

A Review:
Ninety-Second Legislature
Second Session and
Second Special Session, 1992

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Introduction

The following report provides a summary of significant legislative issues addressed during the second session and the second special session of the Ninety-Second Legislature of Nebraska. The report briefly describes many, but by no means all, of the issues which arose during the session. Every attempt has been made to present information as concisely and as objectively as possible. The report is comprised of information gathered from legislative records, committee chairpersons, committee staff members, and the *Unicameral Update*.

Summaries of bills from the second session can be found under the heading of the Legislative committee to which each was referred. Because the subject matter of some bills relates to more than one committee, cross referencing notes have been included, as needed, at the end of each committee section. Summaries of the four bills passed during the second special session are not broken out by committee, but are grouped together beginning on page 67. A bill number index has also been included for ease of reference.

The authors wish to acknowledge the contributions of the committee personnel who assisted us along the way. Additionally, a special "thank you" goes to Nancy Cherrington of the Legislative Research Division for her assistance in formatting and producing the report and to the other administrative support staff of the Legislative Research Division.

AGRICULTURE COMMITTEE
Senator Carson Rogers, Chairperson

Legislative Bills Enacted Into Law

LB 366—Change Provisions Relating to Agriculture (Rogers)

LB 366 amended a number of agriculture-related statutes and incorporated, in whole or in part, LB 959, LB 960, and LB 961.

Specifically, LB 366 established or amended the Commercial Feed Act, the Animal Importation Act, the Nebraska Commercial Fertilizer and Soil Conditioner Act, the Food Vending Code, the Retail Food Code, and the Nebraska Pure Food Act. The bill provided new standards and procedures relating to the agricultural activities regulated by the acts, and it adopted procedures developed by the United States Department of Health and Human Services pertaining to single-service containers and closures for milk and milk products.

LB 366 also established rules and regulations governing grain warehouses. The bill adjusted grain storage fee schedules and adopted the standards of the National Conference on Weights and Measures in existence on June 30, 1992.

LB 366 was passed with the emergency clause by a vote of 38-0-11 and was approved by the Governor on April 15, 1992.

Measures Not Enacted Into Law

LB 349—Federal Insecticide, Fungicide, and Rodenticide Act (R. Johnson)

LB 349, the priority bill of the Agriculture Committee, called for Nebraska to join the other forty-nine states in implementing the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Nebraska is the only state which has not taken over administration of FIFRA from the federal Environmental Protection Agency (EPA). LB 349 designated the Nebraska Department of Agriculture (the department) as the lead state agency in administering FIFRA.

The bill authorized the department to enter into agreements with state and federal agencies to administer pesticide laws and to receive and allocate funds to carry out FIFRA. It also authorized the Director of Agriculture, a county attorney, or the Attorney General to institute proceedings in district court when a violation of FIFRA occurs.

Local governments were prohibited by the bill from adopting standards regulating pesticides which are more restrictive than those adopted by the Legislature. The bill directed the Cooperative Extension Service of the University of Nebraska to instruct private and commercial applicators in the use of restricted use pesticides and provided

that anyone who knowingly violated provisions relating to the use of restricted use pesticides would be guilty of a Class V misdemeanor.

LB 349 did not advance from General File.

APPROPRIATIONS COMMITTEE
Senator Scott Moore, Chairperson

Legislative Bills Enacted Into Law

LB 1022--Provide for Deficiency Appropriations for State Agencies
(Baack, at the request of the Governor)

LB 1022 provided for adjustments to the state budget as recommended by the Appropriations Committee. The bill contained provisions from a number of other bills, including LB 943, LB 1047, LB 1056, LB 1088, and LB 1235. A discussion of some of the more significant funding issues addressed in LB 1022 follows.

LB 1022 was passed with the emergency clause by a vote of 40-2-7 and was approved by the Governor on April 11, 1992.

Medicaid

Effective October 1, 1992, the federal matching rate for Medicaid dropped from 64.5 percent to 61.32 percent. The matching rate applies not only to Medicaid but also to Aid to Families with Dependent Children, Title IV-A Day Care, Title IV-E Foster Care, and Title IV-B Adoption Assistance. LB 1022 provided for additional appropriations of almost \$13.8 million in these areas with an annualized impact of \$18 million in future fiscal years.

The matching rate is adjusted annually based on a formula which compares a state's per capita income to the average national per capita income for the most current three-year period. The rate can range from a minimum of 50 percent to a maximum of 83 percent. Every one percent reduction in the matching rate is estimated to have an annualized impact on the state's General Fund of \$5.6 million. Based on projections as of October 1992, increased utilization, health care costs, and other factors are expected to increase Medicaid costs by at least \$90 million during the next biennium.

EPSCOR

The Experimental Program to Stimulate Competitive Research (EPSCOR) is a federal program designed to assist 18 selected states and the Commonwealth of Puerto Rico in bringing the quality of research to a level that would allow them to compete successfully for federal grants and other funding. Nebraska submitted its EPSCOR proposal, including a statewide planning and evaluation process, to the National Science Foundation (NSF) in February 1992. If its proposal is successful, Nebraska is eligible to receive \$1.3 million from the NSF if these funds can be matched dollar-for-dollar with nonfederal money. LB 1022 allocated \$650,000 for EPSCOR. An additional \$650,000 will come from private funds.

EPSCOR has an impact of \$2.6 million for FY 92-93 and a potential impact of \$7.8 million over the next three fiscal years.

Railroad Carline Tax Refunds

LB 1022 appropriated \$3,466,257 to the Department of Revenue to settle claims filed by railroad carline companies. The state was found liable to the carline companies following a series of lawsuits in which the companies sought refunds of personal property taxes paid in tax years 1983, 1984, 1985, and 1986.

The Governor recommended funding these settlements in a January 31, 1992, letter to Senator Scott Moore, chairperson of the Appropriations Committee.

Compliance with the Americans with Disabilities Act

The federal Americans with Disabilities Act (ADA) requires all buildings open to the public to be free of structural or other barriers to access for persons with disabilities. While the ADA's economic impact is not clear, the state could be faced with substantial barrier-removal costs.

LB 1022 earmarked \$125,000 to enable the Department of Administrative Services to conduct a survey of all state buildings and to develop a cost estimate and transition plan for bringing the state into compliance with the ADA.

Measures Not Enacted Into Law

LB 391—Reimbursement of Political Subdivisions for Personal Property Tax Losses (Byars and L. Johnson)

LB 391 provided \$1.75 million to reimburse political subdivisions for that portion of personal property tax losses not reimbursed by the state in Laws 1990, LB 290. The bill was advanced to General File with committee amendments which provided \$30 million to reimburse political subdivisions for personal property tax losses pursuant to recent decisions of the Nebraska Supreme Court.

LB 391 did not advance from General File.

LB 241 and Other Legislative Bills Earmarking Cigarette Tax Receipts For Capital Construction

Because of the upcoming expiration of existing cigarette tax revenue earmarks, there were a number of bills introduced containing proposals for the use of this soon-to-be-available revenue.

- ★ LB 241 extended the earmarks to the University Buildings Renovation and Land Acquisition Fund and the University Facilities Construction Fund to be used to finance numerous proposed university capital construction projects.

LB 241 did not advance from committee.

- ★ LB 541 redirected the amount earmarked to the University Facilities Construction Fund to the Scholarship Assistance Program, the State Scholarship Award Program, and the Nebraska Cancer Research Fund.

LB 541 did not advance from committee.

- ★ LB 799 extended the earmarks to the State College Buildings Renovation and Land Acquisition Fund and the State College Facilities Improvement Fund to be used to finance several proposed state college capital construction projects.

LB 799 did not advance from committee.

- ★ LB 848 redirected the amount earmarked to the University Facilities Construction Fund to the Correctional Facilities Construction Fund for use in capital construction projects within the Department of Correctional Services beginning in FY 92-93.

LB 848 did not advance from committee.

For additional bills related to cigarette tax receipts, see the Revenue Committee section.

BANKING, COMMERCE AND INSURANCE COMMITTEE
Senator David Landis, Chairperson

Legislative Bills Enacted Into Law

LB 470—Branch Banking (Schmit and Crosby)

LB 470 allowed banks to establish an unlimited number of branch banks in Douglas and Sarpy counties. The bill also increased the number of branch banks which can be established in Lancaster County from six to nine. Banks cannot establish more than six branch banks in all other Nebraska counties. Existing branches of banks acquired by merger or acquisition will not count against the total number of branches allowed under this bill. Under certain conditions, if an acquired bank has not established the maximum allowable number of branches in the county, then the acquiring bank may establish new branch banks to the extent that the acquired bank could have done so had the merger or acquisition never taken place.

LB 470 also limited branching rights of state-chartered savings and loan associations to those established for banks.

The bill passed with the emergency clause by a vote of 37-4-8 and was approved by the Governor on March 25, 1992.

LB 269—Origination Fees Under the Nebraska Installment Sales Act (Haberman)

LB 269 amended the Nebraska Installment Sales Act to allow a seller to charge an origination fee of not more than \$10 and to collect the fee from the buyer or to add the fee to the principal balance owed by the buyer at the time the installment sale contract is executed. The fee will be refunded if the contract is cancelled within 30 days of execution.

LB 269 was passed by a vote of 33-0-16 and was approved by the Governor on February 18, 1992.

LB 641—Credit Union Act Fund (Pirsch)

LB 641 incorporated provisions of LB 449 and LB 450. The bill created the Credit Union Act Fund (CUAF). Money from the National Credit Union Share Insurance Fund will be placed in the CUAF. The CUAF will be used by the Department of Banking and Finance to offset the cost of regulating federally insured, state-chartered credit unions.

The bill also authorized credit unions to make unsecured loans in excess of \$4500 and it amended the Nebraska Trust Deeds Act to place credit unions on a par with banks and savings and loan associations by allowing a credit union to act as a trustee of a trust deed.

LB 641 was passed by a vote of 39-0-10 and was approved by the Governor on February 28, 1992.

LB 835—Comprehensive Health Insurance Pool (Wesely and Lynch)

The Legislature considered three bills which proposed changes in the Comprehensive Health Insurance Pool (CHIP) during the 1992 regular session: LB 835; LB 1220, portions of which were amended into LB 835 and LB 1006; and LB 1006. LB 1006 was a comprehensive insurance bill and is discussed in depth later in this report.

CHIP is a nonprofit entity created by state law which has the powers of an insurance company and provides health insurance coverage to Nebraska residents who have preexisting medical conditions and cannot obtain coverage from insurance companies. CHIP currently provides health insurance coverage to more than 3,000 policyholders. CHIP is managed by a nine-member board which selects, through a competitive bidding process, an insurer to administer the pool.

The CHIP policy is structured to provide benefits similar to the policies issued by the five insurance companies writing the largest amounts of individual health insurance in Nebraska. The CHIP premium rate structure is established annually as a percentage of the "standard risk rate" which is the average individual rate charged by these five insurers. Section 44-4227 requires that the CHIP premium rate structure be established at 135 percent of the standard risk rate.

The premiums paid by the policyholders are not enough to cover the cost of operating CHIP. The deficit is funded by assessments made against insurance companies on the basis of the proportion of health insurance annually written and renewed by each company in Nebraska. Insurance companies can offset their CHIP assessments against their tax liability on premium income.

As with most health care costs, the costs of CHIP are escalating. One area affected by these increasing costs is the amount of insurance company assessments. One insurance company is approaching the point at which its assessment could exceed its available offset, and the same is expected to happen to other companies in the next few years.

A major feature of LB 835 was that it limited, for three years, an insurance company's assessments for CHIP to its total premium tax liability. In other words, insurance companies cannot be assessed more for CHIP than the amount of premium tax the company has available for offset.

Portions of LB 1220 and LB 978 were amended into LB 835:

- ★ LB 1220 authorized a person whose health coverage is involuntarily terminated and who is not eligible for a conversion policy or a continuation-of-coverage policy or contract available under state or federal law to apply for CHIP coverage. If the application is made within sixty days after the involuntary termination and if premiums are paid to CHIP for the entire coverage period, any waiting period or preexisting condition exclusions provided for under CHIP will be waived to the extent similar exclusions under the previous health coverage have been satisfied.

- ★ LB 978 broadened the definition of veteran to include a veteran of the conflict in Lebanon, Grenada, or Panama for purposes of eligibility for aid for needy veterans from the Veterans' Aid Income Fund.

LB 835 was passed by a vote of 44-0-5 and was approved by the Governor on April 14, 1992.

LB 984—Grant State-Chartered Credit Unions the Same Powers as Federally Chartered Credit Unions (L. Johnson and Wehrbein)

LB 984 was referred to as "the credit union wild card bill". The bill gave state-chartered credit unions the same rights, powers, privileges, benefits, and immunities as federally chartered credit unions.

LB 984 was passed with the emergency clause by a vote of 40-0-9 and was approved by the Governor on March 9, 1992.

LB 985—Grant State-Chartered Savings and Loan Associations the Same Powers as Federally Chartered Savings and Loan Associations (L. Johnson and Wehrbein)

LB 985 was referred to as the "savings and loan wild card bill". The bill gave state-chartered savings and loan associations the same rights, powers, privileges, benefits, and immunities as federally chartered savings and loan associations.

LB 985 was passed with the emergency clause by a vote of 40-0-9 and was approved by the Governor on March 9, 1992.

LB 907—Nebraska Uniform Transfers to Minors Act (Landis)

LB 907 changed Nebraska law governing gifts or bequests to minors. The bill repealed the Uniform Gifts to Minors Act and sections 43-2301 to 43-2305 regarding bequests by testators to minors and adopted the Nebraska Uniform Transfers to Minors Act (NUTMA).

NUTMA provides for the creation of an adult or institutional custodian to assume control of property transferred to a minor. The custodian holds the property for the benefit of the minor until he or she is no longer a minor. For purposes of NUTMA only, a minor is a person younger than 21 years of age. There is a ceiling of \$10,000 on the value of a transfer pursuant to NUTMA. If the value of a transfer exceeds \$10,000, a conservator must be appointed to receive the property on behalf of the minor.

NUTMA also establishes categories of custodial property and procedures governing the creation of the custodial relationship and places special emphasis on protecting the minor's interest in the custodial property. Receipt and acceptance of custodial property by the custodian must be acknowledged in writing. The custodian must observe the standard of care that would be observed by a prudent person dealing with the property of another. Income tax information must also be maintained and made available by the custodian.

Interested persons may petition for an accounting, and when the custodian is removed or the custodianship is terminated, an accounting is required.

NUTMA provides for the validation of transfers made before the effective date of NUTMA, "grandfathers" transfers made after the effective date of NUTMA but which reference the Uniform Gifts to Minors Act, and allows for the continued emancipation of minors not yet 21 years of age whose custodianship terminated when attainment of 19 years of age triggered termination.

LB 907 was passed by a vote of 44-0-5 and was approved by the Governor on February 28, 1992.

LB 1006—Change and Enact Provisions Relating to Insurance (Landis)

LB 1006 adopted a number of changes in and additions to the statutes relating to insurance. Much of the bill was designed to bring state statutes in line with model legislation proposed by the National Association of Insurance Commissioners (NAIC). LB 1006 included all or a portion of LB 594, LB 993, LB 1136, LB 1146, LB 1220, and LB 1243. A discussion of the subject areas included in LB 1006 follows.

LB 1006 was passed with the emergency clause by a vote of 38-0-11 and was approved by the Governor on April 15, 1992.

Surplus Lines Insurance

LB 1006 amended and transferred sections 44-139 to 44-147.06 to create the Surplus Lines Insurance Act which gives the Director of Insurance the power to prohibit surplus lines licensees from doing business with "alien" carriers and nonadmitted foreign carriers which do not meet surplus, capital, and reserve requirements set out in the act. Insurance carriers failing to meet the established financial requirements are prohibited from transacting surplus lines insurance business within the state. Surplus lines licensees are also prohibited from selling life insurance, variable life insurance, variable annuities, and sickness and accident insurance. Licensees violating the act will be guilty of a Class III misdemeanor. The Director of Insurance may issue cease and desist orders to enforce the terms of the act.

Life Insurance Procured By Charitable Organizations

Section 44-704 was amended to allow charitable organizations to procure life insurance on the lives of contributors. The contributor must give written consent to the issuance of the policy, but the charitable organization is not required to have an insurable interest in the contributor's life. Section 44-704 was also amended to allow an individual who owns a policy insuring his or her own life to transfer or assign the policy to a charitable organization.

Unfair Insurance Claims Settlement Practices

The Unfair Insurance Claims Settlement Practices Act was amended to make requiring a claimant or an insured to use a particular company or location for motor vehicle glass repair or replacement an unfair claims settlement practice. Insurers may enter into business relationships or affiliations which reduce the cost of glass repair and replacement if the claimant or insured has the right to select a particular company or location. If the claimant or insured uses a company or location other than the company or location which provided the lowest estimate for like kind and quality repair or replacement, the insurer is not liable for any cost exceeding the lowest estimate.

Medical Malpractice

The Nebraska Hospital-Medical Liability Act was amended to increase the maximum amount recoverable under the act from \$1 million to \$1.25 million for acts of malpractice occurring after December 31, 1992.

Medicare Supplement Insurance

The Medicare Supplement Insurance Minimum Standards Act was amended to conform to recent NAIC model legislation. The Director of Insurance was authorized to formulate rules and regulations to establish minimum coverage standards and to bring Medicare supplement policies and certificates in conformity with federal law. The disclosure of the existence of any automatic renewal premium increases based on the policyholder's age was required to be included in the summary of coverage provided to an applicant for Medicare supplement insurance.

Comprehensive Health Insurance Pool

LB 1006 amended the Comprehensive Health Insurance Pool (CHIP) to provide that a person who is eligible for Medicare other than by reason of age, including a person with disabilities, does not automatically become ineligible for initial or continuing CHIP coverage. In such a case, Medicare would remain the primary insurer and CHIP would cover any remaining expenses.

Long-Term Care Insurance

LB 1006 made a number of technical changes to bring the Long-Term Care Insurance Act into conformity with recent NAIC model legislation.

Section 44-4509 was amended to require long-term care insurance to provide for the payment of benefits based upon cognitive impairment or the loss of functional capacity. In addition, the bill provided that the definition of long-term care insurance not include those life insurance policies which accelerate the death benefit specifically for events such as terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement; and which provide the option of a lump-sum payment of benefits in such case; and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

Section 44-4513 was amended to prohibit any requirement of prior institutionalization as a condition of eligibility to receive long-term care insurance benefits. An individual's eligibility to receive a waiver of premium, post-confinement, postacute care, and recuperative benefits can still be conditional.

Reinsurance

The NAIC version of the Reinsurance Intermediaries Act was adopted in LB 1006. The act provides licensing requirements for reinsurance intermediaries, makes activities relating to reinsurance subject to the Insurance Holding Company System Act and the Producer-Controlled Property and Casualty Insurer Act, and authorizes the Director of Insurance to examine reinsurance intermediaries and to impose administrative penalties, including license revocation, upon violators of the act.

Producer-Controlled Property and Casualty Insurers

The NAIC model Producer-Controlled Property and Casualty Insurer Act was adopted in LB 1006. The act authorizes the Director of Insurance to regulate the relationship between controlling producers and controlled insurers. Any entity or insurance broker who aids an insured in the solicitation, negotiation, or procurement of an insurance policy falls within the act's definition of a producer. The act requires disclosure of the relationship between the producer and the insurer to all prospective insureds.

The act also requires annual audits of a controlled insurer by independent auditors and actuaries. The results of these audits must be filed with the Department of Insurance.

The act applies if, in any year, a controlled insurer receives gross written premium income from business placed by a controlling producer which equals five percent or more of the assets of the insurer. The Director of Insurance may issue administrative penalties and cease and desist orders to violators of the act.

Third-Party Administrators

The NAIC model of the Third-Party Administrator Act was adopted in LB 1006. The act authorizes regulation of the activities of third-party administrators (TPAs). A TPA is defined as "a person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this state or residents of another state from offices in this state, in connection with life insurance, sickness and accident insurance, workers' compensation insurance coverage, or annuities."

The act imposes fiduciary duties upon a TPA, including the obligation to disclose the relationship between a TPA and an insurer. The act also requires the insurer to conduct semiannual reviews of the TPA's records and holds the insurer responsible for competent administration of its programs by any TPA with whom it has a relationship.

The Director of Insurance administers the act. The director can impose administrative penalties, including suspension or revocation of the offender's certificate of authority as a TPA, for violations of the act.

Workers' Compensation

LB 1006 provided for increased insurer or employer contributions to the Second Injury Fund and higher assessments by the Nebraska Workers' Compensation Court to cover the cost of administering the self-insurance program. The bill also provided for higher workers' compensation insurance policy deductible amounts and increased contributions to the Vocational Rehabilitation Fund.

Measures Not Enacted Into Law

LB 826—Continuing Care Retirement Community Act (Crosby and Wesely)

The Continuing Care Retirement Community Act was intended to encourage the responsible growth of continuing care retirement communities as an attractive, affordable retirement living alternative for older members of the population. LB 826 authorized the Department of Insurance to regulate providers of continuing care. The bill provided for regular reporting by providers and authorized the Director of Insurance to oversee all provider activities, including disclosure, advertising, and expansion or closure of facilities.

The bill placed restrictions on activities of providers, established standards for investment of required cash reserves, and limited providers' rights to revoke or alter a contract for care. Any contract for care would be required to specifically identify all rights and duties of the respective parties. A Continuing Care Advisory Council was established to review the act and the rules and regulations of the Department of Insurance and to propose changes and consult in specific situations.

LB 826 did not advance from committee.

LB 226—Physical Exercise Club Act (Nelson, Pirsch, and Wesely)

LB 226, the Physical Exercise Club Act, proposed to regulate physical exercise clubs and the contracts entered into by the clubs. In addition to definitions pertaining to physical exercise clubs, the act provided that a contract or assignment of a contract was unenforceable if the proposed contract or assignment was in violation of the act. The act also required contracts to provide for a "cooling off" period of three business days during which the purchaser could cancel a contract and to include a statement that the purchaser had the right to recover amounts paid and attorney's fees if the contract was breached by the physical exercise club.

The act, as amended by the committee, provided that a contract could not exceed thirty-six months in duration. The act required the contract to state whether the physical exercise club had the right to sell the purchaser's obligation to a third party and prohibited the assignment of the contract without prior notice to the purchaser. The

physical exercise club was also required to compile and make available upon request a list of equipment and services available to members. Misrepresentations to current or prospective members were also prohibited.

The act required physical exercise club operators to file registration statements with the Attorney General. Physical exercise clubs which accepted prepayments were also required to establish escrow accounts or to post bonds of \$150,000 with the Attorney General. The Attorney General was authorized to regulate physical exercise clubs and to enforce the act.

LB 226 did not advance from Select File.

LB 395—Investment of State Funds in Banks and Companies Doing Business in and with South Africa (Chambers)

LB 395 amended sections 72-1271 to 72-1276. Under the original terms of the bill, the state had until January 1, 1993, to divest itself of any holdings in the stocks or bonds of any financial institution or company doing business in or with South Africa. Committee amendments deleted the language requiring divestment of state funds by January 1, 1993, and provided that new investments in financial institutions and companies doing business in and with South Africa were prohibited after the effective date of the bill.

LB 395 did not advance from General File.

LB 1260—Prohibit Investment of State Funds in Tobacco Companies (Chambers)

LB 1260 provided that after January 1, 1993, no state funds could be invested in or remain invested in the stock of any tobacco company or in any mutual fund with tobacco company holdings.

LB 1260 did not advance from committee.

BUSINESS AND LABOR COMMITTEE
Senator George Coordsen, Chairperson

Legislative Bills Enacted Into Law

LB 360—Eliminate Rehearings for Workers' Compensation Appeals
(Business and Labor Committee)

LB 360 was the 1992 priority bill of Senator George Coordsen. As enacted, the bill included provisions from LB 328 and LB 1195.

LB 360 changed Nebraska Workers' Compensation Court procedures by eliminating the one-judge hearing and the three-judge panel rehearing. LB 360 provided for a single, one-judge hearing. The record of that hearing can be reviewed by a panel of three judges, but the original decision will not be overturned unless it is clearly wrong. Claimants may appeal decisions of the review panel to the Court of Appeals.

The bill authorized judges of the Nebraska Workers' Compensation Court to appoint a court reporter to record and transcribe hearing testimony and to tax charges for the court reporter as court costs. The bill authorized the court to expedite hearings in emergency situations and to award attorney's fees if the employer is delinquent in making court-ordered medical payments. The bill also allowed the court to correct "plain" errors within ten days of the original court decision.

LB 360 was passed by the Legislature by a vote of 45-0-4 and was approved by the Governor on April 17, 1992.

LB 452—Change Provisions of the Farm Labor Contractors Act
(Business and Labor Committee)

LB 452 made technical changes in the Farm Labor Contractors Act. The act requires all persons who employ seasonal or migrant agricultural workers to be licensed by the Department of Labor. LB 452 added language to clarify who is exempted from the act.

The bill was passed by a vote of 39-0-10 and was approved by the Governor on February 7, 1992.

LB 877—Change Fees Charged for Elevator Inspections (Coordsen)

LB 877 authorized the Commissioner of Labor to set the fees charged for inspections performed by the state elevator inspector at a level sufficient to meet the costs of the elevator inspection program. The bill established an inspection fee of up to \$75 for an elevator serving up to five floors, plus \$5 per additional floor served. Escalator inspection fees cannot exceed \$50 for up to five floors, plus \$5 for each additional floor. The bill also eliminated the exemption from inspection of elevators in state-owned buildings.

LB 877 was passed with the emergency clause by a vote of 44-0-5 and was approved by the Governor on April 15, 1992.

LB 879—Change Provisions Relating to Employee Leasing Companies
(Coordsen)

LB 879 provided for the liability of an employee leasing company for unemployment insurance contributions on wages paid to employees “leased” to client companies. The bill also made a client company liable for all unemployment insurance contributions if an employee leasing company fails to make contributions or to file reports required by the Employment Security Law.

LB 879 passed by a vote of 42-0-7 and was approved by the Governor on March 4, 1992.

Measures Not Enacted Into Law

LB 145—Family Medical Leave Act (Wesely, Chambers, Schimek, Schellpeper, Morrissey, and Bernard-Stevens)

LB 145 established the Family Medical Leave Act. As introduced, LB 145 applied to any person or business employing 50 or more people, to cities or villages employing 25 or more people, to the state, and to political subdivisions. The act provided for employees to be eligible for up to eight consecutive weeks of unpaid family medical leave in any two-year period. The act limited family medical leave to situations involving the birth or adoption of the employee’s child or a serious health condition of the employee or his or her child, parent, or spouse. The act required an employer to reinstate an employee returning from family medical leave to his or her former job or an equivalent position. The act also prohibited an employer from firing or penalizing an employee who took family medical leave.

The bill was amended by the committee to reduce the maximum amount of family medical leave to six weeks in any two-year period. Amendments also made the act applicable only to persons or businesses employing 100 or more people.

LB 145 did not advance from General File.

LB 876—Exempt Children From Child Labor Laws When Employed By Their Parents (Coordsen)

LB 876 exempted a parent who employs his or her child in a family-owned or family-operated business from Nebraska’s child labor laws. The bill offered no exemption to a parent who employs his or her child in an immoral or dangerous activity or at a dangerous location.

LB 876 did not advance from General File.

LB 936—Redefine “Occupational Disease” for Workers’ Compensation Purposes (Will)

LB 936 called for an expansion of the definition of “occupational disease” for Workers’ Compensation purposes to include cumulative trauma injuries. Cumulative trauma injuries are those injuries caused by repetitive activity such as carpal tunnel syndrome of the wrist or back injury from repeated bending and lifting.

LB 936 did not advance from General File.

LB 951—Change Provisions Relating to Discriminatory Employment Practices (Schimek, Rasmussen, and Will)

LB 951 made it unlawful for any employer in Nebraska to refuse to interview or to refuse to hire a prospective employee or to discharge or otherwise discriminate against any employee concerning any conditions, terms, or benefits of employment based on the prospective employee’s or current employee’s participation in any lawful activity or consumption of any lawful product occurring outside the employer’s premises during nonworking hours.

The bill authorized a prospective or current employee, discriminated against or discharged in violation of the bill, to sue an employer for damages, including lost wages and benefits and reasonable attorney’s fees. The bill also authorized employers to establish conduct or product-use policies in the workplace and exempted from the bill employees who work for and carry out the activities of a religious or nonprofit organization.

LB 951 did not advance from General File.

LB 1084—Change Provisions for Unlawful Employment Practices for Persons with Disabilities (Rasmussen)

LB 1084 proposed an amendment to the Nebraska Fair Employment Practices Act. The bill prohibited “covered entities” from discriminating against a qualified person with a disability in conjunction with job application procedures, hiring, advancement, discharge, compensation, training, and other terms, conditions, and privileges of employment after July 26, 1994. The bill also allowed an employer to deny employment to a person with a disability when the nature and extent of the person’s disability reasonably precluded the performance of the particular job. “Covered entities” included all employment agencies, all labor organizations and joint labor-management committees, all levels of state and local government, and all businesses with 15 or more employees.

LB 1084 did not advance from General File.

EDUCATION COMMITTEE
Senator Ron Withem, Chairperson

Legislative Bills Enacted Into Law

LB 119—Audits of Class I School Districts (former Senator Jacklyn Smith)

LB 119 provided that every Class I school district, like other classes of school districts, must have an annual audit.

LB 119 was passed by a vote of 37-0-12 and was approved by the Governor on February 7, 1992.

LB 245—Create the Nebraska Schools Accountability Commission (Withem)

LB 245 created the Nebraska Schools Accountability Commission. Members of the commission represent the Governor's office, teachers, school administrators, school boards, parents, business and industry, and agriculture. The commission will assist in the development of an accountability system to measure student performance in the public school system.

The accountability system will be completed in two phases. During the first phase (September 1992 to September 1994), the commission will develop broad curriculum frameworks and standards for learner outcomes. Local school boards will be responsible for the content of the instructional programs within the curriculum frameworks. During the second phase (May 1993 to May 1996), the commission and the State Department of Education may collaborate with other states or with a multistate consortium to develop an assessment system to measure the progress of students in achieving statewide goals.

The accountability system will be completed by July 1, 1996, at which time the commission will cease to exist. The State Board of Education and the Legislature may then choose to pursue appropriate practice, rule, and law changes to implement all or part of the commission's recommendations.

LB 245 was passed by a vote of 33-10-6 and was approved by the Governor on April 15, 1992.

LB 719—Change Provisions Relating to School Districts (Withem)

LB 719 was a comprehensive education bill. As enacted, the bill included provisions of LB 551, LB 1125, and LB 1238.

LB 719 permitted the transfer of up to 640 acres of land from a Class I or II school district to another school district upon the approval of at least 65 percent of the membership of each school board involved in the transfer.

The bill extended the hold-harmless provisions of the Tax Equity and Educational Opportunities Support Act through the 1994-95 academic year and established a rapid-growth enrollment clause in the state-aid formula. A school district which certifies to the State Department of Education by June 15 of the current year that its average daily membership exceeds the average daily membership of the prior year by 25 students and by more than one percent will have its increased average daily membership factored into the state-aid formula one year earlier. The increased average daily membership cannot be attributable to reorganization.

LB 719 also provided an exception to the school district budget limitation for any school district which demonstrates to the State Board of Education that it will exceed its allowable growth rate because of: an order from the Commission of Industrial Relations establishing rates of pay, benefits, or other terms and conditions of employment; a contested, but settled, contract dispute, claim, breach, or uninsured risk; or any final judgment requiring or obligating the school district to pay.

LB 719 was passed by a vote of 40-9-0 and was approved by the Governor on April 17, 1992.

LB 922—Provide for the Development and Implementation of Multicultural Education Programs (Chambers, Landis, Schimek, and Nelson)

LB 922 provided for the development and implementation of multicultural education programs in the curriculum of public schools in grades kindergarten through twelve. The State Department of Education will develop guidelines for multicultural education for each school district. Each school district must then create its own multicultural education program based on these guidelines and present evidence to the department that multicultural education is being taught. Any school district which fails to implement a multicultural education program or fails to provide evidence of such a program will lose its accreditation.

The department will assist school districts in the development of multicultural education programs and will evaluate the success of these programs by conducting periodic assessments to determine student cultural awareness and sensitivity. The department will publish the results of each assessment to the Legislature, the State Board of Education, and the school district.

LB 922 was passed by a vote of 29-10-10 and was approved by the Governor on April 9, 1992.

Measures Not Enacted Into Law

LB 1044—Provide a Teaching Requirement for Certain Faculty Members (Withem, Lindsay, and Lynch)

LB 1044 called for each member of the faculty of a public postsecondary educational institution who holds the rank of assistant professor or higher to teach at least 6 credit hours of undergraduate classes each week.

LB 1044 did not advance from committee.

**LB 1086—Provide for Salary Stipends for Head Start Teachers
(Wesely, Rasmussen, and Will)**

LB 1086 provided for every Head Start teacher holding at least an associate degree or a bachelor's degree in early childhood education or child development or a valid Child Development Associate Credential recognized by the federal Head Start Bureau to receive a salary supplement in the form of a stipend.

LB 1086 did not advance from committee.

LB 1272—Reduce Liability for Wards of a Court (Ashford and Moore)

LB 1272 prohibited school districts from charging the Department of Social Services nonresident tuition for students who are wards of the state or wards of any court and who are living in a foster home. School districts would continue to charge the department for tuition for nonresident students living in group homes or institutions. LB 1272 reduced state expenditures approximately \$1.8 million.

LB 1272 did not advance from General File.

***Education Related Measures
Referred to Other Committees***

Retirement Committee: LB 1001—Change Retirement Benefits for Members of the Class V School District Retirement System (Horgan, Lynch, Nelson, and Will)

GENERAL AFFAIRS COMMITTEE
Senator Stan Schellpeper, Chairperson

Legislative Bills Enacted Into Law

LB 718—Parimutuel Betting, Simulcasting, and Telephonic Wagering (Schmit)

LB 718 authorized the State Racing Commission to license and regulate teleracing facilities and telephonic wagering and to allow racetracks to provide intrastate and interstate simulcasting of horseraces. Wagering by telephone is allowed if the person placing the wager has funds in an account at a deposit center maintained by a licensed racetrack. The bill also authorized a person to place a wager at electronic terminals in teleracing facilities which are remote facilities electronically connected to a licensed racetrack.

An eligible racetrack will be allowed to deduct up to five percent of the winnings from a ticket purchased electronically or by telephone. These funds will be used by the racetrack to offset the cost of operating a deposit center or a teleracing facility. LB 718 also required one-half of one percent of the amount wagered by telephone to be placed in the Racing Commission's Cash Fund.

LB 718 was passed with the emergency clause by a vote of 33-13-3 on April 13, 1992. The bill was vetoed by the Governor. On April 14, 1992, the Legislature voted 30-16 to override the Governor's veto.

Constitutional Amendment Passed by the Legislature

LR 9CA—Retail and Bottle Club Liquor Licenses (former Senator Jacklyn Smith, Cudaback, R. Johnson, Rogers, and Rasmussen)

LR 9CA called for a constitutional amendment to allow local governments to control retail and bottle club liquor licensing within their jurisdictions as authorized by the Legislature.

LR 9CA was passed by a vote of 34-7-8 on February 7, 1992. The constitutional amendment will be on the General Election ballot in November 1992.

Measures Not Enacted Into Law

LB 352—License Private Corporations to Conduct Horseraces (Moore)

LB 352 allowed the State Racing Commission to issue licenses to private for-profit corporations to conduct horseraces.

LB 352 did not advance from committee.

LB 1061–Racetrack Managers (Will)

LB 1061 allowed Douglas County to hire a private firm or individual to operate the racetrack at Aksarben and to pay the operator a percentage of the revenue generated by the racetrack. The bill made selection and payment of the racetrack operator subject to the approval of the State Racing Commission.

Committee amendments adjusted daily license fee schedules based on changes in population. Amendments also boosted funding for the State Racing Commission, changed provisions governing contributions to the Track Distribution Fund, directed the State Racing Commission to consider recommendations from horse breeding and racing associations prior to any decision pertaining to any “for-profit” racetrack manager, eliminated funds allocated to the operation of quarterhorse racing, and prohibited the transfer of a proprietary interest in a racetrack to a racetrack operator.

LB 1061 did not advance from Select File.

LB 1130–Changes to the State Lottery Act (General Affairs Committee)

LB 1130 sought to clarify language pertaining to the liability of the state under the State Lottery Act. The bill also exempted the purchase of state lottery tickets from state sales and use taxes and authorized the Department of Revenue to establish regulations governing the time period for redeeming a winning lottery ticket.

LB 1130 did not advance from General File.

LB 201–Tribal-State Gambling Compact (R. Johnson, Will, Rogers, Hartnett, Cudaback, Rasmussen, and former Senator Jacklyn Smith)

LB 201 was intended to satisfy mandates contained in the Federal Indian Gaming Regulatory Act. The bill directed the Governor or his or her representatives to negotiate a tribal-state compact regulating certain types of gambling activities conducted on tribal lands within the state. It was amended to provide that any compact negotiated pursuant to the bill would be in harmony with current Nebraska law and would promote tribal economic development, tribal self-sufficiency, and strong tribal government.

LB 201 did not advance from Select File.

LB 1131–Change Provisions Relating to Gaming (General Affairs Committee)

LB 1131 proposed a number of changes to the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, the Nebraska County and City Lottery Act, and the Nebraska Lottery and Raffle Act. It provided for background investigations and inspections of facilities of manufacturers, distributors, manufacturer-distributors, and lottery operators. The bill added failure to demonstrate good character, honesty, integrity, or financial responsibility as grounds for denial of any license issued pursuant to any of such acts. The bill required bingo or pickle card operators to have their principal places of business within the state and to file annual reports with the Department of Revenue accurately

accounting for all gross receipts. Pickle card operators also were required to give away only cash prizes and to demonstrate that dispensing machines were not rented for less than fair market value.

LB 1131 repealed restrictions on bingo advertising and allowed governmental entities to conduct gift enterprises. The bill established procedures for the determination of gross proceeds from lotteries and raffles and created a presumption that unaccounted for pickle cards would be subject to tax liability.

LB 1131 did not advance from General File.

GOVERNMENT, MILITARY AND VETERANS' AFFAIRS
Senator Gerald Conway, Chairperson

Legislative Bills Enacted Into Law

LB 424—Petition Circulators (Wesely and Conway)

As originally introduced, LB 424 required that people paid to gather signatures on initiative or referendum petitions wear badges identifying themselves as paid petition circulators. The committee amendments eliminated this requirement and required that each page of a petition circulated by a paid circulator include a sentence declaring that the circulator was being paid.

An amendment adopted on Select File added provisions of LB 977 to LB 424. Those provisions addressed procedural problems which arose during the 1990 election. Also included in this amendment was a new residency requirement for petition circulators which provided that a petition circulator could only circulate initiative or referendum petitions in his or her county of residence.

Attorney General Don Stenberg asked the Nebraska Supreme Court to declare the new residency requirement unconstitutional, claiming it violated the First Amendment of the United States Constitution and put an unreasonable restriction on the powers of initiative and referendum granted to the people by the Nebraska Constitution. The Nebraska Supreme Court issued a temporary injunction stopping the enforcement of the law and later found the new residency requirement unconstitutional.

LB 424 was passed with the emergency clause by a vote of 40-0-9 and was approved by the Governor on March 26, 1992. The provisions of LB 424 not found to be unconstitutional remain in effect.

LB 447—Youth Services Planning Commission (Bernard-Stevens)

LB 447 created an eleven-member Youth Services Planning Commission which is charged with the responsibility of creating an implementation plan for the creation of the Office of Youth Services for the delivery of juvenile justice services and programs to youth at risk in Nebraska. The commission will complete the implementation plan by September 1993. If the plan is approved by the Legislature, an Office of Youth Services will be created to implement the plan and provide juvenile justice services and programs.

LB 447 was passed by a vote of 38-0-11 and was approved by the Governor on April 15, 1992.

LB 556—Campaign Finance Reform (Baack, Hefner, Wesely, Beutler, Coordsen, Morrissey, Schellpeper, Schimek, Ashford, and former Senator Jacklyn Smith)

LB 556 established voluntary limits on campaign spending and authorized the distribution of public funds to opponents of candidates who exceed the limits.

(The Legislature is prohibited from establishing mandatory campaign spending limits by a United States Supreme Court ruling which found such limits to be unconstitutional.) The voluntary spending limits apply to the amount of money a candidate spends during the election period. The limits set forth in the bill are as follows:

- (1) Governor, \$1.5 million;
- (2) Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, and Auditor of Public Accounts, \$150,000; and,
- (3) Members of the Legislature, Public Service Commission, Board of Regents, and State Board of Education, \$50,000.

A candidate who expects to exceed the voluntary spending limit must file a statement with the Nebraska Political Accountability and Disclosure Commission estimating the amount by which he or she expects to exceed the limit. Qualified opponents will then be given public funds in an amount equal to the amount by which the candidate expects to exceed the limit.

LB 556 also established the following aggregate limits per calendar year for corporate, labor union, and political action committee (PAC) contributions:

- (1) Governor, \$750,000;
- (2) Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, and Auditor of Public Accounts, \$75,000; and,
- (3) Members of the Legislature, Public Service Commission, Board of Regents, and State Board of Education, \$25,000.

PAC contributions cannot account for more than one-half of the allowable aggregate amount of contributions.

LB 556 was passed by a vote of 36-13-0 and was approved by the Governor on April 17, 1992.

LB 988—Legislative Program Evaluation (Executive Board and Baack, Hall, Moore, Wehrbein, Kristensen, Rogers, and Withem)

LB 988 enacted the Legislative Program Evaluation Act. The act establishes the Legislative Program Evaluation Committee as a special committee of the Legislature. Its membership includes the chairperson of the Executive Board, the chairperson of the Appropriations Committee, and three other members of the Legislature to be chosen by the Executive Board.

The Program Evaluation Committee will function as a legislative oversight committee with responsibility for evaluating state agency programs in terms of their effectiveness and the extent to which they are following legislative intent. The committee will select evaluation subjects, approve evaluation plans, review and release completed

evaluation reports, and monitor agency compliance with recommendations made in the evaluation report.

The program evaluations scheduled by the committee will be conducted by a Program Evaluation Unit consisting of designated Legislative Council staff. LB 988 authorized the Executive Board to select the Program Evaluation Unit Director and to place the Program Evaluation Unit within the Legislative Council. The Program Evaluation Unit will be located, at least initially, in the Legislative Research Division under the direction of the Director of Research.

LB 988 was passed by a vote of 45-0-4 and was approved by the Governor on April 17, 1992.

LB 989—Procedures for Contested Elections (Baack, Chambers, Schimek, and Warner)

LB 989 was drafted in response to recommendations made to the Executive Board by a special subcommittee appointed to oversee the 1990 election contest between Senator Dennis Byars and Paul Korslund. Several procedural discrepancies which were brought to light during that challenge were addressed in the bill. LB 989 reduced the time a contestant has to file written notice of the election contest from 20 days to 14 days, specified where depositions are filed, clarified the authority of the legislative review committee in obtaining additional testimony and requesting a recount, clarified the issue of jurisdiction of the judiciary, and modified bond requirements and the amount of attorney's fees.

LB 989 was passed by a vote of 35-0-14 and was approved by the Governor on March 18, 1992.

Measures Not Enacted Into Law

LB 1133—State Election Board (Conway)

LB 1133 created a nine-member State Election Board comprised of election commissioners, county clerks, representatives from political parties, and the Secretary of State. The board's responsibilities included developing uniform election procedures, providing training for election officials, and interpreting state election laws.

LB 1133 did not advance from General File.

***Government Related Measures
Referred to Other Committees***

Revenue Committee: LB 529—Campaign Committee Income Tax Act (Lindsay)

HEALTH AND HUMAN SERVICES COMMITTEE
Senator Don Wesely, Chairperson

Legislative Bills Enacted Into Law

LB 428—Utilization Review Certification Act (Kristensen, Lindsay, and Rasmussen)

LB 428 created the Utilization Review Certification Act. Utilization review is the process used by health insurance companies to determine which claims for reimbursement will be paid. The insurance company hires health care professionals who review the incoming claims and evaluate whether the procedures used were medically necessary. The act adopts nationally recognized standards for how review decisions are to be made and gives the Department of Insurance independent enforcement authority over these standards. Additionally, if a claim is denied and the patient appeals, the insurance company must provide the patient with the criteria used by the company in denying the claim. The act also specifically prohibits decisions to fund claims based on the number of previously denied claims.

LB 428 was passed by a vote of 43-0-6 and was approved by the Governor on April 15, 1992.

LB 431—Childhood Vaccine Act (former Senator Jacklyn Smith, Wesely, and Schellpeper)

LB 431 adopted the Childhood Vaccine Act. The act authorizes the Department of Health to conduct demonstration and pilot projects which document childhood immunization trends and encourages cooperation between private and public providers and practitioners. The department is also authorized to participate in national efforts concerning immunization and to develop a statewide immunization plan.

The act requires early childhood programs providing child care to require the parent of each child enrolled to furnish proof that the child has received the appropriate immunizations for his or her age. A parent who does not wish to have his or her child immunized must provide a written statement to the child care provider stating his or her reasons for not immunizing the child.

LB 431 was passed with the emergency clause by a vote of 46-0-3 and was approved by the Governor on April 17, 1992.

LB 677—Authority for the Long-Term Care Ombudsman (Wesely and Rasmussen)

LB 677 provided statutory authorization for the office of the long-term care ombudsman within the Department on Aging. The long-term care ombudsman is responsible for investigating and resolving complaints made by or on behalf of persons living in long-term care facilities. The bill also authorized the department to designate and certify local long-term care ombudsman programs.

LB 677 was passed by a vote of 44-0-5 and was approved by the Governor on April 15, 1992.

LB 696—Durable Power of Attorney for Health Care (Lindsay, Wesely, and Hillman)

LB 696 authorized the execution of a durable power of attorney for health care. A durable power of attorney for health care allows a person to appoint a third-party, usually a friend or a relative, to make medical decisions if the person becomes incapable of making those decisions for himself or herself. Once a durable power of attorney for health care is executed, it remains in effect until it is revoked. A durable power of attorney for health care is different from a living will in that the durable power of attorney for health care is applicable to all medical decisions and a living will is applicable to decisions regarding the provision or withholding of life-sustaining treatment. The Rights of the Terminally Ill Act, LB 671, is discussed in the Judiciary Committee portion of this report.

LB 696 established the procedure for designating a durable power of attorney for health care and set forth restrictions on who may serve as a legal witness to the designation of the durable power of attorney for health care.

LB 696 was passed by a vote of 46-0-3 and was approved by the Governor on February 12, 1992.

LB 1019—Change Provisions Relating to Health and Human Services (Health and Human Services Committee)

LB 1019 was the annual cleanup bill for the Department of Health. LB 1019 contained all or a portion of the following bills: LB 144, LB 288, LB 388, LB 602, LB 909, LB 947, LB 970, LB 1016, LB 1018, LB 1038, LB 1183, LB 1234, LB 1242, and LB 1282.

LB 1019 authorized the department to establish community public health service regions and public health care teams in each region. The teams will provide community nursing services, home health services, disease prevention and control services, public health education, and public health environmental services. An advisory council and a regional plan is authorized in each community public health region. These functions can only be carried out to the extent that funds are already available. No new funding was authorized.

LB 1019 was passed with the emergency clause by a vote of 46-0-3 and was approved by the Governor on April 17, 1992.

LB 1184—Establish Child Abuse and Neglect Investigation and Treatment Teams and Change Other Provisions Relating to Juveniles (Rasmussen, Lindsay, Lynch, Withem, Hartnett, and Schimek)

LB 1184 required the Department of Social Services (DSS) to work with law enforcement officials to investigate reports of child abuse and to develop treatment plans in child abuse cases. It authorized the establishment of child abuse and neglect

investigation and treatment teams in each county or group of counties. The teams will be established by the county attorney. For investigations, a team will consist of the county attorney, a representative of local law enforcement, a DSS representative, and others as appropriate. A treatment team will be made up of a DSS representative, a school representative, a probation officer, and medical or mental health professionals as necessary. The teams will meet at least quarterly and will be exempt from the open meetings law.

All or a portion of LB 1046, LB 1062, LB 1147, and LB 1255 were amended into LB 1184.

- ★ LB 1046 added juvenile detention facilities to the list of correctional facilities which are subject to jail standards. The bill authorized the Nebraska Commission on Law Enforcement and Criminal Justice to establish standards for juvenile detention facilities and to inspect the facilities for purposes of determining compliance with those standards.
- ★ LB 1062 added a condition which a court must consider when deciding whether to terminate parental rights to a child. The court must take note when a child has been in an out-of-home placement for 18 or more consecutive months and the parents have failed to correct the conditions leading to the child's out-of-home placement despite reasonable efforts and services to the parents.

LB 1062 also required the county attorney to review the case of each child who has been in an out-of-home placement for 18 consecutive months to determine whether or not to pursue termination of parental rights.

- ★ LB 1147 provided for the appointment of a guardian ad litem when a juvenile is removed from home and detained on a temporary or pre-adjudication basis. The bill authorized guardians ad litem to file a petition for termination of parental rights and provided that all juvenile cases must have an adjudication hearing within 90 days after a petition is filed.
- ★ LB 1255 required the court to assess attorney's fees and disbursements for an attorney representing minor children in a divorce proceeding as costs to the parties in the divorce. If the parties are indigent, these costs will be paid by the county.

LB 1184 was passed by a vote of 48-0-1 and was approved by the Governor on April 17, 1992.

Measures Not Enacted Into Law

LB 678—Mental Health Commitment Act (Wesely)

LB 678 made several changes regarding the care of patients undergoing treatment ordered by the mental health board. LB 678 clarified that a person must be notified of

the requirements he or she must meet for his or her treatment plan, provided for a hearing to determine if the conditions of outpatient treatment are being met, and required training for mental health board members.

LB 678 did not advance from Select File.

LB 1282—Health Care Reform Act (Wesely)

LB 1282 proposed a comprehensive overhaul of the state's health care system. LB 1282 provided for additional health care services for people who are underinsured and for expanded health care coverage for some of the estimated 140,000 Nebraskans with no health insurance. The projected total cost of the package was \$56 million, \$36 million of which would be raised by the state through cigarette and alcohol taxes, corporate taxes, and super bracket income taxes. The remaining \$20 million would be obtained from the federal government.

The major provisions of the bill included:

- (1) Establishment of the Health Care Data Commission;
- (2) Provision of substance abuse treatment for youth, including a program to target the needs of youth of color, pregnant women and their children, and adults on medicaid;
- (3) Provision for funding of birth defect prevention programs;
- (4) Establishment by the Department of Social Services (DSS) of a statewide system to improve access for Medicaid patients to primary health care;
- (5) Application by DSS for a federal waiver to provide Medicaid services to persons with incomes under the federal poverty guidelines;
- (6) Establishment of the Rural Health Innovation and Enhancement Act;
- (7) Establishment of the Rehabilitation and Support Mental Health Services Incentive Act;
- (8) Provision for case management for high-risk pregnant women on Medicaid;
- (9) Creation of an insurance pool for businesses with fewer than 25 employees; and,
- (10) Transfer of the medically indigent program to DSS.

Provisions of LB 1282 relating to public health care were amended into LB 1019 and provisions establishing the Childhood Vaccine Act were similar to those enacted in LB 431.

LB 1282 did not advance from General File.

LB 1286—Certificate of Need (Schmit)

LB 1286 provided for a moratorium on the issuance of certificates of need pursuant to the Nebraska Health Care Certificate of Need Act. The bill prohibited, for one year, any expansion or construction of health care facilities in Lincoln or Omaha. The bill also authorized a study to determine the relationship between the costs of construction of health care facilities and the rates charged by the facilities or physicians benefitting from the construction and included a provision to tax some hospital reserve funds.

LB 1286 did not advance from General File.

Health and Human Services Related Measures Referred to Other Committees

Revenue Committee: LB 1245—Eliminating a Property Tax Exemption for Not-For-Profit Hospitals (Hall)

LB 1285—Health Services Availability Act (Wesely)

JUDICIARY COMMITTEE
Senator Jerry Chizek, Chairperson

Legislative Bills Enacted Into Law

LB 130—Restriction on Locations for Cigarette Vending Machines
(Schimek, Nelson, and Dierks)

LB 130 restricted placement of cigarette vending machines to (1) locations which are not open to the public, such as workplace break rooms, and (2) restaurants and bars if the cigarette vending machines are located only in the rooms where liquor is served.

LB 130 was passed by a vote of 38-1-10 and was approved by the Governor on March 26, 1992.

LB 671—Rights of the Terminally Ill Act
(Landis, Ashford, Bernard-Stevens, Beutler, and Nelson)

LB 671 adopted the Rights of the Terminally Ill Act. Passage of the act ensures that state law will recognize a patient's written request directing doctors to either provide or withhold life-sustaining treatment when he or she faces an incurable condition or is in a persistent vegetative state. Like many laws in other states on this subject, LB 671 was drafted using the revised model Rights of the Terminally Ill Act drafted by the Commissioners on Uniform State Laws. A living will is different from a durable power of attorney for health care in that the living will is applicable to decisions regarding the provision or withholding of life-sustaining treatment and a durable power of attorney for health care is applicable to all medical decisions. LB 696, which provided for a durable power of attorney for health care, is discussed in the Government, Military and Veterans' Affairs Committee portion of this report.

LB 671 provided a sample living will form and procedures for execution and revocation of a living will.

LB 671 was passed by a vote of 34-9-6 and was approved by the Governor on February 12, 1992.

LB 1059—Judicial Redistricting (Beutler)

LB 1059 was introduced to blunt the impact of LB 181, enacted during the 1991 session. LB 181 would have reduced the number of district court judicial districts in Nebraska from 21 to two on January 1, 1993.

LB 1059 reduced the number of district court judicial districts from 21 to 12 and changed the composition of many of the county court judicial districts. The bill also created a Judicial Resources Commission to advise the Legislature on judicial workload issues, and it allowed the Supreme Court to authorize the use of the state computer network by judges of the district courts and county courts and to pay for such use.

LB 1059 was passed by a vote of 39-7-3 and was approved by the Governor on April 17, 1992.

LB 1098—Crime of Stalking (Robak, Pirsch, and Schimek)

LB 1098 created the crime of stalking. A person is guilty of stalking if he or she willfully, maliciously, and repeatedly follows or harasses another person and makes a credible threat with the intent to place the person in reasonable fear of death or serious bodily injury. To be guilty of stalking, the perpetrator must also be in violation of probation, bail, or a court order.

Stalking is a Class I misdemeanor for the first offense and a Class IV felony for a second or subsequent offense.

LB 1098 also authorized a stalking victim to petition for a temporary restraining order based on the stalking activities of the perpetrator.

LB 1098 was passed by a vote of 44-2-3 and was approved by the Governor on April 17, 1992.

Measures Not Enacted Into Law

LB 78—Informed Consent Prior to Abortion (Lindsay, Labeledz, Dierks, and Crosby)

LB 78 required that a pregnant woman seeking an abortion sign a form indicating that she received information about the development of the fetus and wait 24 hours after receiving the information before an abortion is performed. The bill required that the information provided include anatomical and physiological characteristics of the fetus at the time of the abortion.

LB 78 did not advance from General File.

LB 895—Eliminate School Responsibility for Informing Students of Parental Notification Requirement (Withem)

During the 1991 session, the Legislature passed LB 425 which required any girl 17 years of age or younger who is seeking an abortion to either notify one parent or guardian or go before a court and demonstrate that she is mature enough to make the abortion decision herself. LB 425 also required public school districts to inform their students of the parental notification requirement.

LB 895 eliminated the obligation of public school districts to inform students about the parental notification requirement.

LB 895 did not advance from General File.

LB 728—Parenting Act (Ashford, Rasmussen, Abboud, Chizek, and Will)

LB 728, the Parenting Act, created a mediation system to be used by divorcing parents in determining the best plan to care for their children after divorce. As originally introduced, the bill required one session with a mediator after which the parents could choose to discontinue the mediation. The bill was amended to make the mediation process entirely voluntary. Parents choosing mediation would meet with a qualified mediator to design a parenting plan aimed at encouraging the continuing involvement of both parents in the child's care. Any plan agreed to in mediation would require final approval by the court.

LB 728 did not advance from Select File.

NATURAL RESOURCES COMMITTEE
Senator Rod Johnson, Chairperson

Legislative Bills Enacted Into Law

LB 1257—Integrated Solid Waste Management Act
(Morrissey, Hartnett, Horgan, and Beutler)

LB 1257 implemented many of the recommendations contained in the statewide solid waste management plan developed in 1990-91 by a group of consultants working in conjunction with the Solid Waste Citizens Advisory Committee. The bill focused on financing and organizational options for local governments, reduction in waste volume and toxicity, increasing recycling, and providing for the safe disposal of residuals. Bills included, in whole or in part, within LB 1257 were LB 981, LB 1008, LB 1026, LB 1122, LB 1205, LB 1206, LB 1226, and LB 1263.

LB 1257 established the Integrated Solid Waste Management Act (ISWMA) and placed responsibility for integrated solid waste management on Nebraska's local governments. Under the ISWMA, local governments can contract with private companies to build or operate solid waste disposal facilities or own and operate their own facilities. Local governments can also levy and collect user fees and assess special fees if user fees fail to provide sufficient funding to satisfy any debt associated with the integrated solid waste management system. Tribal governments within the state are also recognized as localities which can assume responsibility for integrated solid waste management for purposes of the ISWMA's organizational and financing options.

The bill changed the name of the Department of Environmental Control to the Department of Environmental Quality (DEQ) and required each local government to file an integrated solid waste management plan with DEQ before October 1, 1994. All integrated solid waste management plans must include a provision for meeting the waste reduction goals prescribed in the ISWMA and a provision for a recycling program.

Solid waste disposal facilities' licenses granted under the Environmental Protection Act (EPA) before October 1, 1993, are revoked under the provisions of LB 1257, except that facilities licensed under the EPA which comply with the provisions of LB 1257 and federal subtitle D regulations are not subject to license revocation. The bill also provided for the issuance of permits to all solid waste disposal facilities and required that, after October 1, 1993, all solid waste must be deposited in facilities with valid permits.

LB 1257 required municipal landfills to pay fees which will be divided between the Integrated Solid Waste Management Cash Fund created in LB 1257 and the Waste Reduction and Recycling Incentive Fund. Money received by the Waste Reduction and Recycling Incentive Fund will be used to help local governments pay for implementing their integrated solid waste management plans. Additional funding for solid waste management may be generated under provisions of the bill which authorize the Nebraska Investment Finance Authority to sell bonds to finance construction and operation of new solid waste disposal facilities and to finance closure and remediation of former and

existing waste sites. The bill also earmarked 24.5 percent of the funds generated by Nebraska's proposed state lottery, if approved by the voters in November, for deposit in a fund to help local governments close unregulated waste sites and clean up existing or closed waste sites.

LB 1257 gave the Department of Administrative Services responsibility for administering the State Government Recycling Management Act and stayed the termination date of the Litter Reduction and Recycling Act to the year 2002. The bill banned dumping of yard waste, lead acid batteries, and waste oils in licensed landfills after September 1, 1994, waste tires and household appliances after September 1, 1995, and certain "small-quantity" commercial and household hazardous waste products after September 1, 1996.

Limits on air pollution emissions as established by the United States Environmental Protection Agency were imposed by the bill. These regulations require businesses or other major producers of air pollution to help pay for future clean air programs. Owners of polluting businesses must apply for special construction and operating permits and pay a fee of \$25 per ton of pollutant after January 1, 1995. The bill also created the Small Business Compliance Advisory Panel to monitor compliance by businesses and established penalties, including civil penalties of up to \$10,000 per day, for violations.

LB 1257 was passed with the emergency clause by a vote of 44-3-2 and was approved by the Governor on April 17, 1992.

LB 948—Water Rights (Schrock, Baack, Bernard-Stevens, Bohlke, Byars, Crosby, Cudaback, Dierks, Elmer, Haberman, Hartnett, Hillman, Horgan, R. Johnson, Kristensen, Lamb, Lynch, Moore, Nelson, Schmit, and Wickersham)

LB 948 authorized continued delivery of irrigation water to 33,000 acres of land in Dawson, Kearney, and Phelps counties. Owners of these lands were notified late last year by Central Nebraska Public Power and Irrigation District (Central) that, because of an oversight, they had no legal right to receive water.

The bill authorized Central to continue to deliver water if water had been delivered in one or more years between 1985 and 1991. The amount of water to be delivered cannot exceed the amount delivered in 1989, 1990, or 1991.

Landowners must apply for a permanent irrigation permit before October 1, 1992. The conditional permit authorized by LB 948 expires on September 30, 1993, or six months after the Director of Water Resources denies an application for a permanent irrigation permit. Storage and use of the water delivered pursuant to the bill must comply with all other applicable rules, regulations, and laws.

LB 948 was passed with the emergency clause by a vote of 43-0-6 and was approved by the Governor on February 21, 1992.

Measures Not Enacted Into Law

LB 72--Community Consent for a Low-Level Radioactive Waste Facility (Dierks)

Under LB 72, the approval of a majority of the registered voters in Boyd County would be required before a license for a low-level radioactive waste facility could be issued by the state. As originally introduced, the bill allowed the board of directors of the natural resources district in which the proposed low-level radioactive waste site is located to call a special election for purposes of determining community consent. LB 72 was subsequently amended to allow only the registered voters in the county in which the proposed low-level radioactive waste site is located to vote in the special election.

LB 72 did not advance from Select File.

LB 306--Beneficial Use of Interrelated Ground Water and Surface Water Supplies (Beutler and Lindsay)

LB 306 called for the careful balancing of ground water and surface water rights and defined beneficial uses of water rights. The bill provided that water would be allocated on the basis of priorities identified within the bill with essential uses being supplied first. LB 306 also gave the Director of Water Resources discretion to assign a higher priority date to applications for allocations of water for public water supply purposes.

LB 306 did not advance from Select File.

LB 827--Change Provisions of the Low-Level Radioactive Waste Disposal Act (R. Johnson, Morrissey, and Schmit)

LB 827 provided for the elimination of the current local monitoring committee and the creation of a new local monitoring committee within 30 days of the passage of LB 827. The bill established terms for the new committee members and outlined the new committee's powers and duties.

The bill established procedures for the disposal of low-level radioactive waste at a facility. It delineated the environmental impact analysis to be used by the Department of Environmental Control (DEC) in assessing the impact of the facility's construction and operation on ground water, surface water, and wetlands near the site.

LB 827 also provided for the distribution of money from the Low-Level Radioactive Waste Cash Fund and the Local Monitoring Committee Cash Fund to local agencies. The bill reduced allowable waste levels from 5 million cubic feet to 2.6 million cubic feet and empowered DEC to take remedial action, including assessing costs against responsible parties, in the event of an unauthorized release. The bill provided for direct appeal of a denial of a license to the Nebraska Supreme Court.

LB 827 did not advance from Select File.

LB 1176—Acquisition of Public Power Districts (Bernard-Stevens, Beutler, Conway, Hartnett, Lindsay, Morrissey, and Rasmussen)

LB 1176 authorized public power districts with revenue in excess of \$40 million in each of the last five years to acquire power districts with revenue of less than \$40 million in each of the last five years. The bill prohibited the purchase of power districts which received more than 50 percent of their revenue over the last five years from the retail sale of electric service. The acquisition price had to equal the total debt obligation of the acquired power district, and all proceeds from the sale were required to be used to retire the debts of the acquired power district.

The bill gave the acquiring power district the right of eminent domain but prohibited the acquiring district from incurring additional debt as a part of the purchase. Once all debts of the acquired district were paid, the acquired district would be dissolved. The provisions of LB 1176 terminated on January 1, 1996.

LB 1176 did not advance from General File.

LB 1277—Transfer of Water Rights (R. Johnson, Lamb, Schmit, and Schrock)

LB 1277 authorized an irrigation district to transfer water rights from one tract of land within the district to another without seeking state approval. Under the bill, the irrigation district was required to complete a notice and file it with the state on or before June 30 of the year after the transfer of water rights occurred.

LB 1277 did not advance from committee.

NEBRASKA RETIREMENT SYSTEMS COMMITTEE
Senator Arlene Nelson, Chairperson

Legislative Bills Enacted Into Law

LB 543—Change Provisions Relating to Retirement Benefits for State and County Employees (Nelson)

LB 543 authorized state and county employees to select a lump-sum payout of any or all money in their retirement accounts.

LB 543 was passed by a vote of 40-0 and was approved by the Governor on February 10, 1992.

LB 672—Change Provisions Relating to Certain Retirement Systems and to Provide for the Creation of a County Extension Service (Nelson and Bernard-Stevens)

LB 672 included provisions from LB 930, LB 1040, LB 1108, LB 1196, and LB 1208. LB 672 required cities of the first class to segregate the Firefighters Retirement System Fund and the Police Officers Retirement System Fund from all other city money or funds. The bill provided for the establishment of an investment plan which permits each firefighter or police officer to direct the investment of his or her retirement contributions consistent with current practices of the State Employees Retirement System and required an actuarial report and an analysis of the return achieved on assets invested in either of the retirement funds to be prepared by an independent organization at least once every five years.

Each city and each firefighters retirement system and police officers retirement system is required to develop investment cost schedules chargeable to the account of each participating firefighter or police officer. The bill also raised the age of minor children who may be eligible to receive benefits from the Firefighters Retirement System Fund or the Police Officers Retirement System Fund from 18 to 19 and authorized a choice of pension options. Police officers can elect to receive their retirement benefits in a single lump-sum payment while firefighters cannot.

LB 672 raised matching contribution rates to 150 percent of employee contributions for eligible employees of Lancaster County. The bill also gave Lancaster County until January 1996 to implement any required changes and capped combined contributions at 13 percent of an employee's salary.

The bill also provided for the formation of single-county or multicounty extension service units to perform work in agriculture and home economics consistent with the goals established by the Cooperative Extension Service of the University of Nebraska. Any farm operator who is a legal voter is authorized to petition his or her county board to appropriate money from the county's general fund to hire a county extension agent. The bill established procedural requirements for initiating a petition drive to place the issue

before the voters of the county. If a majority of the voters voting on the issue approve the measure, a county extension service may be created without the approval of the county board.

The bill authorized two or more counties to form a joint extension service board and established procedures for funding and overseeing continuance, support, and management of extension work. Extension service employees are classified as county employees and are required to participate in the Retirement System for Nebraska Counties under the County Employees Retirement Act.

LB 672 also adjusted contribution rates to retirement programs and made a one-time cost-of-living adjustment to the annuities of members and beneficiaries of the judges' retirement system. In addition, the bill provided for the creation of the Legislative Council Retirement Study Fund. Money appropriated to the fund will be used to conduct a comprehensive study of the retirement systems covered under LB 672.

LB 672 was passed by a vote of 47-0-2 and was approved by the Governor on April 20, 1992.

LB 1001—Change Provisions Relating to School Retirement Systems and School Districts (Horgan, Lynch, Nelson, and Will)

LB 1001 included provisions from LB 41, LB 1071, LB 1072, LB 1125, and LB 1153. The bill granted cost-of-living increases to employees of a Class V school district (the Omaha Public School System) who retired after October 1, 1991, and authorized a three percent benefit increase to employees retiring after the bill takes effect.

The bill authorized teachers who were drafted into the armed forces after they had signed contracts but before they actually began teaching to get credit toward retirement for their time served in the military. It allowed teachers employed by entities other than public school districts, but whose activities are controlled by public school boards, to contribute to and receive benefits from the School Retirement System. The bill also made spouses or beneficiaries of deceased teachers eligible to receive survivorship benefits in the form of an annuity or a lump-sum payment.

LB 1001 also:

- (1) Authorized the sibling of a student who opted to enroll in a different school district the option to attend the different district;
- (2) Clarified the procedures for dissolution of a Class I school district and for merger or affiliation with a high school;
- (3) Authorized school districts to increase tax levies on real property located within each school district's boundaries to fund the cost of accessibility barrier elimination for handicapped persons or persons with developmental disabilities if tax levies are not at the maximum to fund the abatement of environmental hazards;

- (4) Harmonized Nebraska law with federal law by providing an increase in the tiered cost per student for those school districts which have students who live on Indian land enrolled; and,
- (5) Allowed members of school boards to be reimbursed for actual expenses rather than on a per diem basis.

LB 1001 passed with the emergency clause by a vote of 44-0-5 and was approved by the Governor on April 17, 1992.

LB 1057—Change the Contribution Rate in the County Employees Retirement System (Nelson, Chizek, Cudaback, Hillman, Lynch, and Robak)

LB 1057 increased the amount that each employee who is a member of the County Employees Retirement System will pay to the county from three and two-tenths to four percent of his or her compensation for each pay period. The bill also clarified that the total amount contributed by the county will be the "matching" amount of 150 percent of the employee's contribution.

LB 1057 was passed by a vote of 40-0-9 and was approved by the Governor on April 15, 1992.

LR 328—Evaluation of Public Employees Retirement System (Nelson, Moore, Schimek, Crosby)

LR 328 calls for a complete evaluation of the public employees retirement systems administered by the Public Employees Retirement Board. Funding for LR 328, in the amount of \$147,000, was provided for in LB 1022.

REVENUE COMMITTEE
Senator Timothy J. Hall, Chairperson

Legislative Bills Enacted Into Law

LR 219CA and LB 1063—Personal Property Taxes
(Warner, Landis, and Withem, at the request of the Governor)

In July 1991, the Nebraska Supreme Court ruled that Nebraska statutes providing exemptions for certain classes of personal property (agricultural equipment, business inventory, farm inventory, livestock, and railroad rolling stock) violated Article VIII, section 1, of the Nebraska Constitution (the "Uniformity Clause") which provides that "taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises . . .", and the Equal Protection Clause of the United States Constitution.

Since that ruling, efforts to avoid further lawsuits by "fixing" the personal property tax system have dominated the attention of the Legislature. It appeared from the outset that the Legislature would either have to refrain from treating different classes of personal property differently (that is, taxing some classes while exempting others) or to amend Article VIII, section 1, of the Nebraska Constitution to render such differential tax treatment constitutional.

Previous decisions of the Nebraska Supreme Court had brought this problem to the crisis point. In July 1989, the Nebraska Supreme Court ruled that Nebraska could not tax pipeline property differently from railroad property. Railroad personal property had been largely exempted from taxation because it was felt that such taxation would violate the federal 4-R Act.

During a special legislative session in November 1989, LB 7S1 was passed in an attempt to create a special class for railroad personal property. It was hoped that this would allow the Legislature to treat railroad property and pipeline property differently. However, in March 1991, the Nebraska Supreme Court held that this law violated Article III, section 18, of the Nebraska Constitution which prohibits the passage of local or special laws "[g]ranting to any corporation, association, or individual, any special or exclusive privileges, immunity or franchise. . .".

In its decision, the Nebraska Supreme Court indicated that LB 7S1 also violated the Uniformity Clause and explained that the federal 4-R Act did not prohibit states from taxing railroad property but only prohibited states from taxing railroad property in a discriminatory manner. This series of legislative and court actions set the stage for the 1991 legislative session.

During the 1991 legislative session, LB 829 was passed as a short-term solution to the personal property tax crisis. LB 829 created a one-year moratorium on the collection of personal property taxes and offset the resulting revenue loss to political subdivisions with increased state aid funded by a variety of state taxes and fees. Governor Nelson also

established the Revenue, Restructuring, and Revitalization Committee (3-R Committee) which was charged with the responsibility of developing a long-term solution to Nebraska's personal property tax crisis.

As a result of the 3-R Committee's deliberations, two measures (LR 219CA and LB 1063) were introduced at the beginning of the 1992 session. LR 219CA presented the voters with a constitutional amendment eliminating the application of the Uniformity Clause to personal property, allowing a net book value approach to assessing personal property, and creating a special class for federally protected property.

It was argued that the adoption of this amendment would render existing personal property tax policies which tax some classes of personal property while exempting others constitutional, thus eliminating the primary legal arguments upon which recent successful personal property tax lawsuits had been based. LR 219CA was adopted by the Legislature and approved by 58 percent of Nebraska voters on May 12, 1992.

Meanwhile, following lengthy debate and the introduction of numerous amendments, LB 1063 had passed with the emergency clause by a vote of 33-15-1 and was approved by the Governor on March 18, 1992. Because the bill was adopted before the voters had approved the constitutional amendment, the bill contained language providing alternative taxation approaches, each of which was contingent on the outcome of the vote on the constitutional amendment.

That portion of LB 1063 which assumed passage of the constitutional amendment outlined revisions in personal property taxation whereby farm machinery and equipment, breeding livestock, and business machinery and equipment were taxed on a net book value basis (cost minus accumulated depreciation). The bill also granted purchasers of farm machinery a 100 percent sales tax refund and imposed a new tax on fertilizers at a rate of \$4.00 per ton sold. The fertilizer tax is paid by the purchaser and collected by the retailer.

Additional provisions of LB 1063 included \$3.5 million in reductions in state aid to counties and adjustments in the sales tax collection fee rates. The new collection fee rates are 2.5 percent of the first \$3,000 sales tax remitted each month and .5 percent on remittances of more than \$3,000 per month.

The enactment of LB 1063 and the adoption of LR 219CA did not lay the personal property tax issue to rest. For a further discussion of the personal property tax issue and the fate of LB 1063, please see the Second Special Session portion of this report.

LB 1192--Homeless Shelter Assistance Trust Fund Act (Lindsay, Ashford, Baack, Bernard-Stevens, Chambers, Chizek, Conway, Dierks, Hartnett, Horgan, Labeledz, Lynch, Rasmussen, Schimek, Will, and Withem)

LB 1192 created the Homeless Shelter Assistance Trust Fund for the purpose of providing money to homeless persons and persons with special housing needs to (1) provide temporary shelters, (2) encourage self-sufficiency, and (3) address problems of migrant farmworkers.

LB 1192 prescribed eligibility requirements for persons seeking assistance from the fund and provided that the Housing Advisory Committee established under the state's comprehensive housing affordability strategy will serve an advisory role in the processing of applications for assistance.

The bill also changed the structure of documentary stamp tax distribution and provided that 25 cents of each \$1.75 collected shall be deposited in the Homeless Shelter Assistance Trust Fund.

LB 1192 was passed by a vote of 38-8-3 and was approved by the Governor on April 20, 1992.

LB 754—Ethanol Authority and Development Act (Schmit and Schrock)

LB 754 provided a number of changes in the system of ethanol production incentives. Some brief background is needed to understand these changes.

Existing statutes provide assistance to ethanol producers two ways. The Ethanol Authority and Development Cash Fund (EADCF) was created in 1986. The original seed money for the EADCF was derived from an ethanol excise tax assessed against wheat, corn, and grain sorghum growers. The excise tax was in place from July 1987 through December 1988.

The EADCF is used to defray the expenses of the Ethanol Authority and Development Board, to acquire or to acquire a part interest in ethanol plants, to make grants or loans to facilitate the development or marketing of ethanol-related products, to provide equity financing for the construction of ethanol production and distribution facilities, and to fund ethanol research and development projects.

Ethanol producers also receive support in the form of transferable motor fuel tax credit certificates. Section 66-1326 provides a credit of 20 cents per gallon of ethanol produced in Nebraska for an eighty-four-month period after the first credit certificate is received and ending not later than December 31, 1997. Motor fuel tax receipts are deposited in the Highway Trust Fund, and the EADCF must reimburse the Highway Trust Fund for one-half of the receipts lost because of the ethanol production tax credit.

LB 754 placed a deadline of April 30, 1992, on the ability of the Ethanol Authority and Development Board to make new equity investments or loans to ethanol producers. The bill also created the Ethanol Production Incentive Cash Fund (EPICF) and transferred \$11 million to the EPICF from the EADCF. The EPICF replaced the EADCF as the source of reimbursement to the Highway Trust Fund for receipts lost due to the ethanol production tax credit.

LB 754 increased reimbursement to the Highway Trust Fund from 50 percent of receipts lost as a result of the ethanol production tax credit to 100 percent. The portion of the reimbursement not paid from the ethanol production tax credit will be derived from an additional gasoline tax in the amount of one cent per gallon for 1993, 1994, and 1995, three-quarters cent per gallon for 1996, and one-half cent per gallon for 1997. The entire

reimbursement will be funded from the EPICF for 1998, 1999, and 2000, at which time the ethanol production tax credit will terminate.

After July 1, 1994, no tax credit will be given for ethanol produced at an ethanol facility which was in production on or before January 1, 1992, unless the facility expands its design capacity to double what it was on January 1, 1992. Even with the expanded design capacity, the tax credit will terminate on December 31, 1997, for plants in operation on or before January 1, 1992.

LB 754 also provided that ethanol facilities which begin production between January 1, 1992, and December 31, 1995, and which are producing at least 25 percent of design capacity by December 31, 1992, will receive the twenty-cent-per-gallon tax credit for 60 months from the first month of eligibility and ending not later than December 31, 2000.

Finally, LB 754 provided an income tax credit of 50 cents per gallon (up to two and one-half million gallons) on each gallon of Nebraska-produced ethyl tertiary butyl ether sold for delivery outside the State of Nebraska. This credit will be reduced by the amount of any other ethanol production tax credit received by a producer.

LB 754 was passed with the emergency clause by a vote of 43-0-6 and was approved by the Governor on April 15, 1992.

Measures Not Enacted Into Law

LB 529—Campaign Committee Income Tax Act (Lindsay)

LB 529, as originally introduced, imposed an 80 percent income tax on the income of political campaign committees in excess of specified exemption amounts. The exemption amounts were \$1 million for the Office of Governor; \$150,000 for the Office of Lieutenant Governor, State Treasurer, Attorney General, and Auditor of Public Accounts; \$50,000 for members of the Legislature; and \$25,000 for members of the Public Service Commission, the Board of Regents, and the State Board of Education.

The exemption amounts for members of the Public Service Commission, Board of Regents, and State Board of Education were increased to \$50,000 by the committee amendments. The Revenue Committee also reduced the proposed tax rate from 80 percent to 50 percent and added a provision requiring the candidate committee, at the time of filing campaign statements, to also file a tax return with the Tax Commissioner and make a payment in an amount equal to 50 percent of the income received to date in excess of the exemption amount.

The bill defined income as both cash and in-kind contributions, provided that the candidate would be personally liable for paying the tax, and specified that willful violations would constitute a Class II misdemeanor.

LB 529 did not advance from Select File.

LB 1026 and Other Legislative Bills Earmarking Cigarette Tax Receipts For Capital Construction

Because of the upcoming expiration of existing cigarette tax revenue earmarks, there were a number of bills introduced containing proposals for the use of this soon-to-be-available revenue.

★ LB 1026:

- (1) Raised cigarette taxes by five cents from 27 cents to 32 cents per pack and distributed the money as follows:
 - (a) One cent to cancer research projects at the University of Nebraska Medical Center and Creighton University;
 - (b) One cent to the Environmental Trust Fund until July 1, 1993;
 - (c) One cent to the 309 Fund for capital construction;
 - (d) One-half cent to implementation of the federal Americans with Disabilities Act;
 - (e) One-half cent to the Department of Correctional Services for building improvements; and,
 - (f) One cent for the following projects in higher education:
 - (i) \$1.2 million to renovate Arts and Science Hall at the University of Nebraska at Omaha;
 - (ii) \$1.3 million to renovate Copeland Hall at the University of Nebraska at Kearney;
 - (iii) \$1.5 million for asbestos removal and waterproofing at Burnett Hall at the University of Nebraska-Lincoln;
 - (iv) \$1.1 million to complete Scott Engineering Link at the University of Nebraska-Lincoln;
 - (v) \$.5 million to renovate the East Campus Greenhouse at the University of Nebraska Institute of Agriculture and Natural Resources; and,
 - (vi) \$1.3 million to renovate Burkhiser Hall at Chadron State College.
- (2) Directed two cents of the existing cigarette tax to the Postsecondary Coordinating Commission Incentive Fund for use by educational

institutions for student financial aid, renovation of facilities, life-safety programs, pilot instructional programs, and pilot research projects;

- (3) Created the Environmental Trust Fund to be administered by an eleven-member board. The board would select projects to be funded based on specified criteria. The fund would also receive money from a state lottery, if a state lottery is approved by voters;
- (4) Created the Citizens Public Safety Fund to be used to renovate, upgrade, and expand correctional facilities;
- (5) Proposed eliminating the Legislative Assistance Fund and directing 25 percent of any state lottery proceeds to the Environmental Trust Fund and 24.5 percent of any state lottery proceeds to solid waste programs for site assessment, monitoring, closure, and remediation; and,

LB 1026 did not advance from General File, however, two of its provisions were amended into LB 1257 which was passed and signed into law. The provision directing 24.5 percent of any state lottery proceeds to solid waste programs and the establishment of the Environmental Trust Fund were passed as part of LB 1257. (See Natural Resources Committee section.)

- ★ LB 1090 increased the cigarette tax from 27 to 29 cents and committed the additional two cents to cancer research. The bill proposed appropriating an amount not to exceed \$1 million to the Eppley Cancer Institute and an additional \$1.5 million for contracts with programs in the state for clinically based cancer research.

LB 1090 did not advance from committee.

- ★ LB 1226 increased the cigarette tax by five cents and earmarked two cents for the Solid Waste Landfill Closure Assistance Fund. The fund was administered by the Department of Environmental Control to provide state aid to political subdivisions for costs associated with landfill site assessment, monitoring, closure, and remediation.

LB 1226 also authorized counties, cities, and villages to levy a special tax of not to exceed three-tenths of one cent per one hundred dollars of taxable valuation on all taxable property for the purpose of solid waste disposal assessment, closure, monitoring, and remediation costs.

LB 1226 did not advance from committee, except that the provision establishing the Solid Waste Landfill Closure Assistance Fund was passed as part of LB 1257. (See Natural Resources Committee section.)

For additional bills related to cigarette tax receipts, see the Appropriations Committee section.

LB 1245—Eliminating a Property Tax Exemption for Not-For-Profit Hospitals (Hall)

LB 1245 eliminated an exemption from property taxes for not-for-profit hospitals.

LB 1245 did not advance from General File.

LB 1285—Health Services Availability Act (Wesely)

LB 1285 raised additional revenue by imposing a tax of two percent on the gross revenue of all health care providers except hospitals with gross revenue of less than five million dollars. The bill prohibited health care providers from passing the cost of the tax on to their patients.

LB 1285 did not advance from committee.

TRANSPORTATION COMMITTEE
Senator Douglas A. Kristensen, Chairperson

Legislative Bills Enacted Into Law

LB 899—Relocation of Wetlands (Kristensen)

Federal law requires that states replace wetlands lost to highway construction with newly developed wetlands on an acre-for-acre basis. Section 39-1320 provided that the Department of Roads may acquire real property for “any state highway purpose”, except that the definition of state highway purpose did not encompass replacement of wetlands.

LB 899 amended section 39-1320 and expanded the definition of “state highway purpose” to include the establishment and maintenance of wetlands to replace or to mitigate damage to wetlands affected by highway construction, reconstruction, or maintenance.

LB 899 was passed by a vote of 46-1-2 and was approved by the Governor on April 17, 1992.

LB 175—Membership On the Board of Examiners For County Highway and City Street Superintendents (Elmer)

LB 175 required that any individual appointed to the Board of Examiners for County Highway and City Street Superintendents must hold a current license as a county highway or a city street superintendent.

LB 175 was passed by a vote of 40-0-9 and was approved by the Governor on March 4, 1992.

LB 291—Administrative Driver’s License Revocation (Beyer, Rogers, Crosby, Hefner, L. Johnson, Lamb, Byars, Warner, Pirsch, Wehrbein, Peterson, and Schellpeper)

LB 291 changed the minimum and maximum penalties for convictions of driving while under the influence of alcohol or drugs (DWI) and refusing to submit to a chemical test. The bill provided that if a person, while driving under the influence of alcohol or drugs, proximately causes the death of another or inflicts serious bodily injury on another the court, in addition to any other penalties, must revoke the driver’s license of the convicted person for not less than 60 days and not more than 15 years.

The bill also expanded the scope of application of the Nebraska Rules of the Road and specified that provisions applying to DWI and implied consent will apply on private property open to public access and on all highways; eliminated urine alcohol content as a per se offense; and reduced from ten years to eight years the period of time during which prior convictions can be used to enhance a current conviction. The bill also provided that

any person convicted of DWI will be required to submit to and pay for an alcohol assessment and authorized the sentencing judge to order the convicted person to follow through on the results of the alcohol assessment at the convicted person's expense in lieu of or in addition to any other penalties.

LB 291 adopted administrative license revocation (ALR) procedures. The ALR procedures provide that the arresting officer, acting as an agent for the Director of Motor Vehicles, must notify the arrested person of his or her intent to immediately impound and revoke the arrested person's driver's license and that such revocation will automatically become effective 30 days after the date of arrest unless the arrested person files a petition for hearing within ten days after the date of arrest. The arresting officer will take the arrested person's driver's license and provide him or her with a temporary license valid for 30 days. If no petition for hearing is received by the Director of Motor Vehicles within ten days, the arrested person's driver's license will be revoked 30 days after the date of arrest. If a valid petition for hearing is received within ten days, a hearing must be held within 20 days after the petition is filed. If the arrested person is not prosecuted for DWI, the license impounded under the ALR procedures will be reissued.

The bill further provided for a one-year license revocation for any driver who refuses to submit to a chemical test when stopped by a police officer and the revocation of a driver's license for 90 days for the first offense and for one year for subsequent offenses for failing to pass a chemical test.

LB 291 was passed by a vote of 28-9-12 and was approved by the Governor on April 17, 1992.

LB 958—Require Use of Occupant Protection Systems (Horgan)

LB 958 required every front seat occupant of a motor vehicle (1973 model or newer) to wear a vehicle occupant protection system (seat belt). Violations carry a \$25 fine, however, enforcement will occur only as a secondary activity when a driver is stopped for some other reason. No court costs or loss of points will be assessed. Rural letter carriers, rescue unit members involved in patient care, and individuals possessing written verification from a physician that a valid medical reason for nonuse exists were exempted from the requirements of the bill.

LB 958 was passed by a vote of 27-22-0 and became law on April 20, 1992, without the Governor's signature.

LB 1178—Anatomical Gifts (Hillman, Bernard-Stevens, Beutler, Chizek, Horgan, Landis, Moore, Nelson, Rasmussen, Schrock, and Wickersham)

LB 1178 changed the procedure for making anatomical gifts by requiring that the application for a driver's license or state identification card include a section of questions allowing the applicant to make an anatomical gift. Answering the questions regarding anatomical gifts is optional and, if a person chooses to make an anatomical gift, the gift becomes effective upon the death of the donor with the consent of the donor's next of

kin. An explanatory brochure, approved by the Department of Health, will be provided to each applicant for a driver's license or a state identification card.

The bill also amended the Anatomical Gift Act to eliminate a provision requiring donors to be at least 19 years of age.

LB 1178 was passed by a vote of 39-0-10 and was approved by the Governor on April 13, 1992.

LB 319—Increase Motorcycle Registration Fees **(Kristensen and former Senator Jacklyn Smith)**

LB 319 increased motorcycle registration fees from \$4.50 to \$6.50. The revenue from the increased fees will be deposited in the Motorcycle Safety Education Fund. The bill, as passed, also contained the provisions of LB 1065 which provided that, effective January 1, 1993, the fee for the issuance of new motor vehicle license plates (including duplicate or replacement plates) will increase from \$1.15 to \$1.50.

LB 319 was passed by a vote of 42-0-7 and was approved by the Governor on April 17, 1992.

Measures Not Enacted Into Law

LB 93—Ignition Interlock Devices (Landis)

LB 93 provided a court with the option of ordering the installation of an ignition interlock device in lieu of license revocation in cases involving driving while under the influence of alcohol or drugs or a violation of the implied consent law. An ignition interlock device is a device which measures, through a breath test, the proximate amount of alcohol in a person's system and prohibits a person from starting his or her vehicle when he or she is under the influence of alcohol. The bill also provided penalties for tampering with an ignition interlock device and prohibited the assessment of points when a person is placed on probation and an ignition interlock device is installed.

LB 93 did not advance from committee.

NOTE: LB 491, introduced by Senators Hall and Will, contained provisions very similar to LB 93 and also did not advance from committee.

LB 126—Airport Authorities (Elmer)

LB 126, after being altered substantially by amendments, prohibited airport authorities from imposing any tax or fee or requiring any license for the use of any highway or street maintained by the authority.

LB 126 failed on Final Reading.

LB 252—Motorcycle Helmets (Moore, Peterson, and Robak)

LB 252 limited the helmet requirement to motorcyclists under 19 years of age.

LB 252 did not advance from committee.

LB 336—Drivers Education (Transportation Committee)

LB 336 raised the minimum age for obtaining a driver's license from 16 years of age to 17 years of age, except that a person offering satisfactory proof of completion of a driver safety course approved by the Department of Motor Vehicles could apply for a license at 16.

LB 336 did not advance from Select File.

**LB 532—Suspension of Driving Privileges for Certain Juveniles
(Landis, Pirsch, Hefner, Horgan, Dierks, Beyer, L. Johnson, and Withem)**

LB 532 required Nebraska courts to suspend the driver's license or the eligibility for a driver's license of any person 13 years of age or older but younger than 19 years of age who is convicted of an offense involving the manufacture, possession, or distribution of a controlled substance, the misrepresentation of age for the purpose of purchasing an alcoholic beverage, or being a minor in possession of alcohol.

LB 532 did not advance from General File.

URBAN AFFAIRS COMMITTEE
Senator D. Paul Hartnett, Chairperson

Legislative Bills Enacted Into Law

LB 746—Metropolitan Utilities Districts (Urban Affairs Committee)

LB 746 recodified the statutes governing the organization and functions of metropolitan utilities districts (MUDs). The bill did not substantively change the operation of MUDs. It repealed obsolete language, updated references to MUDs, and consolidated the relevant sections into a clearer, more succinct statutory framework. Some of the provisions of LB 307 were incorporated into LB 746 as passed.

Among other things, LB 746 limited the authority of MUDs to enlarge their service areas by employing the power of eminent domain to condemn the property of existing utilities. The bill also established a framework for the resolution of ongoing boundary disputes between MUDs and private utility companies. The bill precluded a MUD from extending or enlarging its service area unless "it is economically feasible to do so." The data supporting such feasibility must be filed with the secretary of the board of directors of the MUD and must be open to public inspection.

The bill provided that a MUD, "may employ the power of eminent domain to acquire parts of an existing utility's facilities only when such facilities are within, annexed to, or otherwise consolidated within the corporate boundary limits of a city of the metropolitan class."

LB 746 was passed with the emergency clause by a vote of 38-0-11 and was approved by the Governor on March 14, 1992.

Measures Not Enacted Into Law

LB 1008—Authorize Fees for Garbage and Refuse Removal in Cities of the Metropolitan Class (Horgan)

LB 1008 was the priority bill of the Urban Affairs Committee. The bill authorized a city of the metropolitan class (Omaha) to charge fees for garbage and refuse removal, disposal, or recycling. LB 1008 also authorized the city to contract with its metropolitan utilities district to collect all or any part of any fees imposed for the removal, disposal, or recycling of garbage and refuse.

LB 1008 did not advance from General File.

SELECT COMMITTEE ON SEXUAL HARASSMENT

Fifteen senators introduced LR 205 to create a Select Committee on Sexual Harassment composed of the nine women members of the Legislature for the purpose of holding a public hearing on sexual harassment and developing specific recommendations as necessary. The day-long hearing conducted by the committee began with remarks from the Governor and included comments from the Chancellor of the University of Nebraska-Lincoln, a law professor specializing in employment discrimination, the Director of the Equal Opportunity Commission, and representatives from many other organizations. Nine women related their own experiences of sexual harassment on the job to the committee. These women were joined by State Treasurer Dawn Rockey who told the committee of harassment she experienced while working for the Legislature.

After the hearing, the committee sent the following recommendations to the Executive Board:

- (1) That the Legislature develop protocols for receiving and investigating complaints of sexual harassment within the Legislature;
- (2) That the Legislative Council provide training and educational workshops for employees and employers within the Legislature;
- (3) That the workload and staffing needs, both present and future, of the Equal Opportunity Commission be studied; and,
- (4) That a select committee be established to continue the work that has begun and that an interim study be conducted to help implement all the recommendations of the committee.

The committee then introduced a study resolution (LR 383) requesting the creation of a new select committee to continue work on the issue of sexual harassment. The Executive Board assigned the following senators to the new select committee: Senators Bohlke, Crosby, Hillman, Nelson, Pirsch, Rasmussen, Robak, Schimek, Wehrbein, Wickersham, and Withem.

The select committee has been divided into three task forces. The Executive Board has been working with one of the task forces to develop protocols for receiving and investigating complaints of sexual harassment within the Legislature and to provide training and educational workshops for employees and employers within the Legislature. This task force will also review the sexual harassment policies of the United States Congress and other state legislatures.

Another task force will consider issues related to the Equal Opportunity Commission. Issues to be examined include a review of the commission's workload and staffing needs and assessing the difficulties associated with filing, investigating, and prosecuting a sexual harassment claim.

The third task force will review suggestions offered at the January 1992 hearing, research the Nebraska Fair Employment Practice Act, and research and propose other possible legislative remedies needed to address the issue of sexual harassment.

NINETY-SECOND LEGISLATURE
Second Special Session

Legislative Bills Enacted Into Law

**LB 1S2—Personal Property Taxes (Warner, Hall, Landis, and Withem,
at the request of the Governor)**

In July 1991, the Nebraska Supreme Court ruled that the exemption of selected classes of personal property was in violation of Article VIII, section 1, of the Nebraska Constitution (the "Uniformity Clause"). Because of the ruling and other previous rulings by the Nebraska Supreme Court, the Legislature adopted LR 219CA which proposed a constitutional amendment authorizing the taxation of different classes of personal property differently. The constitutional amendment was approved by the voters on May 12, 1992.

On March 18, 1992, LB 1063 was approved by the Governor. LB 1063 revised the personal property tax system and provided for the taxation of farm machinery and equipment, breeding livestock, and business machinery and equipment on a net book value basis. Because LB 1063 was passed by the Legislature before LR 219CA, LB 1063 contained language making the personal property tax exemptions included in the bill contingent upon the passage of the proposed constitutional amendment.

After the passage of LB 1063, questions arose as to the constitutionality of legislation that was to become operative upon the subsequent approval of a constitutional amendment. This issue was the subject of Attorney General Opinion No. 92064, which concluded that

a question exists as to whether the "alternative" provisions relating to property taxation, which seek to condition the manner in which tangible personal property is to be taxed on whether a constitutional amendment is adopted, may be held to establish an unconstitutional delegation of authority to the electorate. . . .

[I]t is our strong recommendation that if LR 219CA is approved by the voters, the Legislature reconvene for the purpose of reenacting LB 1063 or its equivalent.

Additional questions regarding the constitutionality of LB 1063 were raised by the decision of the Nebraska Supreme Court in *Jaksha v. State of Nebraska*, 241 Neb. 106, (1992). While this case focused on the constitutionality of LB 829, which was passed by the Legislature in 1991 and which exempted all personal property from taxation for tax year 1991, the opinion included the following statement,

An act of the Legislature that is forbidden by the state Constitution at the time of its passage is absolutely null and void, and is not

validated by a subsequent amendment to the state Constitution authorizing it to pass such an act.

Based on the available information, the Governor chose to include consideration of the reenactment of LB 1063 in a special session which was held from July 31, 1992, to August 12, 1992. Introduced during that session, LB 1S2 essentially provided for the reenactment of LB 1063. The conditional language relating to the passage of the constitutional amendment, a provision requiring the reporting of both the book value and the actual value of depreciable tangible personal property, and the inseverability clause which had been included in LB 1063 were eliminated from LB 1S2.

LB 1S2 was passed with the emergency clause by a vote of 34-12-2 and was approved by the Governor on August 12, 1992.

LB 7S2—Legislative Redistricting (Conway)

In 1991, the Legislature passed LB 614 which provided for the redistricting of Nebraska's legislative districts. Based on the new boundaries contained in LB 614, Madison County, which had been one district, was split between two districts.

A group of Madison County residents filed suit in Lancaster County District Court (*Day v. Nelson*, S-92-229) maintaining that the division of Madison County was a violation of Article III, section 5, of the Nebraska Constitution, which provides in part, "In any such redistricting, county lines shall be followed whenever practicable . . .".

The district court held that LB 614 was not constitutionally deficient. On appeal, the Nebraska Supreme Court reversed the decision and remanded the case to the district court with directions to enter judgment for the appellants and enjoin the state from employing the plan outlined in LB 614. In its ruling, the Supreme Court noted that only two Nebraska counties, Lincoln and Madison, have populations which are the "ideal" size for legislative districts under the "one person, one vote" rule and the guidelines used by the Legislature during the redistricting process. Consequently, the Supreme Court ruled that Madison County could not be split under the "county lines" rule.

As a result of the Supreme Court ruling, the development of a revised redistricting plan was placed on the agenda for the special session. LB 7S2, which established Madison County as district 19 and changed the boundaries of legislative districts 17, 18, and 40, was passed during that session.

LB 7S2 passed with the emergency clause by a vote of 34-12-3 and was approved by the Governor on August 14, 1992.

LB 9S2—Vacancies in Nonpartisan Elections (Conway)

The alteration of legislative district boundaries, which occurred between the 1992 primary and general elections, resulted in a number of problems. Two persons had been nominated as candidates for the Legislature from district 19 as the district existed in LB 614 and prior to the passage of LB 7S2. These persons were no longer eligible to be candidates for the Legislature because, after the passage of LB 7S2, they no longer

resided in the newly created district 19. The candidates filed suit seeking to have the boundaries of district 19 restored pursuant to LB 614, but the suit was not successful. In addition, the candidates for the Legislature from district 17 had to use the petition process prescribed in section 32-537 to have their names placed on the general election ballot for the revised district 17. However, to allow for this, changes in the law relating to nonpartisan elections were needed.

LB 9S2 amended section 32-424 to provide that the general election ballot may contain more than two names for the same office when there is a vacancy for that office following the primary election and more than two candidates satisfy the petition requirements to have their names placed on the ballot. The bill also amended section 32-357 to provide that petitions filed to fill a vacancy created when district boundaries are changed between the primary and general elections must be filed no later than the last Friday in August. LB 9S2 added the requirement that, in those instances in which legislative district boundaries are changed between the primary and general elections, candidate petitions must bear the signatures of registered voters equal to at least two percent of the total population of the State of Nebraska according to the last federal decennial census divided by the number of legislative districts.

LB 9S2 also added an additional circumstance in which a candidate vacancy following a primary election is deemed to exist: those instances in which the boundaries of a legislative district are changed by the Legislature between the primary and general elections.

LB 9S2 was passed with the emergency clause by a vote of 40-0-6 and was approved by the Governor on August 14, 1992.

LB 15S2—Legislative Redistricting (Schrock and Elmer)

LB 15S2 changed the boundaries of legislative districts 44 and 38, located in south-central Nebraska.

The bill was passed by a vote of 39-0-7 and was approved by the Governor on August 14, 1992.

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