nebraska. The claims are for \$95,000 each, totaling \$190,000.

LB 627 (Mello) Change provisions relating to pregnancy and eliminate subversive membership provisions under the Nebraska Fair Employment Practice Act

Section 1 definitional section. LB 627 creates two categories of the definition for "Reasonable accommodation." One is with respect to a disability currently in statute, and the other is with respect to pregnancy.

Section 2 creates a separate category of discrimination against an individual who is pregnant. Discrimination against a qualified individual and discrimination against a pregnant individual outline identical unlawful employment practices.

Section 3 creates instances of discrimination against pregnant individuals. The new language in LB 627 reiterates the language currently in statute 48-1107.02 which outlines incidents of discrimination against qualified individuals. In addition to the instances of discrimination listed against qualified individuals, LB 627 also creates new incidents of discrimination against pregnant individuals to include requiring the pregnant individual to accept an accommodation they choose not to accept, requiring the pregnant individual to take leave if another reasonable accommodation can be provided, and taking adverse action against the employee for requesting a reasonable accommodation.

Section 4 qualifies that women affected by pregnancy, childbirth, or related conditions will be treated the same subject to other provisions in the Nebraska Fair Employment Practice Act.

Section 5 requires the Equal Opportunity Commission to report to the Legislature and Governor the number of complaints filed alleging discrimination against a pregnant individual and the resolution of such complaints.

Section 6 repealer.

The committee amendment changed references of “pregnancy” throughout the bill to "pregnancy, childbirth, or a related medical condition" as well as references to a “pregnant individual” to an "individual affected by pregnancy, childbirth, or a related medical condition." The purpose of AM 232 is to clarify that the bill's protections reach individuals who seek accommodation because of conditions or complications arising out of or intrinsically related to pregnancy, in addition to those who see accommodation out of medical needs arising from pregnancy itself.

AM 1032, introduced by Senator Mello, was adopted. This amendment made three changes. First, a new subsection was added to further define who the protections are intended, it mirror existing statute regarding disabled individuals, and also includes the same qualifications for pregnant individuals dependent on the “essential functions” of the position that exist in current statute for disabled individuals. This additional language is found in Section 1, subsection (18).

Additionally, throughout the bill, the phrase, “an individual affected by pregnancy, childbirth or related medical conditions” has been changed to “an individual who is pregnant, who has given birth, or who has a related medical condition.”

Lastly, the entire subsection 48-1107.02(2)(i) as it appeared in the committee amendment is stricken. The analysis was that this subsection is unnecessary as remaining sections of the bill and the guidelines followed by the Nebraska Equal Opportunity Commission are sufficient to accomplish its intent

AM 1047, introduced by Senator Schumacher, was adopted which repealed section 48-1109. This section stated that unlawful employment practice did not include actions taken by an employer with respect to a member of the Communist Party of the U.S.

SUMMARY OF BILLS ON GENERAL FILE

LB 270 (Ebke) Create and eliminate funds administered by the Department of Labor

Sections 48-2701 to 48-2711 are known as the Professional Employer Organization Registration Act. This Act regulates professional employer organizations (PEOs). Essentially, a PEO employs workers and leases them to become part of a client's workforce through a contractual allocation and sharing of employer responsibilities. This Act requires PEOs to register with and provide certain information to the Department of Labor. The Department of Labor adopted a schedule of fees for initial registration (\$2,500), annual registration renewal (\$1,500), limited registration and limited registration renewal (\$1,000), and an interim operating permit (\$250). The Professional Employer Organization Cash Fund is used to administer and enforce the Act.

The Farm Labor Contractors Act can be found in sections 48-1701 to 48-1714. The Farm Labor Contractors Act requires farm labor contractors to hold a valid license issued by the Department of Labor. Those seeking to hold a license must complete an application. The application fee is established by the Commissioner of Labor, but is not to exceed \$750. Currently, the fee is \$750. The Farm Labor Contractors Fund is used to administer and enforce the Act.

Sections 48-2101 to 48-2117 are known as the Contractor Registration Act. Prior to performing any construction work in Nebraska, a contractor must be registered with the Department. To become registered, a contractor must complete an application and pay an application fee of \$40. To renew registration annually, the fee is \$40. The Contractor Registration Cash Fund is administered by the Department and is used to enforce the Contractor Registration Act and the Employee Classification Act.

The Employee Classification Act (sections 48-2901 to 48-2912) states that individuals performing construction labor services for a contractor is presumed to be an employee and not an independent contractor unless he/she falls into an exception contained in 48-2903. If the commissioner finds, after notice and hearing, that a contractor has violated the Act, the contractor will be assess a \$500 fine per each misclassified individual for the first offense and a \$5,000 fine per each misclassified individual for each second and subsequent offense.

Section 1 creates the Contractor and Professional Employer Organization Registration Cash Fund. The fund is the compilation of the existing Professional Employer Organization Cash Fund, the Farm Labor Contractors Fund and the Contractor Registration Cash fund. The Contractor and Professional Employer Organization Registration Cash Fund would be administered by the Department of Labor. It would consist of fees collected by the Department pursuant to (1) the Farm Labor Contractors Act, (2) the Contractor Registration Act, and (3) the Professional Employer Organization Registration Act and other funds appropriated by the legislature.

The fund would be used for enforcing and administering the three Acts outlined above in addition to the Employee Classification Act.

Section 2 changes the Farm Labor Contractors Fund to the Contractor and Professional Employer Organization Registration Cash Fund.

Section 3 changes the Contractor Registration Cash Fund to the Contractor and Professional Employer Organization Registration Cash Fund.

Section 4 technical changes.

Section 5 operative date is July 1, 2015.

Section 6 repealer.

Section 7 repealer.

Section 8 emergency clause.

LB 276 (Harr) Exempt certified independent contractors from the Nebraska Workers' Compensation Act

Section 1 exempts certified independent contractors from the Nebraska Workers' Compensation Act and precludes them from obtaining any benefits under the Act. To become a certified independent contractor, a person must apply to the Department of Labor and complete an application, questionnaire and pay a fee as determined by the Department.

Any person who knowingly provides false information on an application or questionnaire is guilty of a Class II misdemeanor. Any person who requires his/her employee to falsify information for the purpose of that employee gaining status as a certified independent contractor is guilty of a Class II misdemeanor.

A certified independent contractor may elect to be bound by the Act at any time.

Section 2 excludes certified independent contractors from the Act.

Section 3 excludes services performed by a certified independent contractor from being included in the term "employer" and from being liable to pay workers' compensation as outlined in the Act.

Section 4 adds section 1 to the Act.

Section 5 repealer.

The committee amendment changes where individuals must apply for certification to the Workers' Compensation Court rather than the Department of Labor. The amendment limits the requirement of who must apply for certification to individuals working within the construction industry. It also outlines the procedures for certification, recertification, appeals, and certificate revocation.

Details:

Section 1 exempts certified independent contractors working within the construction industry from the Nebraska Workers' Compensation Act and prohibits them from obtaining any benefits under the Act. To become a certified independent contractor, a person working within the construction industry must apply to the administrator of the Nebraska Workers' Compensation Court and complete an application, questionnaire and pay a fee as determined by the Compensation Court.

In determining whether an applicant is qualified to be a certified independent contractor, the administrator will consider the common law 10-point test. A certificate remains in effect for two years, then the individual must reapply.

If the administrator denies an individual's application, the applicant may request a reconsideration by the Court within 30 days after notice of the denial.

A certificate may be revoked by the administrator if: (1) requested; (2) the individual provided false information on the application or questionnaire; (3) the administrator determines the individual is no longer qualified to be certified; (4) or the individual elects to bring himself or herself within the provisions of the Act by obtaining coverage.

Failure to apply for certification or denial or revocation of certification does not create a presumption that the individual is an employee, unless that person has elected to bring himself or herself within the provisions of the Act.

Any person who knowingly provides false information on an application or questionnaire is guilty of a Class IV misdemeanor. Any person who requires his/her employee to falsify information for the purpose of that employee gaining status as a certified independent contractor is guilty of a Class IV misdemeanor.

A certified independent contractor may elect to be bound by the Act at any time. Such election automatically terminates certification. Notification of such election must be given to the administrator.

The Compensation Court may promulgate rules and regulations.

Section 2 excludes certified independent contractors from the Act.

Section 3 excludes services performed by a certified independent contractor from being included in the term "employer" and from being liable to pay workers' compensation as outlined in the Act.

Section 4 adds section 1 to the Act.

Section 5 permits fees collected pursuant to obtaining certification as an independent contractor to be credited to the Compensation Court Cash Fund.

Section 6 repealer.

LB 306 (Nordquist) Change the Conveyance Safety Act

Section 1 adds to the Conveyance Advisory Committee a labor representative involved in the elevator industry, to be appointed by the Governor. Once members of the general public's terms have expired, LB 306 directs the Governor to appoint members from three different counties to represent urban, suburban and rural interests.

Section 2 allows the committee to recommend legislative changes to the Conveyance Safety Act to the commissioner.

Section 3 addresses when platform lifts and stairway chair lifts are within the scope of the Act. The committee amendment revises the language so there is no inconsistency between Sections 3 and 4. Conveyances in private residences are subject to inspection upon a transfer of ownership for Douglas, Sarpy and Lancaster counties. The committee amendment also addresses this inconsistency between Sections 3 and 4 to reflect the intent that licensed elevator mechanics are to be used for construction, operation, inspection, maintenance and repair statewide.

Section 4 allows property owners to request inspection for conveyances used exclusively for agricultural purposes. This section also addresses when platform lifts and stairway chair lifts are not within the scope of the Act. The committee amendment revises the language to be consistent with Section 3. LB 306 strikes language making conveyances in residences in counties of 100,000 or less inhabitants not applicable to the Act.

Section 5 makes the licensure requirement to wire, replace, remove or dismantle an existing conveyance statewide.

Section 6 removes thirty-day licenses.

Section 7 repealer.

The committee amendment provides more specificity for the Governor's appointments of the general public to represent urban, suburban and rural interests. The amendment remedies conflicting sections addressing when the Act applies to stairway chair lifts and platform lifts and the scope of the licensure requirements. It also includes a notice provision of the new inspection and licensure requirements to those conveyance owners not currently under the law for a one year period. Then, the statewide licensure requirements become effective January 1, 2017.

Details:

Section 1 adds to the Conveyance Advisory Committee a labor representative involved in the elevator industry, to be appointed by the Governor. Once members of the general public's terms have expired, AM 875 directs the Governor to appoint members from three different counties: one who resides in a county encompassing a city of the metropolitan class (Douglas), one residing in a county with a population between 100,000 and 400,000 (Lancaster or Sarpy), and one residing in a county with less than 100,000 inhabitants (remaining counties).

Section 2 allows the committee to recommend legislative changes to the Conveyance Safety Act to the commissioner.

Section 3 expands the Act's applicability to include platform lifts and stairway chair lifts in private residences when the conveyance is installed or when there is a transfer of ownership of the private residence.

Section 4 allows property owners to request inspection for conveyances used exclusively for agricultural purposes. AM 875 clarifies the Act does not apply to stairway chair lifts and platform lifts, except when they are installed in private residences or there is a transfer of ownership of that private residence. AM 875 expands the Act's applicability to all counties within the state.

Section 5 makes the licensure requirement to wire, replace, remove or dismantle an existing conveyance statewide.

Section 6 provides notice of the new inspection and licensure requirements to those conveyance owners not currently under the law for a one year period of January 1, 2016 through December 31, 2016. Then, those inspection and licensure requirements become effective statewide beginning January 1, 2017 as noted in Sec. 8.

Section 7 repeals 30 day licenses.

Section 8 operative date of January 1, 2017.

Section 9 repealer.

Section 10 repealer.

SUMMARY OF BILLS THAT FAILED ADVANCEMENT

LB 494 (Nordquist) Change minimum wage for persons compensated by way of gratuities *[Placed on General File March 17. Failed to advance to Enrollment and Review Initial April 14.]*

Section 1 increases the minimum wage for people paid by tips. Currently, those individuals are paid cash wages at a minimum rate of \$2.13/hour. LB 494 increases that wage until it reaches 50% of the standard minimum wage prescribed in §48-1203(1).

Specifically, LB 494 increases the wage to \$3.00 for the first year following the effective date of this act. Each year thereafter, the minimum wage will equal to the preceding year's amount plus the lesser of \$.95 or the amount necessary to equal 50% of the standard minimum wage (rounded to the nearest multiple of five cents).

Section 2 Every employer subject to the Wage and Hour Act is required to post minimum wage amounts in effect.

The Commissioner of Labor is required to calculate the minimum wage amounts and provide notice free of charge to employers regarding the amounts, changes, and effective dates of minimum wages.

Section 3 repealer.

The committee amendment would have increased the minimum wage for those individuals paid by tips. The committee amendment failed adoption. Specifically, the committee amendment would have amended the following sections:

Section 1 AM 647 increases the minimum wage for those individuals paid by tips. Beginning August 1, 2015, the cash wage increases from the current rate of \$2.13/hour to \$2.35/hour through December 31, 2015. Then, beginning January 1, 2016, the rate increases to \$2.64/hour.

Section 2 Every employer subject to the Wage and Hour Act is required to post the minimum wage amounts in effect.

Section 3 repealer.

Section 4 emergency clause.

LB 599 (Ebke) Provide a minimum wage for certain young student workers *[Placed on General File February 27. Placed on Select File April 20. Placed on Final Reading May 1. Failed Final Reading May 15.]*

LB 599 requires employers to pay wages of \$7.25 an hour to young student workers. Of the employer's workforce, no more than one-fourth of the total hours paid can be at this rate.

Young student workers are those who are 18 years old or younger, attend a public or private high school and are not student-learners employed as part of a bona fide vocational training program or are paid according to section 48-1203.01.

The committee amendment amends the young student workers wage rate from \$7.25 an hour to a rate of at least \$8.00 an hour. The operative date of the bill would be January 1, 2016. The committee amendment was adopted.

AM 1412, introduced by Senator Kuehn, was adopted on Select File. The amendment included language to account for the federal requirement that this class of workers must be paid at least 85% of the federal minimum wage. It also changed the definition of young student worker. Under this amendment, a young student work means any person who (i) is eighteen years of age or younger, (ii) does not have a high school diploma, and (iii) does not have a dependent child.

SUMMARY OF CARRYOVER LEGISLATION

LB 83 (Cook) Provide certain protections for employees related to wage disclosure

Provides that under the Nebraska Wage Payment and Collection Act, an employer cannot require nondisclosure by an employee of his/her wages. The employer cannot:

- Require nondisclosure as a condition of employment,
- Require the employee to sign a waiver denying his/her right to disclose wages,
- Take any adverse employment action for disclosing wages,
- Coerce, intimidate or threaten the employee related to wage disclosure, or
- Retaliate against an employee for disclosing wages.

The bill does not permit an employee to disclose proprietary or trade secret information or to disclose another employee's wage to a competitor. If an employer provides an employee handbook, notice of employees' rights to wage disclosure must be contained therein.

If an employer violates this section, the employee may bring a civil action. If the court finds for the employee, the court must order costs of the action and reasonable attorney's fees to be paid by the employer. Additionally, the court may order reinstatement, back pay, restoration of lost service credit, expungement of adverse records, or other money damages.

LB 133 (Ebke) Change interest rate provisions on certain Nebraska Workers' Compensation Court Awards [*Provisions/portions amended into LB 480*]

Amends section 48-125 pertaining to late payments and penalties for workers' compensation benefits. LB 133 would change the interest rate calculation from the 14% interest employed in section 45-104.01 to the rate calculation provided in section 45-103. The judgment rate in section 45-103 is equal to 2 percentage points above the bond investment yield, as published by the U.S. Secretary of Treasury. As of January 16, 2015, the judgment interest rate is 2.132%.

LB 134 (Johnson) Change provisions relating to first injury reports under the Nebraska Workers' Compensation Act

Addresses the confidentiality of first injury reports filed with the workers compensation court.

Section 1 requires first injury reports be kept confidential and not open to public inspection. The employee may elect to waive confidentiality, and also has the right to revoke that election. The court must deny any inspection requests unless an exception applies. The exceptions include: (1) when the requester is the injured employee or employee's attorney or agent, (2) when the requester is the employer or insurer, (3) when the requester is authorized by the insurer or third-party administrator who is involved in administering the claim or an attorney representing a party to the relevant lawsuit, (4) when the report will be used for an investigation or to compile statistical information, (5) when it will be used to identify the number and nature of injuries associated with a particular employer, (6) when the report is a pleading, (7) and when it is ordered by a court.

Section 2 repealer.

LB 158 (McCollister) Deny compensation under the Nebraska Workers' Compensation Act in situations of false representation [*Provisions/portions amended into LB 480*]

LB 158 would, under the Workers' Compensation Act, deny benefits if an employee knowingly and willfully made false statements regarding his/her physical or medical condition in the course of entering into employment or at the time of receiving notice of the removal of conditions from a conditional offer of employment.

Under the Workers' Compensation Act, employees will receive benefits if injured on the job, unless the employer proves the injury was the result of the employee's *willful negligence* (§48-101). This section addresses a recent Nebraska Supreme Court decision, *Bassinger v. Nebraska Heart Hospital*, 282 Neb. 835 (2011). The court overruled its previous case, *Hilt Truck Lines, Inc. v. Jones*, 204 Neb. 115 (1979), which authorized an affirmative misrepresentation defense.

Bassinger, a CNA, responded on the hospital's preemployment questionnaire that she had suffered one previous work-related back injury. However, she did not report another back injury sustained on the job for a different employer. The hospital hired Bassinger. Bassinger subsequently suffered a back injury while lifting a patient.

The hospital argued that the misrepresentation defense is supported by the Act because, "§48-102 creates an affirmative defense for injury caused by an employee's willful negligence." *Bassinger* 282 Neb. at 843. The court disagreed, finding that the statute applied to an *employee's* willful negligence, not an *applicant's*.

The court found that the misrepresentation defense is not supported by the legislative intent of the Workers' Compensation Act. The Act sought to reduce litigation with a compromise of certain benefits, while limiting evidence of fault. Because of this broad goal, courts have liberally construed the Act. Further, the Workers' Compensation Court is one of limited jurisdiction, only granted authority per the Legislature, and cannot rule on equitable matters.

Similar legislation was introduced in previous years.

LB 251 (Nordquist) Adopt the Veterans Subsidized Training and Employment Act

Section 1 creates the Veterans Subsidized Training and Employment Act.

Section 2 definitional section defining armed forces, control with regard to a corporation, department, eligible business, new employee, on-the-job training, and related person.

Section 3 creates the Veterans Subsidized Training and Employment Program. The program provides grants to eligible businesses to subsidize part of the costs of on-the-job training and compensation for new employees for the first 180 calendar days following the hire date. No business receiving a grant of this act may receive another grant for the same employee. The program will be administered by the Department of Labor.

At the discretion of the Commissioner, the Veterans Subsidized Training and Employment Program fund may be used to retain outside consultants to develop and operate the program. The department will consult with the Nebraska Workforce Investment Board and local workforce investment boards concerning the program.

For FY 2015-16, the department may use up to 4% of the funds appropriated for marketing.

Section 4 permits an eligible business to apply to the department for a grant to subsidize on-the-job training and wages for a new employee. The Commissioner must approve the applicant's proposed training prior to grant funds being awarded.

The grant amounts are as follows. For the first 30 days the employee is hired, 100% of the wage (excluding benefits) is paid so long as it is not more than \$20/hour. The 31st through the 90th calendar day of employment, it is reduced to 75%. Days 91 through 150 the amount is 50%, and the 151st day through the 180th day is reduced to 25%. If the new employee leaves employment with the business, the grant is cancelled.

Section 5 Beginning in 2016, the Commissioner must report the number of businesses that participated in the program, the general categories of the businesses, the number of people who received employment through the program, the number of applicants denied grant funding and the reason for denial, the amount of grant funding awarded, and the program's costs. This report is submitted to the Governor and Clerk of the Legislature no later than September 1 of each year for the prior fiscal year.

Section 6 The Commissioner may promulgate rules and regulations to carry out the act.

Section 7 establishes the Veterans Subsidized Training and Employment Program Fund, which will consist of money appropriated by the Legislature. The fund will be used to administer the act, and available funds will be invested pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. For FY 2015-16, \$2.5 million will be appropriated to the fund.

LB 288 (Ebke) Prohibit public employers from making certain deductions from wages

LB 288 would prohibit public employer collective-bargaining agreements from containing provisions that require or allow deductions of dues from public employee's wages. LB 288 prohibits public employers from deducting dues from public employee's wages on behalf of a union, collective-bargaining organization, or other professional association, except those agreements entered into prior to the effective date of the act.

LB 363 (Nordquist) Provide time limits and penalties for late medical payments under the Nebraska Workers' Compensation Act [*Provisions/portions amended into LB 480*]

LB 363 amends section 48-125 concerning the payment of workers' compensation benefits. Specifically, LB 363 applies the same 30 day payment timeline and 50% late waiting time penalty

that is currently applied to indemnity or wage replacement payments to late medical payments. Similar legislation was introduced in 2013.

LB 388 (Hansen) Provide annual adjustments for total disability income benefits under the Nebraska Workers' Compensation Act

LB 388 would apply a COLA to workers' compensation total disability benefits. Benefits amount to two-thirds of the average weekly wage. There is a statutory formula which determines the maximum amount a worker may receive. This amount is adjusted annually. However, the total disability benefit amount will never change for the worker. LB 388 would apply the same adjustment formula to the actual total disability benefit award.

Similar legislation has been previously introduced. Concern was raised about the cost of increasing benefits and how the policy would change the compromise that workers' compensation was intended to address (that employees did not have to prove causation and employers paid a fixed amount in benefits). Proponents argue that providing for an annual COLA keeps the burden of the injury on the employer instead of shifting the burden to the employee and taxpayers by way of public subsidies.

LB 429 (Smith) Provide for medical utilization and treatment guidelines under the Nebraska Workers' Compensation Act

Currently, there are no standard medical treatment guidelines in use in Nebraska. LB 429 would apply to medical, surgical, and hospital services under the Nebraska Workers' Compensation Act provided on or after January 1, 2016.

Section 1 provides that medical, surgical and hospital services under the Act are to be provided in accordance with the Official Disability Guidelines (ODG) published by the Work Loss Data Institute as of January 1, 2015. Subsequent revisions are to be adopted annually and will be effective on January 1 of the following year.

Medical, surgical and hospital services provided in accordance with ODG are conclusively presumed to be reasonable and necessary. For services outside of the ODG to be deemed reasonable and necessary, prior authorization is required. Carriers, risk management pools and self-insured employers are not responsible for charges for medical services that are not provided in accordance with the ODG, with certain exceptions.

The Nebraska Workers' Compensation Court may promulgate rules and regulations to implement this section.

Section 2 creates a rebuttable presumption that the findings of an independent medical examiner are correct.

Section 3 adds section 1 to the Act.

Section 4 repealer.

LB 493 (Nordquist) Adopt the Healthy and Safe Families and Workplaces Act

Section 1 creates the Healthy and Safe Families and Workplaces Act.

Section 2 definitional section. Defines for purposes of the Act (1) Commissioner, (2) Department, (3) Domestic assault, (4) Employee, (5) Employer, (6) Family member, (7) Health care professional, (8) Paid sick and safe time, (9) Sexual assault, and (10) Stalking.

Section 3 beginning on the first day of employment, employees will accrue a minimum of 1 hour of paid leave for every 30 hours worked. Employees who are exempt from overtime requirements under the FLSA will be assumed to work 40 hours a week. If their normal work week is less than 40 hours, leave will accrue based on that normal work week.

Unless the employer selects a higher cap, this leave is capped at 40 hours per calendar year. Unused leave will be carried over to the next year so long as it does not exceed 40 hours.

An employer with a paid leave policy, such as PTO, that meets the Act's accrual requirements for paid sick and safe time leave and which can be used under the same circumstances, is not required to offer additional paid sick and safe time.

When an employee resigns, retires, is fired, or is otherwise separated from employment, the employer does not have to pay out for unused sick and safe time leave. If an employee is transferred within the company, the accrued leave will follow the employee. If there is a separation of employment and the employee is rehired by the same employer within 6 months, the employee is entitled to the unused leave he/she had accrued prior to separation.

Employees can begin using their accrued leave on the 16th calendar day following employment. Employees can only use this leave as it is accrued, unless the employer loans this leave in advance of accrual.

Section 4 Paid leave will be provided for an employee or for the employee to care for a family member for a mental or physical illness or injury, a diagnosis or treatment of an illness or injury, or the need for preventative medical care. Paid leave is also provided for absence necessary as the result of domestic assault, sexual assault or stalking of an employee or family member in order to obtain medical attention, services from a victim services organization, counseling, relocation, or legal services.

Paid leave must be provided upon the employee's oral request as soon as possible. If the leave is foreseeable, the employee must make a good faith effort to provide notice of the need for sick and safe time leave.

An employer cannot require the employee requesting leave to find a replacement to cover the hours he/she will be gone.

If the use of paid sick and safe time leave exceeds 3 consecutive workdays, the employer may require reasonable documentation as outlined in the section. The employee must provide such documentation no later than 30 days after the first day of the period of time in which the employee requested leave. Any information provided regarding this leave must be confidential.

Section 5 It is unlawful for any person to interfere with another's rights under this Act. An employer cannot retaliate or discriminate against an employee for using this leave, for filing a complaint against the employer for violation of the Act, or for informing another person of his/her rights under the Act.

It is unlawful for an employer to count an employee's use of this leave as absence under its absence control policy and then take any adverse action against the employee, such as discipline, discharge, or demotion.

This section applies to good faith alleged violations.

Section 6 Employers must give notice when the employee is hired that employees are entitled to paid leave under the Act, the amount of leave, the terms of use, and employee's rights against employer retaliation.

Section 7 An employee or another person may report a suspected violation to the Commissioner. The Commissioner will keep the name of the employee or person reporting a violation or other identifying information confidential so far as permitted by law. If the reporting individual authorizes disclosure, the Commissioner may disclose that information. The Department may conduct an investigation, to include witnesses and examination of employer's books, records and other documents.

The Commissioner must assess an administrative penalty against an employer who violated the Act no more than \$500 for the first violation and no more than \$5,000 for a second or subsequent violation. Once the Commissioner notifies the employer of the penalty, the employer has 15 working days to contest the penalty. The Commissioner will provide a hearing in accordance with the Administrative Procedures Act.

Any person aggrieved by a violation of the Act may bring a civil action in court. The person does not have to file an administrative complaint first. If the aggrieved party prevails, he/she will recover the full amount of any unpaid leave and attorney's fees.

Section 8 Employers are free to offer a more generous paid sick and safe time leave policy.

Section 9 Department of Labor will administer and enforce the Act and may promulgate rules.

Section 10 severability clause.

LB 555 (Harr) Deny claims made against the state

There were no denied claims reported to the Legislature.

LB 556 (Kolowski) Waive workers' compensation as the exclusive remedy if an employer is willfully negligent

LB 556 would, at the option of the employee, make the exclusive remedy protection for the employer inapplicable in cases where the Nebraska Workers' Compensation Court has made a determination that the injury was due to the willful negligence of the employer. If the Workers' Compensation Court finds the employer was willfully negligent, that finding will be binding on the parties in any subsequent action for damages.

LB 600 (Ebke) Change provisions relating to the investment of trust funds for self-insurers under the Nebraska Workers' Compensation Act [*Provisions/portions amended into LB 480*]

Under the Workers' Compensation Act, self-insured employers must meet certain financial security requirements to ensure sufficient funds are available to pay work comp claims if the employer becomes insolvent. According to the Nebraska Workers' Compensation Court Rules of Procedure, this security requirement can be in the form of either a surety bond or an irrevocable workers' compensation trust agreement.

A provision in the irrevocable trust agreement states that self-insured employers choosing to establish a trust are limited to investments which are obligations of the United States or its agencies, or which are federally insured.

LB 600 would expand the authority to invest funds held in an irrevocable workers' compensation trust to allow for investments in the same manner that insurers are allowed to invest funds reserved to pay claims under the Insurer's Investment Act.

LB 611 (Kintner) Require private employers to use the E-Verify Program

Beginning on January 1, 2016, LB 611 requires every private employer to use a federal immigration verification system to determine work eligibility status of new employees physically working in Nebraska. This is an expansion of statute section 4-114 which requires public employers and contractors to use e-verify on new hires.

Any private employer that violates this section is subject to a civil penalty not to exceed \$2,000. If the Attorney General or county attorney in which the violation occurred knows of a violation, the attorney must institute an action to collect the penalty. Money collected from such action is then remitted to the State Treasurer for distribution to the county in accordance with Article VII, section 5 of the Nebraska Constitution.

A contractor is not held accountable under this section if the subcontractor doesn't comply with the use of an e-verify system, unless the contractor is aware of the noncompliance.