

**A Review:
Ninety-Third Legislature
Second Session, 1994**

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Twenty-Two Legislators
Second Session, 1991

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INTRODUCTION

The following report provides a summary of significant legislative issues addressed during the second session of the Ninety-Third 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, the *Unicameral Update*, and members of the Fiscal Office staff.

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. 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 in the preparation of this report. 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 M.L. Dierks, Chairperson

ENACTED LEGISLATIVE BILLS

LB 882—Change Method of Selecting Fence Viewers

(Dierks)

LB 882 updates five seldom-invoked sections of law relating to the resolution of disputes between adjacent landowners over the repair and maintenance of fences. Prior to the bill's passage, these disputes were decided by a special committee of "fence viewers" selected by the parties to the dispute each time a dispute arose.

LB 882 provides that upon request of any landowner, the county clerk shall appoint and maintain a permanent panel of at least six persons, who are agricultural land owners and at least three of whom are also livestock owners, to serve as fence viewers. Then upon receipt of a written request from a landowner, the clerk assigns three fence viewers from the permanent panel to decide the dispute. The fence viewers determine, by written order, the obligations, rights, and duties of the respective parties in the dispute and receive 30 dollars each, plus expenses, for each dispute.

The bill passed 44-0 and was approved by the Governor on April 18, 1994.

LB 934—Extend Termination Date of the Nebraska Farm Mediation Act

(Agriculture Committee)

LB 934 changes the termination date of the Nebraska Farm Mediation Act from June 30, 1995, to June 30, 1999.

The act was originally enacted to provide farmers and lenders an alternative to the courts for problem-solving and decisionmaking. The Department of Agriculture estimates that 650 disputes between farmers and lenders have been processed since the act was passed. Passage of LB 934 insures that the program will continue until 1999.

LB 934 passed 38-0 and was approved by the Governor on March 3, 1994.

LB 1071—Revisions to the Nebraska Apiary Act

(Agriculture Committee)

LB 1071 amends the Nebraska Apiary Act to shift the responsibility of providing beekeeping education from the Department of Agriculture to the University of Nebraska; however, regulating and inspecting beekeeping enterprises will continue to be responsibilities of the department.

Additionally, the bill updates definitions used in the act, limits inspection and certification requirements to operations selling 25 or more bee colonies within the state or exporting 25 or fewer colonies out of the state, eliminates regular inspections of beekeeping

operations, and changes the fee structure for inspection and certification.

LB 1071 passed with the emergency clause 38-0 and was approved by the Governor on April 18, 1994.

LEGISLATIVE BILLS NOT ENACTED

LB 933—Change Provisions Relating to Weights and Measures

(Agriculture Committee)

LB 933 would have updated the Weights and Measures Act administered by the Department of Agriculture by adopting the most current handbooks governing the packaging and labeling of commodities published by the National Institute of Standards and Technology. The bill also would have enabled the Director of Agriculture to establish an authorized laboratory under the National Type Evaluation Program for conducting field testing of weighing and measuring devices manufactured in Nebraska.

LB 933 advanced to General File but died with the end of the session.

LB 1058—Exempt Certain Cattle From Brand Inspection

(Wickersham, Elmer, Jones, and Schmitt)

LB 1058 would have exempted from the brand inspection and certification requirement cattle regulated under what is known as the registered feedlot law (sections 54-159 to 54-169) when such cattle are transported out of the Nebraska Brand Inspection Area. However, the cattle would have continued to be subject to regulation by the Brand Committee.

Additionally, the bill would have authorized persons who keep cattle on land both inside and outside the Nebraska Brand Inspection Area to receive written permission from the Brand Committee to move cattle across the boundary of the inspection area without inspection. However, receipt of the permission to waive inspection would have then subjected those cattle, including cattle outside the inspection area, to regulation by the Brand Committee.

LB 1058 advanced to General File but died with the end of the session.

APPROPRIATIONS COMMITTEE

Senator Scott Moore, Chairperson

ENACTED LEGISLATIVE BILLS

LB 991— Appropriate Funds for State Government Expenses

*(Speaker Ron Withem, at the
request of the Governor)*

LB 991 is the mainline deficit bill and contains budget adjustments to the biennial budget enacted in the 1993 legislative session for FY1993-94 and FY1994-95. As originally introduced, the bill contained the majority of the Governor's recommended budget adjustments and appropriated an additional \$1,341,418 General Funds for FY1993-94 and \$9,343,873 General Funds for FY1994-95.

The Appropriations Committee adopted amendments which changed the level of funding and appropriated a total of \$242,950 General Funds for FY1993-94 and \$8,870,342 General Funds for FY1994-95. Additionally, amendments adopted by the full Legislature added \$70,000 General Funds to the bill for FY1993-94 and \$2,880,412 General Funds for FY1994-95.

LB 991 passed with the emergency clause 34-8 and was approved by the Governor on April 13, 1994, with certain line-item vetoes. The Governor vetoed \$100,000 of the General Fund appropriation for FY1993-94 and \$2,965,912 of the General Fund appropriation for FY1994-95. All attempts to override the line-item vetoes failed.

What does this mean? As enacted, LB 991 appropriates an additional \$212,950 General Funds for FY1993-94 and \$9,257,894 General Funds for FY1994-95.

Significant items funded by the bill include:

- ◆ \$1,500,000 for teachers salaries in FY1994-95.
- ◆ A \$1.7 million increase in FY1994-95 for aid pursuant to the Tax Equity and Educational Opportunities Support Act.
- ◆ \$1.1 million for FY1993-94 and FY1994-95 for the homestead exemption program.
- ◆ \$400,000 for FY1994-95 for the children's mental health road map.
- ◆ \$1 million for the Governor's emergency fund for FY1993-94 to pay for costs related to the 1993 flood and windstorms.

- ◆ \$500,000 for FY1994-95 to the Department of Economic Development for job training.

Because of operational savings, LB 991 reduces the FY1993-94 appropriation to the Department of Correctional Services by \$897,505. The bill also includes a one-time decrease in state employees health insurance payments due to administrative changes and a draw down of funds of \$1.9 million for FY1993-94 and \$2.8 million for FY1994-95.

**LB 1045—
Appropriate Funds
to the Department
of Economic
Development for
Job Training**
(Warner)

As originally introduced, LB 1045 appropriated five million dollars to the Department of Economic Development for job training.

As enacted, the bill transfers six million dollars from the Cash Reserve Fund to the Job Training Cash Fund. (The transferred money is then specifically appropriated in LB 991 for FY1994-95.) Pursuant to LB 991, in order to be eligible to receive grants from the fund, employers must meet the following criteria:

- (1) Over 750 new jobs must be created;
- (2) The new positions must be full-time positions; and
- (3) The employer must demonstrate that the positions created would not be subject to high employee turnover rates.

LB 1045 passed 40-1 and was approved by the Governor on April 12, 1994.

**LB 1194—Codify
Certain
Administratively
Created Funds**
(Appropriations Committee)

As originally introduced, LB 1194 was one of a package of bills introduced by the Appropriations Committee to codify several administratively created cash funds. Via committee amendments, the provisions of LBs 1191, 1192, 1193, 1195, 1196, 1197, 1198, and 1199 were added to the bill.

The funds codified are the Department of Administrative Services Revolving Fund, the Materiel Division Revolving Fund, the Intergovernmental Data Services Revolving Fund, the Temporary Employee Pool Revolving Fund, the Personnel Division Cash Fund, the State Surplus Property Revolving Fund, the Secretary of State Administration Cash Fund, the Foster Care Review Board Cash Fund, the Department on Aging Cash Fund, the Veteran's Home Building Fund, the Department of Public Institutions Institutional Cash Fund, the School District Reimbursement Fund, the Department of Justice Revolving Fund, the Department of Justice Cash Fund, the Highway Cash Fund, the Roads Operation Cash Fund, the Commission on the Status of Women Cash Fund, and the Administrative Cash Fund in the Department of Economic Development.

The bill also provides that the Accounting Administrator may administratively establish cash and revolving funds to account for gifts or specific one-time sources of revenue; however, if such administratively created funds exist for more than two years, the funds must either be lapsed to the General Fund or statutorily codified.

LB 1194 passed 44-0 and was approved by the Governor on April 12, 1994.

LEGISLATIVE BILLS NOT ENACTED

LB 314—Change Percentage Amount of Fees Credited to General Fund

*(Warner, Beutler, Bohlke,
Crosby, Lynch, and Schimek)*

LB 314 would have phased out the requirement prescribed in section 33-150 that 15 percent of all fees collected by certain boards, bureaus, divisions, funds, or commissions be deposited in the General Fund. Once the phase out was complete (which would have been FY1996-97), all revenue generated by the fees would have been placed in the respective agencies' cash funds. Once fully implemented, the estimated fiscal impact of the bill was an annual loss to the state's General Fund of \$891,998 and a proportional gain (totaling in the aggregate an estimated \$891,998) to the cash funds of the respective agencies.

While LB 314 passed 41-0, it was vetoed by the Governor on April 12, 1994. No attempt to override the veto was made.

LB 322—Require Bidding for Certain Services Purchased by the State

*(Appropriations Committee, at
the request of the Governor)*

As originally introduced, LB 322 would have required that services with an estimated cost of more than \$10,000 be competitively bid through the Department of Administrative Services. Construction services, which are already statutorily regulated, would have been exempted from the provisions of the bill.

Adopted committee amendments raised the threshold amount from \$10,000 to \$15,000 and also excluded from the bidding requirements any service covered by the Nebraska Consultants' Competitive Negotiation Act; labor contracts bargained for by state employees; client services such as medical, personal health, or veterinary services or any service procured as part of any public assistance service; any service for which payment is made from the Tort Claims Fund, the Workers' Compensation Claims Fund, or the State Self-Insured Indemnification and Liability Fund; any services, other than attorney services, necessary for litigation in which the state is a party; or any agreement under the Interlocal Cooperation Act.

Additionally, the amendments provided that if the state intended to "privatize" an activity previously performed by a state employee, the applicable agency must submit a cost-benefit analysis to the Legislative Fiscal Analyst.

LB 322 advanced to Select File but died with the end of the session.

BANKING, COMMERCE AND INSURANCE COMMITTEE

Senator David Landis, Chairperson

ENACTED LEGISLATIVE BILLS

**LB 1066—
Eliminate Certain
Restrictions on
Investment of
Public Funds**
(Chambers)

South Africa

Based on news that South Africa abolished apartheid and scheduled its first democratic elections, LB 1066 outright repeals sections 72-1270 to 72-1276 which prohibit the investment of Nebraska funds in financial institutions and corporations doing business in South Africa. In 1984, Nebraska was the first state to pass formal legislation in an effort to condemn South Africa's practice of apartheid.

Northern Ireland

Through the adoption of AM3685, the provisions of LB 705 were added to LB 1066. The amendment adds three new sections to the Nebraska Funds Investment Act in order to impose new requirements on the state investment officer regarding the investment of state funds in stocks and obligations of corporations doing business in Northern Ireland.

Among several new requirements, AM3685 requires the state investment officer to: compile an annual list of stocks and corporations doing business in Northern Ireland; determine whether each corporation has taken affirmative action to eliminate ethnic or religious discrimination in Northern Ireland's hiring practices; and consider whether a corporation has taken substantial action designed to lead toward the achievement of affirmative action goals (known as the McBride principles). The state investment officer must also annually report findings to the Legislature.

LB 1066 passed with the emergency clause 34-5 and was approved by the Governor on April 19, 1994.

**LB 967—Delayed
Deposit Services
Licensing Act**
(Landis)

LB 967 adopts the Delayed Deposit Services Licensing Act to provide for the regulation by the Director of Banking and Finance of delayed deposit services businesses. A delayed deposit services business accepts for a fee a check, sometimes postdated from a customer, and holds the check for a period of days prior to deposit or presentment following an agreement with a customer.

The bill prohibits operation of a delayed deposit services business without a license issued by the director, describes the requirements for applying for a license, including a provision enabling the director to cause a criminal background check to be conducted of the

applicant and all members of the business, and provides for the issuance, surrender, suspension, and revocation of a license. The bill requires a licensee to operate at a designated place of business and subject to certain restrictions, allows the licensee to operate a delayed deposit services business at a location where another type of business is operated.

Additional restrictions placed on licensees include: giving the customer notice of fees to be charged and dates when deposits will occur; displaying a schedule of fees, charges, and penalties at the licensees' offices; holding no more than two checks from one customer; holding a check for no more than 31 days or for the amount of more than \$500 for one customer and accepting no check as repayment of or to refinance a check held by the licensee; and making accounts and other records available for annual examination by the director.

LB 967 also authorizes the director to examine customer complaints, impose fines, issue cease and desist orders, and obtain injunctive relief in district court.

LB 967 passed 43-1 and was approved by the Governor on April 18, 1994.

**LB 611—Provide
and Eliminate
Certain Bank
Insider Lending
Limit Provisions**
(Wesely)

LB 611 prohibits banks from making any loans to their licensed executive officers except for the following purposes and amounts: (1) in any amount to finance the education of the executive officer's children; (2) in any amount to finance the purchase, construction, maintenance, or improvement of the executive officer's residence (and the loan is secured by a first lien on the residence); or (3) for any other purpose, subject to certain restrictions on the amount of the loan.

The bill prohibits a bank from making loans to any of its executive officers, directors, or principal shareholders (or to any related interest) which exceed the higher of \$25,000 or five percent of the bank's unimpaired capital and surplus, unless the loan is approved in advance by a recorded majority vote of the bank's board of directors and the interested party abstains from participating in the board's vote. The same restrictions are applied to bank loans which exceed \$500,000 to executive officers, directors, or principal shareholders (or any related interest). It appears that the \$500,000 amount triggers board action in cases in which the five percent limit yields an amount greater than \$500,000. In no event may the bank make an extension of credit which exceeds the bank's state or federal lending limits.

Finally, the bill requires a licensed executive officer who incurs debt from any other financial institution to write a report to the board of directors of his or her bank stating the date and amount of

indebtedness, the security, and the purpose for which the proceeds have been used or are to be used, and provides that a violation of this section is a Class IV felony, punishable by a maximum of five years imprisonment, a \$10,000 fine, or both.

LB 611 passed 39-1 and was approved by the Governor on March 15, 1994.

**LB 942—
Conditional
Registration
Exemptions for
“Listed” and
“Unlisted”
Securities**
(Landis)

“Listed” Securities

LB 942 limits the availability of Nebraska’s “blue sky law” security registration exemption for securities “listed” on certain stock exchanges, including the New York Stock Exchange (NYSE), the American Stock Exchange, the Midwest Stock Exchange, the National Association of Securities Dealers Automated Quotation National Market System, and any other market system or stock exchange approved by Nebraska securities regulators. The legislation conditions the availability of the exemption on a finding that “quotations have been available and public trading has taken place for such class of security prior to the offer or sale of that security in reliance on the exemption. . . .”

Example 1

Suppose OLDSCO Class 1 common stock is currently being traded on the NYSE and that OLDSCO authorizes a new multimillion dollar class of preferred stock which has just been “listed” for trading on the NYSE, but for which there has been, as yet, no trading anywhere in the world. Unless OLDSCO’s new class of preferred stock is (a) registered with Nebraska security regulators or (b) qualifies for some other Nebraska blue sky law registration exemption, LB 942 prohibits the offer or sale of OLDSCO’s new class of preferred stock anywhere in Nebraska unless and until the stock’s “price quotations have been available and public trading has taken place” somewhere in the world for that new security.

Under the provisions of Laws 1993, LB 216, OLDSCO would have been required to notify Nebraska security regulators of its intent to rely upon the former unconditional exemption for listed securities and pay a \$200 filing fee. LB 942 eliminated the notification and filing fee requirements for such “listed” securities as a corrective measure.

The Fiscal Note estimates that there were 120 such filings per month last year, which means that LB 942 may cause filing fee revenue to decline by about \$228,000.

"Unlisted" Securities

The issuer of a security that has merely been "approved for listing or designation," but "for which no quotations have been available and no public trading has taken place for any of the issuer's securities," may rely on the exemption for "listed" securities if the issuer pays a \$200 filing fee and gives proper notice to Nebraska security regulators before the "first use of a disclosure document covering such securities" in Nebraska.

Example 2

Suppose NEWCO, a newly created corporation, has just been "approved for listing" a multimillion dollar issue of its Class 1 common stock on the NYSE. The result would be essentially the same as OLDSCO's result in Example 1, except that NEWCO would have had to first give proper notice and pay the \$200 filing fee. That is, unless NEWCO's common stock is (a) registered with Nebraska security regulators or (b) qualifies for some other Nebraska blue sky law registration exemption, LB 942 prohibits the offer or sale of NEWCO's Class 1 common stock anywhere in Nebraska unless and until the stock's "price quotations have been available and public trading has taken place" somewhere in the world for that new security.

Under prior law, NEWCO would have been required to notify Nebraska security regulators of its intent to rely upon the former unconditional exemption for securities "approved for listing" and pay a \$200 filing fee. Since LB 942 did *not* eliminate the filing fee requirement for such securities, the Fiscal Note estimates that the average 25 filings per month will yield annual filing fee revenue of \$60,000.

LB 942 passed 39-0 and was approved by the Governor on April 12, 1994.

LB 979—Change Provisions Relating to Banking and Finance

(Landis and Hartnett)

As enacted, LB 979 amends several provisions relating to banking and finance and installment loans. Included in the final version of LB 979 are amended versions of LB 219, LB 980, and LB 1067.

Among its many provisions, the bill:

- ◆ Provides that section 8-133 shall not prohibit a state bank from providing to a depositor a guaranty bond which gives coverage for deposits exceeding the amount insured by the FDIC;

- ◆ Amends section 8-141 to provide that in a bank's determination of lending limits, an individual partner shall not be charged with the debt of any general partnership beyond the extent to which his or her liability for partnership debt is limited by the terms of the contract between the bank and the individual;
- ◆ Provides that a bank may purchase life insurance contracts for any purpose incidental to the banking business, provided that a contract from any one company does not exceed a certain percentage of the paid-up capital and surplus of the bank;
- ◆ Amends section 8-147 to allow state banks becoming members of the Federal Home Loan Bank System to have the same privileges as to discounts and bills payable and to incur liabilities to the same extent as national banks;
- ◆ Provides that a bank may own stock in a community development corporation if it meets certain requirements;
- ◆ Amends sections 8-152 and 8-164 to repeal the limitation a bank may make on aggregate loans secured by real estate and to provide that a state bank may declare dividends at any time and not just "quarterly" or "semiannually"; and
- ◆ Makes technical changes to the Nebraska Installment Sales Act.

LB 979 passed with the emergency clause 41-0 and was approved by the Governor on April 4, 1994.

**LB 1241—
Registration
Exemption for U.S.
Government
Obligations**
(Coordsen)

LB 1241 establishes a new *transactional* registration exemption under the Securities Act of Nebraska. "The bill provides that "[a]ny transaction in which a United States Series EE Savings Bond is given or delivered with or as a bonus on account of any purchase of any item or thing" is exempt from registration.

Example 1

A general store merchant offers to give a \$50 U.S. Series EE Savings Bond to each customer who purchases a washer and dryer. Prior law required such transactions to be registered with state security regulators, even though U.S. government-backed securities are themselves exempt from registration. Under LB 1241, such transactions will *not* have to be registered.

The introducer's intent, expressed during the committee hearing, was "to allow people to give, as an incentive of business, certain securities . . . as an incentive to purchase, a bonus . . ."

Example 2

A general store merchant offers to give a \$500 U.S. Series HH Bond to each customer who purchases a new automobile. As originally drafted, LB 1241 would *not* have required the transaction to be registered. But, as enacted, LB 1241 does not exempt the transaction from registration requirements even though (1) Series HH bonds, like Series EE bonds, are themselves entitled to a security registration exemption under Nebraska's blue sky law and (2) Series EE bonds are convertible into Series HH bonds.

LB 1241 passed with the emergency clause 43-0 and was approved by the Governor on April 19, 1994.

**LB 488—Foreign
Professional
Corporations**
(Ashford)

LB 488 authorizes professional corporations, such as incorporated law and accounting firms, that are organized under either Nebraska law or the law of any other state, the District of Columbia, or a U.S. territory to render professional services or transact business within each other's jurisdiction if certain conditions are met. The legislation also permits domestic and foreign professional corporations to merge if the foreign professional corporation has been recognized or would qualify for recognition in Nebraska.

LB 488 defines "foreign professional corporation" to mean a corporation organized under the law of any such other jurisdiction "for the specific purpose of rendering professional services" and "which has as its shareholders only individuals who are duly licensed or otherwise legally authorized to render the same professional services as the corporation."

Domestic Professional Corporations

A domestic professional corporation is one organized under the Nebraska Professional Corporation Act. In order to provide services in another jurisdiction, LB 488 provides that such a corporation must comply with all applicable laws of the foreign jurisdiction regulating the rendition of professional services. This may, for example, include laws governing the licensure and registration of professionals, as well as laws requiring the issuance of a certificate of authority to do business in the particular jurisdiction.

However, LB 488 also limits the power of state regulators with respect to domestic professional corporations. State regulators are prohibited from requiring any shareholder, director, officer, employee, or agent of a domestic professional corporation to be

"licensed to render professional services" in Nebraska or to reside in Nebraska if such person is appropriately licensed by any such other jurisdiction to render a professional service described in the domestic professional corporation's articles of incorporation, but any such person who does, in fact, render professional services in Nebraska for the domestic professional corporation must be "licensed to render professional services in this state."

Foreign Professional Corporations

A foreign professional corporation will generally "be subject to all the duties, restrictions, and liabilities of a foreign business corporation" under Nebraska law, except as otherwise provided in the Nebraska Professional Corporation Act. The first condition for recognition of a foreign professional corporation under LB 488 is that reciprocity must exist between the foreign professional corporation law of Nebraska and such other jurisdiction. Second, a foreign professional corporation must "apply for a certificate of authority" in the same manner required of foreign business corporations in Nebraska; however, a foreign professional corporation cannot be required to obtain a certificate of authority to transact business in Nebraska unless "it maintains or intends to maintain an office" in Nebraska "for the conduct of business or professional practice."

LB 488 also limits the power of state regulators with respect to foreign professional corporations. State regulators are prohibited from requiring all shareholders, directors, and officers of a foreign professional corporation to be "licensed to render professional services" in Nebraska if all of them (except the secretary and assistant secretary) are appropriately licensed by any such other jurisdiction to render a professional service described in the foreign corporation's articles of incorporation, *but* all such persons who do, in fact, render professional services in Nebraska for the foreign corporation must be "licensed to render professional services in this state."

LB 488 passed 46-0 and was approved by the Governor on February 15, 1994.

**LB 884—Changes
to the Limited
Liability Company
Act**

(Kristensen)

LB 884 amends the Nebraska Limited Liability Company Act (LLCA). Among its many changes, the bill ties the LLCA's super-majority voting requirements to "a two-thirds majority in interest." The legislation also clarifies that when a limited liability company's (LLC's) management is reserved to the LLC's members, the members are liable for unpaid taxes imposed against the LLC. Other changes prescribed in the bill are summarized below.

Family farms may now be organized as LLCs and LLCs may merge or consolidate with foreign or domestic LLCs, limited partnerships, and corporations. LLCs now have 90 days to appoint a registered agent instead of 30 days and are required to give notice of organization, amendment, merger, consolidation, and statement of intent to dissolve by publication.

LB 884 also requires LLCs rendering professional services to annually obtain and file registration certificates issued by the regulatory body of the particular profession and provides for suspension and revocation of such certificates. A related \$25 filing fee is authorized as well. The bill limits the ability of attorneys-at-law to organize as LLCs, to the extent and under terms and conditions determined by the Nebraska Supreme Court to be necessary and appropriate.

LLC fee schedules are changed as well. The filing fee for all LLC filings is now \$10 plus applicable recording fees, except that the fee for filing a certificate of organization (domestic LLCs only) and a certificate of authority (foreign LLCs only) is \$100 plus applicable recording fees and \$10 per certificate.

LB 884 passed with the emergency clause 41-0 and was approved by the Governor on April 4, 1994.

**LB 718—Prohibited
Medical Benefit
Contract Provisions**

*(Bohlke, Baack, Byars,
Coordsen, Fisher, Pedersen,
Schellpeper, Vrtiska, and
Witek)*

LB 718 was held by the committee at the end of the 1993 session and at that time, proposed to prohibit insurers, health maintenance organizations (HMOs), and preferred provider organizations (PPOs) from discriminating in favor of mail-order pharmacies. During the 1994 legislative session, the bill was amended to exclude HMOs from this prohibition.

As enacted, the legislation prohibits medical benefit contracts which provide reimbursement for prescription drugs and other pharmacy services from providing differences in coverage or imposing fees, copayments, or conditions that are not equally imposed on insured parties who use mail-order pharmacies.

LB 718 passed 32-10 and was approved by the Governor on April 20, 1994.

LB 1074—Change Provisions Relating to Underinsured and Uninsured Motorist Coverage
(Landis and Lindsay)

LB 1074 amends various provisions of law regarding automobile insurance. Generally, the bill:

- (1) Merges the uninsured motorist (UM) and underinsured motorist (UIM) statutes into one act;
- (2) Prohibits household exclusions in the bodily injury coverage portion of policies; and
- (3) Creates an insurance fraud unit within the Department of Insurance funded with fees assessed against insurance companies.

Regarding the merger of the UM and UIM provisions and in addition to the technical changes required for the merger, LB 1074:

- ◆ Requires both UM and UIM policies to provide coverage in \$25,000/\$50,000 limits, respectively;
- ◆ Provides that in the case of bodily injury or death of an insured person occupying a motor vehicle not owned by the insured, UM or UIM coverage on the occupied vehicle is primary coverage, and if the primary coverage is exhausted, other UM or UIM coverage available to the insured is excess coverage; and
- ◆ Provides that if a tentative agreement to settle for liability limits is reached with the owner or operator of an underinsured motor vehicle, written notice shall be given to the UIM insurer by its insured via certified or registered mail. If the UIM insurer substitutes its payment to the insured for the tentative settlement amount, the UIM insurer shall then be subrogated to the insured's right of recovery to the extent of such payment and any settlement under the UIM coverage. If the UIM insurer fails to pay the amount of the tentative settlement, the UIM insurer has no right of subrogation for any amount paid under the UIM coverage.

The bill also provides that a policy which is used to meet requirements for registration of a motor vehicle shall be in liability limits for bodily injury, death, and property damage of \$25,000/\$50,000/\$25,000, respectively, and shall not exclude liability coverage solely because the injured person making a claim is the named insured or a spouse or relative residing in the same household with the named insured.

Finally, the fraud unit created by the bill includes two investigators and one attorney and is funded by an annual fee not to exceed \$100

as established by the Director of Insurance and assessed against all insurance companies having a certificate of authority to transact insurance business, except assessment associations and unincorporated mutual associations.

LB 1074 passed 42-1 and was approved by the Governor on April 7, 1994.

LB 1222—

Health Insurance

*(Wesely, Beutler, Byars,
Coordsen, Day, Hall, Landis,
Lindsay, Rasmussen, Robak,
and Vrtiska, at the request of the
Governor)*

A discussion of LB 1222 is included in the Health and Human Services Committee section of this report.

LEGISLATIVE BILLS NOT ENACTED

**LB 150—Authorize
State Treasurer to
Deposit Funds in
Certain Lending
Institutions for
Small Business
Loans**

*(Dierks, Hohenstein,
Schellpeper, and Wesely)*

In an effort to enhance the availability of funds at a reasonable cost and in order to inject needed capital into the small business community, LB 150 would have authorized the State Treasurer to deposit up to 25 percent of the funds available for investment to lending institutions which agreed to participate in a linked deposit program targeting small businesses located in counties with populations under 30,000 inhabitants, in cities with populations under 5,000 inhabitants, or in economically distressed urban areas targeted for redevelopment.

The bill would have authorized the State Treasurer to establish eligibility criteria and determine the eligibility of lender programs and allowed him or her to accept a rate of interest at a lower rate for deposits under this section than rates determined to be applicable under section 72-1265.

LB 150 did not advance from committee and died with the end of the session.

**LB 823—Foreign
and Domestic
Trade Assistance
Act**

(Wesely)

LB 823 would have enacted the Foreign and Domestic Trade Assistance Act which would have required the Department of Economic Development to promote, develop, and facilitate regional, national, and international trade and investment in Nebraska and would have provided the basics for a related action plan.

The bill also would have authorized, when appropriate, departmental contracts for establishing offices in foreign lands and for establishing a system of graduated fees or commissions to be levied against parties to successful transactions. Such fees or commissions would have been used to help offset necessary departmental expenses.

The bill advanced to General File during 1993 but died with the end of the 1994 session.

**LB 1132—
Registration
Exemption Under
SEC Rule 504**

(Robak)

LB 1132 would have provided a Nebraska "blue sky law" transactional registration exemption for securities transactions which are exempt from federal registration by Rule 504, Regulation D, of the United States Securities and Exchange Commission and which meet certain additional requirements.

Rule 504 provides a transactional registration exemption for offers and sales of securities the "aggregate offering price" of which generally does not exceed \$1 million. The exemption is not available to issuers who are subject to section 13 or 15(d) of the Exchange Act, investment companies, or development stage companies that have either no specific business plan or whose business plan is to merge with or acquire an unidentified entity. When applicable, Rule 504 exempts issuers from having to provide potential purchasers with certain information that might be material to understanding the issuer's affairs. This may include financial and non-financial statement information such as an annual report, an audited balance sheet, and a brief description of the securities being offered, the use of the offering proceeds, and any material changes in the issuer's affairs that have not been disclosed in the other documents being furnished.

The additional requirements would have included:

- (1) No general or public advertising or solicitation;
- (2) No commission or remuneration paid directly or indirectly for soliciting any prospective buyer, except to a registered agent of a registered broker-dealer or registered issuer-dealer;

- (3) A notice generally describing the transaction and containing a representation that the conditions of the exemption are met filed by the seller;
- (4) Payment of a filing fee of \$200; and
- (5) The transaction effected in accordance with the applicable rules and regulations of the Department of Banking and Finance.

LB 1132 did not advance from the committee and died with the end of the session.

BUSINESS AND LABOR COMMITTEE

Senator Chris Abboud, Chairperson

ENACTED LEGISLATIVE BILLS

LB 248—Contractor Registration Act *(Lynch, Hartnett, Will, and Withem)*

LB 248 adopts the Contractor Registration Act which requires all construction contractors, except those earning less than \$1,000 annually, to register with the Department of Labor before performing any construction work in any county that has more than 100,000 inhabitants. (Douglas, Lancaster, and Sarpy counties have populations that exceed 100,000.)

Except for self-employed contractors and contractors who pay annual wages under \$1,000 to employ others, all contractors subject to registration must pay initial or renewal registration fees of \$25 each year to obtain a seven-digit registration number from the department.

As a condition of registration, contractors must supply information solicited on the department's registration application forms. Identifying information, such as the contractor's name, principal place of business, and Standard Industrial Classification code (or a description of the contractor's principal products and services) is required to be shown in the application.

Also, the application must show either (1) satisfactory proof of workers' compensation insurance coverage, (2) Nebraska Workers' Compensation Court-approved self-insurance privileges, or (3) exemption from having to carry workers' compensation insurance under Nebraska law. LB 248 also requires insurers to notify the department of cancellations of workers' compensation insurance coverage. Failure to maintain coverage is a ground for revocation of registration.

The act allows for the submission of written complaints *about the registration of a contractor*, and if an investigation shows that a nonexempt contractor has failed to fulfill registration requirements or has failed to provide "substantially complete and accurate" registration information, the department is required to issue a "citation" and may impose administrative penalties *up to* \$500 for first offenses and \$5,000 for subsequent violations.

LB 248 gives the department investigatory powers, such as the power of subpoena, and provides for the use of court orders (violations of which may be punishable as contempt) to compel the production of evidence that is "relevant or material to the inquiry."

LB 248 also creates the Contractor Registration Cash Fund to receive appropriations and revenue from the imposition of registration fees and administrative penalties.

LB 248 failed 24-16 on Final Reading, but due to a prevailing motion to reconsider that vote, the bill ultimately passed 25-15 on March 30, 1994, and was approved by the Governor on April 5, 1994.

**LB 286—
Unemployment
Insurance Benefits
and Credits**
(Hall)

LB 286 restructures weekly unemployment insurance benefit schedules for upper-wage bracket employees. As introduced, the bill provided that upper-wage bracket employees (*i.e.*, those in the \$3,750.01-and-over bracket) would receive weekly benefits equal to a percentage of the state average weekly wage, which was to be determined annually by Nebraska's Department of Labor "using the most current figures for the prior year." The percentage factor would have been 50 percent of the state average weekly wage for FY1993-94, 60 percent for FY1994-95, and 70 percent for FY1995-96 and all fiscal years thereafter.

However, as enacted, LB 286 expands the number of wage brackets immediately preceding the top wage bracket for each of the benefit years beginning with 1992 and provides incremental benefit increases of \$2 for each such new wage bracket. For benefit year 1991, the top quarterly wage bracket begins at \$3,500.01 and the corresponding weekly benefit is \$144.00. Tables 1, 2, and 3 depict the weekly benefits payable to employees in quarterly wage brackets ranging from \$3,500.01 and over for "benefit years" 1992 and beyond.

Table 1: Benefit Years 1992 and 1993

Quarterly Wages	Weekly Benefit Amount
\$3,500.01 – 3,550	\$144.00
3,550.01 – 3,600	146.00
3,600.01 – 3,650	148.00
3,650.01 – 3,700	150.00
3,700.01 – 3,750	152.00
3,750.01 and over	154.00

Table 2: Benefit Year 1994

Quarterly Wages	Weekly Benefit Amount
3,750.01 – 3,800	154.00
3,800.01 – 3,850	156.00
3,850.01 – 3,900	158.00
3,900.01 – 3,950	160.00
3,950.01 – 4,000	162.00
4,000.01 – 4,050	164.00
4,050.01 – 4,100	166.00
4,100.01 – 4,150	168.00
4,150.01 and over	170.00

Table 3: Benefit Year 1995 and Beyond

Quarterly Wages	Weekly Benefit Amount
4,150.01 – 4,200	170.00
4,200.01 – 4,250	172.00
4,250.01 – 4,300	174.00
4,300.01 – 4,350	176.00
4,350.01 – 4,400	178.00
4,400.01 – 4,450	180.00
4,450.01 – 4,500	182.00
4,500.01 and over	184.00

LB 286 was amended during 1994 to disqualify individuals for unemployment benefits “[f]or any week during which the individual is unemployed and on a leave of absence.” The legislation defines “leave of absence” as any absence from work which is mutually and voluntarily agreed to by the employer and the employee or the employee’s bargaining agent and also includes absences to which the employee is entitled under state or federal law. The term “unemployed” does not include individuals who are on a leave of absence, but does include

an individual during any week in which the individual performs no service with respect to which no wages are payable to the individual or any week of less than full-time work if the wages payable with respect to such week are less than the individual's weekly benefit amount. . . .

Finally, the provisions of LB 1101 were amended into LB 286. As amended, LB 1101 requires the department to cancel all wage credits earned if it

finds that the individual was discharged for misconduct in connection with the work which was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or being under the influence of any controlled substance listed in section 28-405 not prescribed by a physician. . . .

LB 286 passed with the emergency clause 43-0 and was approved by the Governor on March 30, 1994.

**LB 594—Workers'
Compensation
Settlement
Provisions**
(Lindsay)

Under LB 594, the settlement of any section 48-118 lawsuit (*i.e.*, a lawsuit involving third-party liability and an employer's right to subrogation) is *void* unless: (1) the settlement is agreed upon in writing by the employee (or his or her personal representative) and the employer's insurer (or the employer if there is no insurer); or (2) if there is no such agreement, the court "determines that the settlement offer is fair and reasonable considering liability, damages, and the ability of the third party and his or her liability insurance carrier to satisfy any judgment." If the employee (or his or her personal representative) and the employer's insurer (or the employer if there is no insurer) do not agree in writing as to how settlement or judgment proceeds should be distributed, LB 594 requires the court, upon application, to "order a fair and equitable distribution of the proceeds. . . ."

LB 594 passed 45-0 and was approved by the Governor on March 7, 1994.

**LB 608—
Regulation of
Bungee Jumping
Amusements**
(Wesely)

LB 608 regulates the operation of bungee jumping amusements and *prohibits* the operation of "reverse bungee jumping" amusements. The legislation defines key terms such as "bungee jumping" and "bungee cord." It defines "reverse bungee jumping" as a

practice whereby a person is attached to a bungee cord, the bungee cord is stretched down so that such person is on a fixed catapult, launch, or release position, and such person is catapulted or otherwise

launched or released into the air from such fixed position, while attached to a bungee cord, whereby the cord stretches, stops the fall, lengthens, and shortens allowing the person to bounce up and down, and is intended to finally bring the person to a stop at a point above a surface or the ground.

The bill permits the Department of Labor to "require a separate insurance policy from the owner of any equipment used in an amusement ride" (subject to certain statutory "minimums and limitations") and requires the department to establish a separate inspection fee schedule to be used for "bungee jumping operations, including the inspection of cranes used for bungee jumping." Fees are to be based upon "the cost of such inspections."

LB 608 passed with the emergency clause 45-0 and was approved by the Governor on March 3, 1994.

LB 1337—State Unemployment Insurance Tax

*(Hillman, Abboud, Ashford,
Avery, Beutler, Bohlke,
Bromm, Byars, Day, Dierks,
Elmer, Engel, Haberman, Hall,
Hartnett, Hudkins, Janssen,
Jones, Landis, Lindsay, Lynch,
Matzke, McKenzie, Monen,
Pedersen, Pirsch, Preister,
Rasmussen, Robak, Schimek,
Vrtiska, Wehrbein, Wesely,
Wickersham, Will, Witek, and
Withem)*

LB 1337 provides a means for funding job training programs administered by the Department of Labor with interest earned by the newly created State Unemployment Insurance Trust (SUIT) Fund. The bill also establishes the Nebraska Training and Support Trust (NTST) Fund, which will serve as a permanent funding source for job training initiatives.

Although unemployment insurance taxes are collected by the state and paid over to the federal government, a portion of the funds collected are ultimately transferred back to the state by the federal government. LB 1337 provides that 80 percent of the funds collected will be transferred to the federal government, while the remaining 20 percent will be transferred to the SUIT Fund where it will begin earning interest. Interest earned by the SUIT Fund will be credited to the NTST Fund to finance job training initiatives.

LB 1337 then appropriates all funds in the NTST Fund to the department to be used for:

- (a) administrative costs of establishing, assessing, collecting, and maintaining state unemployment tax liability and payments,
- (b) administrative costs of creating, maintaining, and dissolving the [SUIT and NTST] funds,
- (c) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers, and
- (d) payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the [SUIT] Fund so require.

However, the Governor must authorize in writing the expenditure of any NTST funds.

LB 1337 also creates a seven-member Nebraska Worker Training Board. Board members are appointed by the Governor. Three appointees must come from the state advisory council (see section 48-610), one of whom is to be representative of employers in Nebraska. The other two appointees are to be representatives of employees in Nebraska and the public generally. The chairperson of the Nebraska Community College Association will be an appointee as well. The last three appointees are to come from the Department of Labor, State Department of Education, and Department of Economic Development.

The board is responsible for (1) preparing an annual program plan containing guidelines for the program to be financed by the NTST Fund and (2) preparing an annual report to the Governor covering the activities of the program financed by the NTST Fund during the previous fiscal year. Guidelines for certifying training providers and for requiring employers to provide matching funds are supposed to be included in the plan, as are criteria for evaluating requests for funds from the NTST Fund. The board's report to the Governor is supposed to assess the effectiveness of the program and its administration.

Finally, LB 1337 makes coordinating changes pertaining to state unemployment insurance tax rate calculations. The most notable change involves the use of *combined* federal and state tax rates, which reflect the bill's "80/20" approach to setting aside a portion of the taxes collected for the NTST Fund.

LB 1337 passed 46-0 and was approved by the Governor on April 15, 1994.

LEGISLATIVE BILLS NOT ENACTED

LB 754—Workers Compensation Self-Insurance Pooling

(Abboud)

LB 754 would have permitted two or more employers—with similar risk characteristics or that belong to a legitimate trade or professional association—to pool their workers' compensation liabilities through self-insurance pools. The Department of Insurance would have been responsible for making rules and regulations governing such pools, establishing standards, auditing, and assessing liabilities for insolvencies. A Pool Insolvency Fund would have been established for receiving .5 percent of all payments made in each preceding six-month period.

LB 754 advanced to Select File but died with the end of the session.

**LB 911—CIR
Special Master
Proceedings**

*(Abboud, Ashford, Dierks,
Preister, Schimek, and Vrtiska)*

LB 911 would have entitled, upon request, either party in contested cases to the use of “special master” proceedings. The bill would have empowered special masters to determine whether issues are “ready for adjudication,” accept stipulations, prescribe rules of conduct for hearings, order additional mediation (if necessary), and “[t]ake any action which may aid in the resolution of the industrial dispute.” Also, the bill would have required special masters to “choose the most reasonable final offer on each issue in dispute” and would have made their decisions binding on the parties. However, the decision of a special master would be subject to review by the Commission of Industrial Relations (CIR) and would be admissible at a trial between the same parties on the same issues.

The committee amendment struck a number of provisions in the original bill, including one that would have required Nebraska’s rules of evidence for civil trials to be used in all “contested cases” brought before the CIR involving school districts, educational service units, community colleges, or the state. In all other contested cases, the bill would have *prohibited* the CIR from using those rules of evidence and would have permitted the CIR to “admit and give probative effect” to evidence possessing “probative value commonly accepted by reasonably prudent persons” in conducting “their affairs,” provided that “the parties to the dispute are advised of the evidence and afforded an opportunity to rebut the evidence.”

LB 911 advanced to General File during 1993, but the bill did not advance any further before the end of the 1994 legislative session.

EDUCATION COMMITTEE

Senator Ardyce Bohlke, Chairperson

ENACTED LEGISLATIVE BILLS

LB 647—Learners with High Ability

*(McKenzie, Hall, Schimek,
Day, Hudkins, Rasmussen, and
Beutler)*

LB 647 directs all school districts to develop, improve, and implement educational programs and services to assist and encourage learners with high ability. The bill defines a learner with high ability as a student who gives evidence of high performance capability in an intellectual, a creative, or an artistic capacity or in specific academic fields and who requires services or activities not ordinarily provided by the school in order to fully develop those capabilities.

LB 647 requires school districts to identify learners with high ability beginning in the 1997–98 school year and requires the State Department of Education to develop quality standards governing provision of services to such learners by school districts and educational service units (ESUs). The bill also conditions the provision of programs and services for learners with high ability on the availability of local, state, and federal funds and directs the department to monitor the efforts of school districts and ESUs to implement these programs.

Additionally, the bill appropriates \$50,183 for FY1994–95 and \$45,513 for FY1995–96 to the department for a full-time employee to consult with school districts and ESUs in developing and implementing programs for learners with high ability and amends the State Lottery Act to allow school districts and ESUs to apply directly to the Excellence in Education Council for funds to be used to develop or improve such department-approved programs and services.

LB 647 passed 36–0 and was approved by the Governor on April 12, 1994.

LB 683— Coordinating Commission for Postsecondary Education

(Warner)

LB 683 provides for the review of any proposed capital construction projects for veterinary medical facilities by the Coordinating Commission for Postsecondary Education (commission). A capital construction project is a project which: (1) uses at least \$200,000 of tax funds to construct or acquire a facility and has at least \$50,000 in operations and maintenance costs in any one fiscal year; or (2) is likely to result in an incremental increase in the appropriation or expenditure of tax funds in an amount equal to, or in excess of, the facility's operating or maintenance costs in any one fiscal year within the next 10 years.

The bill also allows the University of Nebraska, with the commission's approval, to offer a first professional degree in architecture.

In addition, the bill authorizes the commission to recommend legislation which changes the role and mission statements of public postsecondary educational institutions. After January 1, 1995, the Legislature cannot amend the role and mission statements of public postsecondary educational institutions without first obtaining the commission's recommendation.

LB 683 passed 43-0 and was approved by the Governor on April 4, 1994.

**LB 930—School
Desegregation**

*(Rasmussen, Hall, Will, and
Monen)*

LB 930 amends statutory provisions relating to school enrollment option programs and to school districts which have implemented desegregation plans. The bill declares the Legislature's finding that racial desegregation and integration in the public schools is of critical importance.

The bill authorizes school districts with desegregation plans to adopt standards for acceptance and rejection of applications for transfer into or out of such districts which are designed to make desegregation easier to maintain or improve.

LB 930 passed with the emergency clause 43-0 and was approved by the Governor on March 15, 1994.

**LB 987—Redefine
"Eligible
Postsecondary
Educational
Institution"**

(Withem and Bohlke)

LB 987 amends the Postsecondary Education Award Program Act and redefines the term "eligible postsecondary educational institution." Prior to the bill's passage, students attending private, non-profit colleges in Nebraska were eligible to receive need-based grants from the state if their colleges were accredited as members of the Council of Postsecondary Education.

Specifically, the bill allows students to be eligible for need-based grants if their schools are accredited by the North Central Association of Colleges and Schools or the American Association of Bible Colleges.

LB 987 passed 40-0 and was approved by the Governor on March 30, 1994.

**LB 1021—
Remove Limits on
Formation of Class
VI School Districts**

(Withem)

LB 1021 removes geographic restrictions on the formation of Class VI school districts. Under prior law, a Class VI school district could not be formed within five miles of the boundary of a city with a population of 3,500 or more unless the board of education of the affected city voted to become a part of the new school district. By enacting LB 1021, this prohibition is eliminated.

The bill passed 42-0 and was approved by the Governor on March 15, 1994.

**LB 1161—Parental
Involvement in
Educational
Practices**

(Withem)

LB 1161 is a declaration of the Legislature's intent to promote parental involvement in educational practices affecting children in the state's public school system.

The bill directs each school district to adopt policies, before July 1, 1995, that encourage parents to become involved with the schools which their children attend and that establish parental rights of access to the schools' facilities and testing information and curriculum materials relating to their children's education.

The bill also requires school districts to solicit parental input when developing mandated policies and to hold a public hearing before the adoption of any such policy.

LB 1161 passed 39-1 and was approved by the Governor on April 19, 1994.

**LB 1250—Student
Discipline**

(Withem and Bohlke)

LB 1250 prescribes several changes in the law relating to student discipline.

The bill requires that when a child has been truant, school officials must hold at least one meeting with a school official, the parent or guardian, and the child and must provide educational counseling to determine if curriculum changes or alternative educational programs would solve the truancy problem.

The bill also allows school officials to (1) request psychological evaluations of students when considering long-term suspensions or expulsions, (2) offer alternative rehabilitation programs, such as individual or family counseling or other services, and (3) reinstate students who successfully complete such a program.

LB 1250 expands the list of activities that may be grounds for disciplinary action by school officials to include assaults on school volunteers; possession, sale, and use of imitation or "look-alike" controlled substances; being under the influence of alcohol or a controlled substance; and sexual assault or attempted sexual assault. Schools may suspend students until a disciplinary hearing has been held and a recommendation has been presented to school officials and may expel students for the remainder of a semester or for the next semester if the misconduct occurred during the last 10 days of a semester, including summer school.

Via amendment, the provisions of LB 1248 were added to the bill. LB 1248 requires juveniles on probation to either stay in school, obtain vocational training, attend an on-the-job training program, or maintain employment. School officials and probation officers are instructed to work together to develop an educational program, including relevant conditions of probation and guidelines for

behavior at school, for a juvenile who remains in school. The juvenile court is empowered to enforce, modify, or revoke probation if a juvenile fails to complete one of the listed available options.

LB 1250 passed 44-0 and was approved by the Governor on April 7, 1994.

**LB 1290—Tax
Equity and
Educational
Opportunities
Support Act**
(Warner)

LB 1290 changes the duties of the Department of Revenue when computing valuation adjustments for each school district for purposes of distribution of state equalization aid under the Tax Equity and Educational Opportunities Support Act. The bill requires the department to use current adjusted property valuations (which is the value placed on property by the appropriate county assessor for the current tax year) in the calculation of state equalization aid. It also allows school district membership for the previous year to be used to make the final aid calculation.

LB 1290 passed with the emergency clause 41-0 and was approved by the Governor on April 19, 1994.

**LB 1310—State
Department of
Education's
"Clean-up" Bill**
(Education Committee)

LB 1310 is the State Department of Education's annual housekeeping bill.

Among its many provisions, the bill (1) changes the filing deadline for annual school district budgets from August 25 to September 1, (2) deletes statutory references to unaffiliated Class I school districts, (3) deletes any requirement for the department to collect information on wages paid by school districts to substitute teachers, (4) changes the due date for filing verification of annual inspection of school buses from October 1 to July 31, (5) changes the effective merger date for Class III school districts from June 15 to June 1, (6) repeals provisions for the Nebraska Provisional Rural Elementary Certificate, (7) repeals the requirement that school districts submit requests for services from educational service units on forms prescribed by the Commissioner of Education, and (8) makes filing of duplicate copies of annual budgets by school districts under the Tax Equity and Educational Opportunities Support Act optional.

LB 1310 passed with the emergency clause 44-1 and was approved by the Governor on April 19, 1994.

**LB 1311—
Transportation
Allowances**
(Bohlke)

LB 1311 requires school districts to provide free transportation or a transportation allowance to certain classes of students. The bill was introduced in response to a 1993 decision of the Nebraska Supreme Court in which the court intimated that school districts may charge a transportation fee to students under certain circumstances. (See *School District of Waterloo v. Hutchinson*, 244 Neb. 665, [1993].)

Additionally, the bill mandates no-cost transportation for elementary students who attend school four or more miles from their residences, for elementary students who attend classes outside their districts and reside more than four miles from their schools, for secondary students of a Class II or a Class III district who attend schools four or more miles from their residences, and for K-9 students of a Class V district who attend schools four or more miles from their residences.

LB 1311 passed 41-0 and was approved by the Governor on April 12, 1994.

LEGISLATIVE BILLS NOT ENACTED

LB 863—Criminal History Record Information

(Lynch)

LB 863 would have allowed school districts to require any person applying for a bus driver position or a position having direct responsibility for transporting children to submit to a check of his or her criminal history record as a condition of employment. Applicants would have been required to sign and file a release and to submit a set of fingerprints to the requesting entity or the Nebraska State Patrol (Patrol).

The bill also would have required the Patrol to conduct a criminal history record information search of all federal and state repositories and to forward the fingerprints to the FBI for a national criminal history record information check.

Finally, the bill called for a review of the records check information and the preparation of a report by the Patrol indicating whether the applicant had been convicted of an offense "bearing a reasonable and rational relationship to employment in a position working with students," including murder, manslaughter, various sex offenses, kidnapping, child abuse or neglect, and a variety of offenses relating to pornography and obscenity. The bill would have required all information to remain confidential and provided a grievance procedure for persons denied licensure or otherwise adversely affected by a Patrol report.

LB 863 advanced to General File but died with the end of the session.

LB 923—Sale of School Lands

*(Wickersham, Bromm, Jones,
and Matzke)*

LB 923 would have authorized the Board of Educational Lands and Funds to sell a portion of school lands owned by the state and to reinvest the funds received from such sale in alternative real property as a means of balancing risk and rate of return on investment. It identified agricultural real property and developed or undeveloped industrial, commercial, or residential real property as acceptable alternative real property investments.

The bill advanced to General File but died with the end of the session.

**LB 998 and
LB 999—
Learner-Outcome-
Based Educational
Methodology**

(Witek)

Both of these bills relate to learner-outcome-based educational methodology.

LB 998 would have prohibited the State Board of Education from requiring any public school to implement any type of learner-outcome-based educational methodologies as a prerequisite to approval or accreditation or to receipt of state or federal aid. The bill also sought to prohibit required training in any learner-outcome-based methodology as a prerequisite to issuance or renewal of an educational or teaching certificate.

Like LB 998, LB 999 would have prohibited the state board from requiring learner-outcome-based methodologies as a prerequisite to approval or accreditation, state or federal aid, or teacher certification. Additionally, the bill would have transferred any money in the Nebraska Schools Accountability Commission Cash Fund to the state's General Fund.

Both bills were indefinitely postponed on February 22, 1994.

**LB 1055—Health
Education in Public
Schools**

*(Schimek, Bohlke, Bromm,
Hudkins, Lindsay, Rasmussen,
Crosby, and Wesely)*

LB 1055 would have expanded the number of topics addressed by schools in the comprehensive health education program required by state law to include personal health and physical fitness, mental and emotional health, prevention and control of diseases, nutrition and weight control, accident prevention and safety, community and environmental health, consumer health, and life cycles, including family roles and composition, human growth and development, decisionmaking skills, the reproductive process, sexual abstinence, heredity, marriage, family relationships and parenting, career goals, and AIDS and other sexually transmitted diseases.

Committee amendments to the bill eliminated all of the proposed new topics except life cycles.

LB 1055 advanced to General File but died with the end of the session.

EXECUTIVE BOARD OF THE LEGISLATIVE COUNCIL

Senator Tim Hall, Chairperson

ENACTED LEGISLATIVE BILLS

LB 1243—Private Installation of Communication Equipment by the Legislature *(Hall)*

LB 1243 grants statutory authority to the Legislature's Executive Board to adopt policies to allow members of the Legislature to install and use, with private funds, a telephone line, a telephone, or a fax machine in his or her public office for private use. The bill also exempts the purchase and use of such personal equipment from statutory restrictions on the private use of state resources by state officials.

On Select File, amendments were adopted to the bill which added the following provisions:

- (1) **Lobbyist registration.** Several changes relating to lobbyist registration were made via this amendment. The annual \$35 fee was eliminated and in its place a two-tiered fee system based on the lobbyist's compensation was enacted. A lobbyist who receives compensation for services must pay a fee of \$100 for each principal he or she represents; a lobbyist who is not compensated for services must pay a fee of \$15 for each principal he or she represents. The amendment also provides that a lobbyist's registration is valid for the calendar year of registration only, requires the lobbyist to file quarterly (rather than monthly) financial statements when the Legislature is in session, and adds a special reporting provision for any lobbyist who earns more than \$5000 in any month the Legislature is in session.
- (2) **Expanded electronic access to legislative information.** A modified version of LB 1359 was attached to LB 1243 on Select File. The amendment authorizes the Executive Board to establish a committee to make recommendations regarding making legislative information more widely available electronically. The committee will develop an implementation plan and submit it to the Executive Board by March 1, 1995.

The committee will study exactly what information should be made available in an electronic format, looking specifically at the Nebraska statutes, legislative bills, the speaker's agenda, and the hearing schedule (information currently available to all Nebraska Legislative Shared Information Systems [NLSIS] subscribers), as well as, the

daily legislative journal, committee testimony, and full floor debate. The committee will also recommend a process that will make the information available to the public in a timely manner and without a user fee if economically feasible.

LB 1243 passed with the emergency clause 46-0 and was approved by the Governor on April 19, 1994.

LB 1243 grants authority to the Legislature's Executive Council to adopt rules to all members of the Legislature to install... with private funds a telephone line... telephone or a fax machine in the... the public office for private use. The bill also exempts the purchase and use of such personal equipment from... the purchase use of state resources by state officials.

LB 1243 - Private Installation of Communication Equipment by the Legislature

On 2nd day of amendments were adopted in the bill which added the following provisions:

the legislative registration system changes relating to lobbyist registration were made via this amendment. The amount \$25 fee was eliminated and in its place a two-part fee system based on the lobbyist's compensation was created. A lobbyist who receives compensation for services that pay a fee of \$100 for each day of service as an agent or lobbyist who is not compensated for services that pay a fee of \$15 for each day of service. The amendment also provides that a lobbyist's registration is valid for the duration of the legislative term, requires the lobbyist to file quarterly financial reports, and adds an amount when the Legislature is in session, and adds a special reporting provision for the lobbyist who earns more than \$200 in any month, the Legislature is in session.

Expanded information to legislative information. A lobbyist version of LB 1243 was attached to LB 1243 to amend the amendment which was the Executive Council to establish a committee to make recommendations concerning lobbyist registration information more widely available electronically. The committee will develop an implementation plan and submit it to the House by March 1, 1995.

The committee will study... what information should be made available to the public... and the hearing... the information... as well as the...

GENERAL AFFAIRS COMMITTEE

Senator Stan Schellpeper, Chairperson

ENACTED LEGISLATIVE BILLS

LB 1153—Funding the State Racing Commission

(General Affairs Committee)

In order to fund the State Racing Commission and in addition to admission taxes (which are also a means of funding), LB 1153 imposes a two-tenths of one percent assessment on the total parimutuel handle of all racetracks to be used to help fund the commission. Additionally, daily license fees on racetracks are changed to \$50 per live racing day for every track which operates as a host track for intrastate simulcasting and \$25 per day for every track which is not a host track for intrastate simulcasting.

The bill also authorizes the commission to carry over a reserve fund balance of not more than 10 percent of its appropriation for the calendar year and eliminates the requirement that any unexpended commission funds be disbursed to county fairs.

LB 1153 passed with the emergency clause 38-0 and was approved by the Governor on April 7, 1994.

LR 293CA— Parimutuel Wagering

(General Affairs Committee)

LR 293CA amends Article III, section 24, of the Nebraska Constitution by eliminating the requirement that all parimutuel wagering be conducted within the confines of a licensed racetrack enclosure and proposing that parimutuel wagering on horseraces be allowed at such locations and by such means as the Legislature authorizes. The intent of this change is to clarify the Legislature's authority to permit off-track parimutuel wagering.

The resolution passed 31-11 and was presented to the Secretary of State on April 15, 1994. The amendment will appear on the general election ballot in November 1994.

LB 694—Nebraska Bingo Act

(Will and Schellpeper)

LB 694 is a major rewrite of the Nebraska Bingo Act and is based on recommendations received from a task force of the Department of Revenue specifically established for purposes of reviewing the act.

In addition to redefining terms, the bill provides additional causes for denying a license application and for suspending, cancelling, or revoking a license, requires the designation of a bingo chairperson to oversee bingo activities, establishes a limitation on expenses of 12 percent of the gross receipts, eliminates provisions establishing specific amounts for compensation of bingo workers, and eliminates restrictions on advertising bingo occasions conducted by licensed organizations.

The provisions of LB 1070 were added to LB 694 by amendment. LB 1070 clarifies that certain types of audit and legal expenses (such as expenses for governmental organization of the lottery; record maintenance; and enforcement, investigative, and litigation functions) incurred when conducting a lottery pursuant to the Nebraska County and City Lottery Act are not subject to the limitation on expenses prescribed in the act. The bill also limits the amount of audit and legal expenses which can be accrued to one percent of the lottery's gross proceeds or \$5,000, whichever is greater.

LB 694 passed with the emergency clause 41-0 and was approved by the Governor on April 19, 1994.

LB 1292—Liquor Regulation

(Hartnett, Landis, and Elmer)

LB 1292 requires Nebraska liquor wholesalers to purchase and import all alcoholic liquor from a primary American source of supply. A primary American source of supply is defined as the manufacturer, the owner at the time the liquor becomes a marketable product, or the source closest to the manufacturer or owner in the channel of commerce from which the product can be secured by an American wholesaler.

The provisions of LB 1057, LB 1167, and LB 378 were added to the bill by amendments.

LB 1057 increases the amount of wine which can be transported into the state for the personal use of the possessor and his or her family and guests from no more than one gallon at any one time nor two gallons in any one month to no more than nine liters in any one calendar month.

LB 1167 permits brewpubs to sell up to 50 percent of their annual production for off-premises consumption and to have a catering license which permits the sale of their own beer at events which the brewpubs are catering off-premises.

LB 378 permits a person who is a resident of Nebraska but not a resident of the county for which he or she is seeking a license to hold a liquor license. The bill also requires the manager of a corporate licensee to be a resident of Nebraska and clarifies a requirement that brewpubs must make monthly reports regarding production and payment of taxes to the Nebraska Liquor Control Commission.

LB 1292 passed 38-2 and was approved by the Governor on April 18, 1994.

LEGISLATIVE BILLS NOT ENACTED

LB 489—Bingo and Lottery Taxes

(Will and Hall)

LB 489 would have lowered the state tax on bingo from six percent to three percent, eliminated the local bingo tax, and increased the county and city lottery tax from two percent to three percent.

LB 489 advanced to General File but died with the end of the session.

LB 730—Nebraska Lottery and Raffle Act

(Hartnett)

LB 730 would have amended the Nebraska Lottery and Raffle Act by redefining the terms lottery and raffle to allow the conduct of games by methods other than random drawing of tickets. Under the new terms, games such as animal determination lotteries and toy duck races would have been authorized.

LB 730 advanced to General File but died with the end of the session.

LB 997—Public Libraries

(General Affairs Committee)

LB 997 would have established district public libraries and public library federations.

The bill did not advance from committee and died with the end of the session.

LB 1085—Liquor Regulation

(Kristensen)

LB 1085 would have enacted changes to the processes and procedures used for the application, denial, suspension, or revocation of retail liquor licenses. The bill was an attempt to better define the roles of the Nebraska Liquor Control Commission and local political subdivisions in the retail liquor industry in response to a ruling by the Nebraska Supreme Court which held that local control retail liquor laws were unconstitutional.

The bill did not advance from committee and died with the end of the session.

LB 1278—Excursion Gambling Boat Act

(Hall)

LB 1278 would have enacted the Excursion Gambling Boat Act which would have allowed gambling on floating casinos on Nebraska lakes and rivers.

The bill did not advance from committee and died with the end of the session.

LB 1324—Video Lotteries

(Hall)

LB 1324 would have amended the State Lottery Act to allow the use of electronic and mechanical gaming devices (video lotteries) as part of the state lottery.

The bill did not advance from committee and died with the end of the session.

GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE

Senator DiAnna Schimek, Chairperson

ENACTED LEGISLATIVE BILLS

LB 76—The Election Act

*(Withem, Baack, Schimek,
Robinson, and Moore)*

Passage of LB 76 brings an ongoing legislative project to a conclusion. The bill adopts the Election Act which is a rewrite of Nebraska's election laws (Chapter 32) and is an attempt to resolve problems with the current election process, harmonize language and procedures, and promote uniformity in the election process throughout the state.

Among its many provisions, LB 76:

- ◆ Restricts the use of voter registration lists and provides a warning for misuse;
- ◆ Allows persons unable to go to the polls on election day to cast an absentee ballot;
- ◆ Prohibits special elections within 30 days before or 60 days after a regular election;
- ◆ Restricts the use of initials for petition purposes;
- ◆ Allows defeated primary candidates to petition on the ballot if a vacancy exists; and
- ◆ Authorizes homeless persons to use the county clerk's office as an address for voter registration purposes.

Provisions of LB 1143 were added to the bill by amendment. LB 1143, known as the "Motor-Voter" bill, implements the National Voter Registration Act of 1993. The bill allows people to register to vote while getting their drivers' licenses and adds voter registration services at the Department of Public Institutions, the Department of Social Services, and the State Department of Education.

A key component to the advancement of LB 76 to Final Reading was the removal of a provision which required natural resources districts to more closely follow the "one person, one vote" principle by requiring a representation ratio of two-to-one on district governing boards. (That provision was added as an amendment on General File.)

LB 76 passed 39-2 and was approved by the Governor on April 15, 1994.

**LR 15CA—Waiver
of Final Reading
Requirement**

(Kristensen)

LR 15CA amends Article III, section 14, of the Nebraska Constitution. As originally introduced, the amendment eliminated the requirement that a bill be read in its entirety before the Legislature immediately prior to its presentation for final passage (otherwise known as final reading) unless 13 senators voted to have the bill read.

As passed by the Legislature, the amendment authorizes the Legislature to waive the final reading of a bill before it is presented for final passage upon a vote of three-fifths of its members.

The resolution passed 30–13 and was presented to the Secretary of State on April 15, 1994. The amendment will appear on the general election ballot in November 1994.

**LB 446—The
Negotiated
Rulemaking Act**

*(Wickersham, Coordsen, and
Landis)*

LB 446 adopts the Negotiated Rulemaking Act. The purpose of the act is to establish a framework for the conduct of negotiated rulemaking consistent with Nebraska's Administrative Procedure Act (APA). Negotiated rulemaking is not a substitute for the APA but is to be used in conjunction with the APA to help resolve controversial issues before the beginning of the formal rulemaking process.

The bill also requires the Attorney General to prepare and promulgate model rules of procedure for use by as many agencies as possible when those agencies are drafting rules and regulations.

Additionally, the bill makes the agency rulemaking process more accessible to public scrutiny, encourages state agencies to seek public input prior to formal adoption of rules and regulations, and requires the Secretary of State to provide information regarding agency rulemaking.

LB 446 passed 36–0 and was approved by the Governor on April 18, 1994.

**LB 1236—Nebraska
State Historical
Society**

(Schimek)

LB 1236 recognizes the Nebraska State Historical Society as a state agency. The bill provides that the society be governed by a board of trustees, provides it with powers and duties, and requires that all present and future collections of property by the society be held in trust for the people of Nebraska.

The bill passed 41–0 and was approved by the Governor on April 18, 1994.

LEGISLATIVE BILLS NOT ENACTED

LR 295CA— Require Legislative Approval of Executive Office Appointments

*(Crosby, Moore, Wehrbein, and
Witek)*

LR 295CA would have placed a constitutional amendment before the voters which would have required legislative approval of gubernatorial appointments to the vacated executive branch offices of Lieutenant Governor, Secretary of State, Auditor of Public Accounts, Treasurer, and Attorney General when any of those offices is vacated prior to the expiration of a term.

LR 295CA advanced to General File but died with the end of the session.

LB 944—Ethics

*(Government, Military and
Veterans Affairs Committee
and Bromm, Beutler, Crosby,
and Preister)*

As originally introduced, LB 944 would have (1) prohibited lobbyists from contributing to campaigns during the legislative session, (2) required lobbyists to itemize money spent for the benefit of legislators, and (3) lowered the maximum value of a gift that a legislator may receive from \$50 to \$25.

As amended, the bill would have required a more detailed reporting regarding the expenditure of funds used for lobbying, tightened rules governing campaign fundraising, and created an ethics committee in the Legislature.

LB 944 advanced to Select File but died with the end of the session.

LB 947—Lobbying

(Wesely, Schimek, and Warner)

LB 947 would have expanded the definition of lobbying to apply to proposals before the executive branch of state government as well as the Legislature. The bill would have defined lobbying to include the promoting or opposing for another person of the enactment or approval of legislation, resolutions, or rules or regulations before an official of the executive branch.

LB 947 was indefinitely postponed by the committee on March 12, 1994.

HEALTH AND HUMAN SERVICES COMMITTEE

Senator Don Wesely, Chairperson

ENACTED LEGISLATIVE BILLS

LB 291—Create the State Mental Health Planning and Evaluation Council

(Robak, Bernard-Stevens, Bohlke, Byars, Moore, and Wesely)

LB 291 eliminates the State Mental Health Advisory Committee and creates the State Mental Health Planning and Evaluation Council. The council is composed of not more than 34 members, at least half of whom are consumers and their families, and must report its findings and recommendations, including a recommendation for consumer participation in the mental health treatment planning process, to the Governor and Legislature by October 1 of each year.

LB 291 passed 43-0 and was approved by the Governor on March 25, 1994.

LB 498—Nebraska Mental Health Commitment Act

(Wesely)

LB 498 enacts a number of procedural changes in the commitment and treatment processes prescribed in the Nebraska Mental Health Commitment Act. Similar bills have been introduced in previous sessions, including LB 678 in 1992. The bill:

- (1) Defines outpatient treatment and establishes procedures which allow the county attorney to petition the mental health board for the reconsideration of a person's treatment plan or to apply to the board for a warrant to pick up the person for possible commitment and treatment, under specified circumstances;
- (2) Authorizes an additional mental health board per judicial district (an increase from three to four) upon the approval of the Chief Justice of the Supreme Court;
- (3) Allows clinical social workers to be members of mental health boards;
- (4) Requires the Department of Public Institutions, in consultation with consumer and family advocates, to provide annual training for mental health board members and requires board members to complete such training;
- (5) Provides that a person has the right to know the requirements contained in his or her treatment plan; and
- (6) Establishes the subject's right to a review hearing.

An amendment eliminated a section which provided state funding for free medication to an indigent person who is substantially

disabled by severe and persistent mental illness and who has exhausted available benefits through private insurance, Medicaid, or Medicare.

LB 518, referred to the Judiciary Committee, was amended into LB 498. LB 518 expands a judge's ability to maintain authority over a person found not responsible by reason of insanity but dangerous to himself or herself or others. Under these new provisions, a judge can require the person to continue taking medication upon release from the regional center.

LB 498 passed 44-0 and was approved by the Governor on March 25, 1994.

LB 819—Change Requirements Related to HIV Reporting

*(Health and Human Services
Committee)*

LB 819 changes a number of provisions related to blood testing for the human immunodeficiency virus (HIV) infection and to the reporting of the results of such testing. The bill repeals an exemption which prohibits laboratories from reporting the results of HIV testing by name and requires that HIV reporting by name be handled in the same manner as such reporting for other communicable diseases.

The bill allows the Department of Health to *provide* (as well as contract for) voluntary, confidential screening, testing, and counseling services and also authorizes the department to provide or contract for screening, testing, and counseling anonymously if requested by the individual seeking such services. The right to remain anonymous does not apply to persons committed to the Department of Correctional Services or to persons being tested for the purpose of insurance underwriting. (In both cases, the person being tested must be informed that the test is being conducted and, additionally, must consent to the underwriting testing.)

LB 819 also authorizes services for persons who test positive for HIV and provides a penalty for the willfull or malicious disclosure of information under the communicable disease reporting laws.

Statutory protections relating to the significant exposure to blood or body fluids which had previously been available only to emergency medical service providers are now available to all health care providers by virtue of adopted committee amendments. Under these provisions, the health care provider should, if possible, obtain the patient's consent prior to testing but alternatives are provided for circumstances in which the patient is unable or unwilling to give consent.

LB 819 passed 41-0 and was approved by the Governor on March 30, 1994.

**LB 1136—
Developmental
Disabilities
Funding**

(Byars and Lynch)

LB 1136 provides \$2 million in General Funds to community-based programs for people with developmental disabilities. The bill specifically amends the Developmental Disabilities Services Act to include a finding by the Legislature that an additional \$29 million is necessary to provide community-based services for all persons eligible to receive them. The bill also changes the target date from July 1, 1996, to July 1, 2000, regarding the Legislature's intent that all persons eligible to receive services actually receive them.

As originally introduced, the bill authorized the full \$29 million in General Funds over six years, beginning with \$2 million in FY1994-95. The intent language for future years was eliminated on General File, at which time the appropriations bill (LB1136A) was amended to authorize \$8 million in FY1994-95. As part of a compromise package in response to budget restraints, the \$8 million was reduced to \$4 million on Select File, and the Legislature approved the \$4 million appropriation on Final Reading. A line-item veto by the Governor reduced the funding to \$2 million.

Additionally, the provisions of LB 1177 were added to the bill by the committee amendments. LB 1177 creates the Advisory Committee on Developmental Disabilities to advise the Department of Public Institutions on the use of resources and the potential need for additional resources. The committee is composed of persons with developmental disabilities, their families, and service-providing agencies.

LB 1136 passed 36-6 and was approved by the Governor on April 19, 1994. LB 1136A passed 35-9 and was approved by the Governor with the line-item veto on April 19, 1994.

**LB 1222—Health
Insurance Reform**

*(Wesely, Beutler, Byars,
Coordsen, Day, Hall, Landis,
Lindsay, Rasmussen, Robak,
and Vrtiska, at the request of
the Governor)*

LB 1222 was referred to the Banking, Commerce and Insurance Committee; however, a discussion of the bill is included in the Health and Human Services Committee portion of this report because LB 1222, together with LB 1223, constituted what is known as the Governor's health care reform package.

LB 1222 is the "health insurance" portion of the Governor's health care reform package. The bill enacts the Small Employer Health Insurance Availability Act, which addresses insurance problems faced by small businesses (defined as businesses employing 3-25 people). Major provisions of the act include (for qualifying employers):

- ◆ Requiring insurance companies to offer coverage to all employees and dependents and at least two insurance plans and restricting the amount premium rates can be increased;

- ◆ Limiting the restrictions insurance companies can use to deny coverage based on pre-existing conditions;
- ◆ Creating the Nebraska Small Employer Health Reinsurance Program and authorizing the establishment of a reinsurance pool;
- ◆ Allowing individuals to organize as a group in order to purchase certain small group insurance;
- ◆ Creating a Health Benefit Plan Committee to recommend the form and level of coverage to be made available by the insurance companies; and
- ◆ Allowing an employee to move from one small group employer to another small group employer without losing insurance benefits if the two employers offer insurance.

LB 1222 also:

- ◆ Requires that after January 1, 1995, *all* insurance policies must cover dependent children under six years of age for childhood immunizations; and
- ◆ Adopts the Standardized Health Claim Form Act, which, among other things, requires the Director of Insurance to develop uniform claim forms and uniform electronic transfer procedures.

Portions of two other bills were amended into LB 1222 on General File. LB 1126 eliminates a provision requiring a six-month exclusion of pre-existing conditions for persons applying for coverage under the state's Comprehensive Health Insurance Pool (CHIP) program after leaving a continuation-of-coverage policy. LB 1176 adds "mental health practitioners" to the group of providers that insurance companies must reimburse if they provide services the company covers when administered by other providers.

LB 1222 passed with the emergency clause 42-0 and was approved by the Governor on April 15, 1994.

LB 1223—Health Care Reform

(Wesely, Beutler, Bohlke, Byars, Day, Dierks, Landis, Matzke, McKenzie, Rasmussen, Schellpeper, and Vrtiska, at the request of the Governor)

LB 1223 is the second portion of the Governor's health care reform package. As originally introduced, the major elements of the bill included:

- ◆ Amending the Childhood Vaccine Act to establish a program for the immunization of children who are not covered by either private insurance or Medicaid;
- ◆ Expanding the Rural Health Systems and Professional Incentive Act to include student loan repayments for nurse practitioners, clinical psychologists, and master's level mental health professionals. The bill also adds a provision requiring professionals who receive loan repayments through this program to accept Medicaid patients; and
- ◆ Strengthening the process for the discipline of health care professionals. The new procedures include tougher reporting requirements within disciplines and selected responsibilities for cross-discipline reporting. Lay members are added to the board of examiners which regulates the practice of many medical disciplines.

Committee amendments to the bill changed the reporting requirements and added portions of several other bills, as follows.

LB 1110 eliminates a statutory requirement that a county with less than 30,000 residents hold an election in order to form a county health department or join a district health department. Elimination of the election requirement makes it easier for such a county to create a local health department.

LB 1262 enacts the Primary Care Provider Act which requires the University of Nebraska Medical Center and the Creighton University Medical Center to develop plans to increase the number of graduates who enter a primary care or psychiatric residency and report the plans back to the Governor and Legislature on December 1, 1994, 1995, and 1996.

LB 1263 adopts the Trauma Systems Development Act which creates the Nebraska Trauma Systems Development Board to advise the Department of Health on issues related to development of a trauma care system.

Provisions of three other bills were added to LB 1223 on Select File.

LB 817, the Health Care Facility-Provider Cooperation Act, provides a state-action exemption from federal antitrust laws in order to allow health care facilities and other health care providers to undertake cooperative agreements.

LB 827 renames the Community Public Health Services Act the Community Health Care Act and establishes community health care planning boards to facilitate regional planning. The bill also authorizes the Department of Health to participate in a joint health care data collection system with the Nebraska Hospital Association and insurance companies.

LB 1232 allows for the modification of vaccination timelines for provisional school enrollment of children of military families.

LB 1223 passed with the emergency clause 44-0 and was approved by the Governor on April 15, 1994.

LB 1224—
Welfare Reform

*(Wesely, Rasmussen, Ashford,
Bohlke, and Abboud, at the
request of the Governor)*

Although there are several government programs which provide different types of assistance to low-income individuals and families, the primary welfare program targeted by LB 1224 is the Aid to Dependent Children (ADC) program. The ADC program, funded jointly by the state and federal governments, provides monthly cash subsistence grants to low-income families. To qualify for ADC, the family must have at least one dependent child under age 18 (or under age 19 in certain circumstances) and must have a monthly income below an established standard. (The 1994 eligibility standard for a family of two was \$293 per month after income disregards, and the maximum available grant was \$293 per month.)

Other ADC eligibility requirements include:

- ◆ **Income disregard.** Income disregard refers to the portion of a family's earned income which does not count against the ADC grant. When an ADC recipient earns an amount in excess of that portion, the ADC grant is reduced by one dollar for each dollar earned in excess of the allowable portion.
- ◆ **Resource limit.** The family's household resources cannot exceed \$1,000 in value, except for some basic necessities like the house in which the family lives, household goods of moderate value, clothing, equity of up to \$1,500 in a motor vehicle, and burial trusts or spaces.
- ◆ **Jobs program.** Adults receiving ADC grants must register with the state Job Support Program unless they are incapacitated or have a child under one year of age.
- ◆ **100-hour rule.** In a two-parent household, an additional eligibility standard requires that the principal wage earner be totally or partially unemployed. This standard includes a provision that the principal wage earner cannot work more than 100 hours a month.

Families who are eligible for ADC are also eligible for other programs and services, including health care coverage (Medicaid), food stamps, energy assistance, and child care. As originally introduced, LB 1224 would have combined a number of assistance programs and established a single, simplified set of eligibility rules and regulations.

The final version of LB 1224 directs the Department of Social Services (DSS), following the implementation of the other provisions of the bill, to apply for a waiver to combine the following programs: the state supplemental assistance to the aged, blind, and disabled; ADC; food stamps; and low-income energy assistance. The bill also requires that the waiver application ask for an exemption from the current requirement that in two-parent families, the principal wage earner cannot work more than 100 hours a month.

ADC Changes Under LB 1224

LB 1224 makes significant changes to several aspects of the ADC program, including:

Eligibility—A committee amendment to the bill adds the option for a family to choose between (1) receiving the ADC grant amount in place on January 1, 1995, with the dollar-for-dollar earned income disregard or (2) receiving a lower grant amount with the ability to keep more of the income the family earns.

LB 1224 also increases the allowable resource limit from \$1,000 to \$5,000.

Participation—Adults who are able to work must participate in a self-sufficiency contract and actively engage in the activities outlined in the contract in order to receive the cash grant. Whether or not the participation must occur on a full-time or part-time basis depends on the age of the family's youngest child. If a child is less than 12 weeks old, one adult is not required to participate in the self-sufficiency contract. When the youngest child is between 12 weeks and 6 months old, all adult family members are required to participate part-time in activities such as family nurturing, preemployment skills training, or education. Full participation of all adult family members is required once the youngest child is more than six months old. A minor parent is required to engage in full participation when he or she graduates from high school, receives a General Education Development (GED) diploma, or reaches 19 years of age.

LB 1224 prohibits any increase in cash assistance for a child born more than 10 months after the self-sufficiency contract is signed. (However, increases in other services for which the family is eligible, such as Medicaid or food-stamps, are allowed.) Child support received for such a child will not be used to reduce the family's cash grant.

Amendments to the bill modified a provision which would have required a reduction in the cash grant if the parents did not make sure their child or children attended school. The final version of the bill provides that the cash grant may be reduced if parents do not make reasonable efforts to keep their children aged 16 or younger in school. An exception is provided if the reduction would cause extreme hardship, and the Legislature stated its intent that a process be developed to insure communication between relevant parties regarding attendance.

LB 1224 also requires that the parents of a teen parent who applies for assistance must provide financial support for the teen unless their income is less than 300 percent of the federal poverty level.

Self-Sufficiency Contract—Under LB 1224, the eligibility process begins with a comprehensive assets assessment. Through this assessment the applicant and the case worker determine the applicant's economic and personal resources, as well as any barriers to economic self sufficiency. This assessment forms the basis for a self-sufficiency contract between the applicant and DSS. Adult family members are required under this contract to participate in one or more of the following: education, job skills training, work experience, job search, or employment. The contract also describes the case management and supportive services to be provided by DSS or other service providers.

Self-sufficiency contracts are established for a maximum period of two years, after which cash assistance ends. This two-year period may be extended if the state fails to meet its responsibilities under the contract, if there is no job available which pays at least as much as the ADC grant, or if a family would face extreme hardship without the grant. After the maximum two-year assistance period, families may not reapply for assistance for two more years.

Transition Benefits—LB 1224 requires the provision of work-related child care reimbursement for families on a sliding-scale basis, up to a family income of 185 percent of the federal poverty level for up to two years after the expiration of the self-sufficiency contract. (Currently, child care assistance is provided to 110 percent of the 1993 poverty level.) The bill also states the Legislature's intent that health care benefits be provided to individuals and families up to 185 percent of the federal poverty level, if no other coverage is available, and instructs DSS to pursue funding for these benefits.

Additional Studies

LB 1224 also requires several studies. The bill creates a Governor's Roundtable to analyze the job and training needs in the state and to recommend ways of linking the unemployed and underemployed with training or jobs. The roundtable will also supervise, review, and make recommendations regarding other studies, including: targeting

tax-incentive legislation to benefit low-income Nebraskans; child care and health care financing by families and their relationship to employment and economic self-sufficiency; and other employment issues such as adjustment of the minimum wage and the availability of jobs in each area of the state. The roundtable will report on these studies to the Governor and Legislature by October 15, 1994.

Child Support

LB 1224 includes a number of provisions related to child support, some of which were required to bring Nebraska into compliance with recent changes in federal law. The bill contains provisions to: improve the establishment of paternity, including establishing a rebuttable presumption of paternity if an acknowledgment of paternity is signed at the hospital or if the results of a genetic test with a probability of 99 percent are positive; put automatic wage withholding in place for all new child support orders unless specifically ordered otherwise by a court; and require insurance companies which offer family coverage to provide coverage for children born out of wedlock who are not claimed as a tax dependent or do not live with a parent. The bill also creates the Governor's Child Support Study Committee to review other related issues.

Other Provisions

Several other provisions were added to the bill, including:

- ◆ Establishing a Deputy Ombudsman for Children position in the Public Counsel's office. Funding for this position was vetoed by the Governor;
- ◆ Authorizing DSS to establish an electronic benefit system;
- ◆ Stating the intent of the Legislature that family resource centers be a priority in the utilization of new federal funds under the Family Preservation and Support Act of 1993;
- ◆ Establishing the policy of the state to promote the development of a statewide system of community-based services for children and families;
- ◆ Requiring the Governor to create a commission to establish human service regions across the state with common boundaries to be used by all state agencies; and
- ◆ Expanding Nebraska's estate recovery program under Medicaid to bring it into compliance with recent changes in federal law.

Implementation of LB 1224

Because the ADC program is federally mandated, changes enacted in state law will require waivers of program requirements which are tied to the availability of federal funds. As passed, LB 1224 requires DSS to apply for such waivers and to submit the waiver applications to the Legislature no later than December 1, 1994. Approval of the waivers may require negotiation between the state and the relevant federal departments, potentially resulting in changes to some provisions of LB 1224. The bill also requires that waivers approved by the federal government must be presented to the Legislature for approval. (An amendment adopted on Select File clarifies that this "approval" must happen through the introduction of a new bill, subject to the full legislative process.)

Amendments to the bill also require that before the federally approved waivers are presented to the Legislature, DSS must provide additional information on a number of issues including: the definition of "self-sufficiency," the components of the self-sufficiency contract, and the elements of the assets assessment; the standards to be used in determining whether the recipient is complying with the contract, what will be considered in determining whether an adult fails to cooperate in carrying out the terms of the contract, and what will be deemed to be the state not carrying out its responsibility under the self-sufficiency contract; the definition of "job;" what will be considered "extreme hardship;" what standards will be used to analyze family outcomes related to economic self-sufficiency; jobs availability; and the child care sliding fee scale.

Following federal and Legislative approval of the waivers, LB 1224 allows DSS to begin implementation in selected counties. (DSS has indicated that implementation would begin in Douglas and Sarpy counties in July 1995, with statewide expansion one year later.) The bill requires DSS to evaluate the impact of LB 1224 and to begin this evaluation upon implementation of the approved waivers.

The provisions of the bill which are not dependent on federal approval, including the child support provisions, go into effect immediately.

LB 1224 passed with the emergency clause 38-9 and was approved by the Governor on April 20, 1994. For FY1994-95, the General Fund appropriation passed by the Legislature was \$198,758. The Governor vetoed \$43,250.

LEGISLATIVE BILL NOT ENACTED

LB 1200—Nurse Practitioners

*(Rasmussen, Day, Schmitt, and
Will)*

LB 1200 would have eliminated a current statutory requirement that nurse practitioners can only practice if they are working under a signed agreement with a physician. Under LB 1200, nurse practitioners could provide some services (as defined in current law and modified by the bill) independently. A pending committee amendment, however, would have required nurse practitioners to submit to the state a list of physicians and other health care professionals with whom they would collaborate and make referrals as necessary.

This issue will be reviewed further this interim under study resolution LR 468.

LB 1200 advanced to General File but died with the end of the session.

JUDICIARY COMMITTEE

Senator John Lindsay, Chairperson

ENACTED LEGISLATIVE BILLS

LB 254—Expand Law Enforcement Officers' Authority Beyond Their Primary Jurisdictions *(Kristensen and Wickersham)*

LB 254 expands, under defined circumstances, the authority of law enforcement officers outside of their primary jurisdictions. Primary jurisdiction is defined as the geographic area within territorial limits of the state or political subdivision which employs the law enforcement officer. Officers will retain their power and authority to enforce states' laws and local ordinances beyond their primary jurisdictions in any fresh attempt to apprehend a person suspected of committing a felony or to respond to a local, state, or federal law enforcement officer's call for assistance. As originally introduced, the bill would have also expanded officers' authority into any adjacent county in order to apprehend a person suspected of committing a misdemeanor or a traffic infraction. As passed, LB 254 grants this authority only within 25 miles of the boundaries of the officer's primary jurisdiction.

The bill also provides that counties and municipalities may contract with other counties and municipalities for law enforcement services and requires each political subdivision to insure against liability for injuries or property damage incurred by its personnel within or outside of its primary jurisdiction.

LB 254 passed with the emergency clause 40-2 and was approved by the Governor on February 28, 1994.

LB 677—Separate Board of Parole from the Department of Correctional Services *(Chambers)*

In 1992, during its third special session, the Legislature passed LB 13 which placed the Board of Parole in the Department of Correctional Services. By passing LB 677 this year, the Legislature reversed its decision. LB 677 administratively separates the Board of Parole from the Department of Correctional Services. The board will have its own funding, staff, and telephone; however, because of the department's computer capability, the department will retain some record-keeping responsibilities.

Adopted amendments to the bill provide that within two years of the operative date of the act, the board must implement objective risk assessment criteria. Additionally, the amendments specifically state that the board is covered by the state personnel system, that the board's chairperson has supervisory authority over the board, and that a board member must resign as soon as he or she files to run for a public office.

The bill also includes a provision authorizing the board to waive for some prisoners incarcerated for drug-related crimes a requirement that the prisoners receive substance abuse treatment before they are eligible for parole. If the board chooses to waive this requirement and the prisoner is paroled, he or she must get treatment immediately upon release on parole.

The provisions of LB 783 were also added to the bill. LB 783 makes technical changes in the operation of the Board of Pardons, the most significant of which provides flexibility in the amount of time the board has within which to act on requests it receives.

LB 677 passed with the emergency clause 41-0 and was approved by the Governor on April 20, 1994.

LB 988— Juvenile Crime

*(Lindsay, Abboud, Ashford,
Avery, Bernard-Stevens,
Beutler, Bromm, Byars,
Cudaback, Day, Engel,
Hillman, Hudkins, Janssen,
Matzke, Monen, Pirsch,
Rasmussen, Robak, Schmitt,
Vrtiska, Wehrbein, Wesely,
Wickersham, Withem, and
Preister, at the request of the
Governor)*

LB 988 is known as the Governor's juvenile crime bill and makes a number of significant changes in the state's response to juvenile offenders.

Firearm Provisions

LB 988 adds transfer of a firearm to a minor as a Class IV felony to Nebraska's current law prohibiting handgun ownership by minors (persons under 18 years of age). This prohibition applies to all firearms, not just handguns. The bill includes exceptions for certain transfers from family members, for legitimate and lawful sporting purposes, and for supervised educational experiences.

The bill also creates the offense of unlawful possession of a firearm on school grounds. The bill directs that firearms confiscated pursuant to this new offense be destroyed, unless the owner of the firearm can prove ownership and is either acquitted of the relevant charge or can show the firearm was stolen from him or her. Additionally, any firearm found by the Nebraska State Historical Society to have significant antique value or to be of historical significance will not be destroyed but will be sold at auction and the proceeds deposited in the permanent school fund.

Boot Camps

As originally introduced, LB 988 also continued to develop plans for boot camps (regimented inmate discipline units) previously authorized by the passage of Laws 1993, LB 627; however, the boot camp provisions were eliminated on Select File.

Office of Juvenile Services

LB 988 creates the Office of Juvenile Services within the Department of Correctional Services. The office replaces the Division of Juvenile Services.

The office has broad authority over the juvenile justice system, including developing intake and assessment procedures for the evaluation of juveniles, providing case management, coordinating community-based services for juveniles and their families, administering the youth rehabilitation and treatment centers and any secure facilities developed, and supervising and coordinating juvenile parole and aftercare services.

The office is also responsible for planning the construction of a secure confinement facility to serve juvenile offenders. This new facility will be located in Omaha and will be a coeducational facility designed to provide secure confinement, education, and treatment for serious and chronic juvenile offenders who have been committed to the office or the department for secure care. The secure facility must provide a strong academic program as well as classes in health education, living skills, vocational training, behavior management and modification, money management, family and parent responsibilities, substance abuse awareness, physical education, job skills training, and job placement assistance.

Additionally, the office must develop a purchase-of-care system to facilitate the development of a statewide community-based continuum of care which involves both the public and private sectors.

Finally, the office is responsible for the design and provision of program and treatment services for the renamed Youth Rehabilitation and Treatment Centers (formerly Youth Development Centers) at Geneva and Kearney. The bill specifies programs and treatment services which must be offered, including programs relating to physical and mental health, drug and alcohol addiction, education, and counseling and provides that individualized case planning will begin with the initial assessment and continue through the youth's reintegration into the community upon release from the facility.

Other Provisions

Other provisions of LB 988 include:

- ◆ Declaring that the juvenile justice system provide individualized attention and treatment consistent with public safety and that it promote prevention efforts for youth identified as at risk for violating the law and whose behavior may be harmful to themselves or others. The goal of the juvenile justice system is to provide a wide range of services which keep the juvenile at home if possible or provide the least restrictive setting outside of the home, are community-based and family-focused, and provide follow-up and aftercare;

- ◆ Directing the Department of Labor to identify available resources that may provide educational opportunities for youth, including training and job experience in the repair and alteration of public buildings as may be necessary to comply with the requirements of the federal Americans with Disabilities Act; and
- ◆ Directing the Nebraska Commission on Law Enforcement and Criminal Justice to establish a public education program for calendar year 1994 to educate the public about the changes made to Nebraska statutes by LB 988.

LB 988 passed with the emergency clause 45-1 and was approved by the Governor on April 15, 1994.

LB 1129—
Hazing
(Matzke)

LB 1129 bans the hazing of individuals as part of initiation into student organizations. Hazing is defined as any activity by which a person intentionally or recklessly endangers the physical or mental health or safety of an individual for the purpose of initiation into, admission into, affiliation with, or continued membership with specified organizations. Specified organizations include student organizations authorized by postsecondary educational institutions, such as fraternities and sororities, but do not include alumni associations. Any person convicted of hazing could receive a six-month sentence, a \$1,000 fine, or both, and the organization of which he or she is a member could be fined up to \$10,000.

LB 988 passed 40-0 and was approved by the Governor on April 4, 1994.

LR 2CA—
Mediation
(Landis, Ashford, and Hohenstein)

LR 2CA proposes an amendment to Article I, section 13, of the Nebraska Constitution which would permit the Legislature to provide for the enforcement of mediation, binding arbitration agreements, and other forms of dispute resolution which are entered into voluntarily.

While these options are already legal alternatives to the court process if both parties in a dispute agree to use one of them, the resolution allows the Legislature to permit parties, at the time they enter into a contract, to agree to use arbitration to resolve any future disputes.

LR 2CA was killed by the committee in 1993; however, a motion to bring the resolution to the floor notwithstanding the action of the committee was successful. The resolution passed 39-5 and was presented to the Secretary of State on March 2, 1994. The amendment will appear on the general election ballot in November 1994.

**LR 29CA—Victims’
Reparations**

*(Pirsch, Abboud, Ashford,
Beutler, Bromm, Dierks, Fisher,
Haberman, Hohenstein,
Horgan, Hudkins, Lindsay,
Pedersen, Preister, Robak,
Schimek, Schmitt, Vrtiska,
Wehrbein, Will, Witek, and
Jones)*

LR 29CA would add a new section 28 to Article I of the Nebraska Constitution. The amendment prescribes that crime victims have certain rights. A crime victim or his or her guardian or representative would have the right to be informed of all criminal court proceedings, the right to be present at trial, unless the trial court finds that keeping the victim out is necessary for a fair trial of the defendant, and the right to be informed of, be present at, and make an oral or written statement at sentencing, parole, pardon, commutation, and conditional release proceedings. The Legislature would be required to pass laws for the implementation of such rights, and there would be no remedies other than as specifically provided by the Legislature for the enforcement of such rights.

The resolution passed 37-5 and was presented to the Secretary of State on April 15, 1994. The resolution will appear on the general election ballot in November 1994.

LEGISLATIVE BILLS NOT ENACTED

**LB 518—
Restrictions on
Persons Found Not
Responsible by
Reason of Insanity**

(Wesely)

The provisions of LB 518 were added by amendment to LB 498 and are included in the discussion of LB 498 in the Health and Human Services Committee section of this report.

**LB 779—Pretrial
Diversion**

(Lindsay)

As originally introduced and advanced to Select File in 1993, LB 779 would have granted counties the authority to establish pretrial diversion programs for first-time driving while intoxicated offenders. However, an amendment adopted on Select File struck the provisions relating to pretrial diversion and replaced them with a requirement that probation officers be compensated with salaries substantially equal to other state employees who have similar responsibilities. This new provision would have required \$1.8 million in funding.

LB 779 failed on Final Reading 19-27.

**LB 903—
Additional Judges**

*(Crosby, Ashford, Hudkins,
and Lindsay)*

As originally introduced, LB 903 would have added a new district court judge in both the fourth judicial district (Douglas County) and the third judicial district (Lancaster County). Committee amendments changed the new position in Douglas County from a district court judgeship to a county court judgeship and added the provisions of LB 1052 which added another district court judge to the second judicial district (Sarpy, Cass, and Otoe counties).

Several other bills were added to LB 903 on General File.

LB 996, which added new juvenile court judges in both Douglas and Sarpy counties.

LB 1010, which made changes in the process for nominating county judges by judicial nominating commissions and provided for the appointment of alternate citizen member to the nominating commissions.

LB 509, which provided a three percent increase in Supreme Court Justices' salaries in January 1995 and another three percent increase in January 1996. (Because the salaries of other judges are based on a percentage of the Supreme Court Justices' salaries, this bill would increase all judges' salaries.)

In order to reduce the bill's cost, an adopted Select File amendment eliminated the county court judge in Douglas County, the district court judge in Sarpy, Cass, and Otoe counties, and a portion of the salary increase for judges.

Additionally, two other bill were added to LB 903 on Select File: LB 51, which addressed issues relating to the statute of limitations in proceedings against a trustee after a final accounting; and LB 1345, which eliminated provisions relating to guardianships and conservatorships.

LB 903 passed with the emergency clause 36-9 but was vetoed by the Governor on April 19, 1994.

**LB 1026—Use of
State Computer
Network to Track
Court Costs**

(Lindsay)

LB 1026 would have authorized the use of the state computer network to track and collect court costs and fees assessed against convicted persons. While the bill advanced to Final Reading without amendment, a new and controversial issue arose before the bill was actually read on Final Reading.

On Final Reading, an amendment to LB 1026 was proposed which would have restored a sentencing cap that had been eliminated in 1993 by the passage of LB 529. Under the sentencing cap, judges could impose a minimum sentence of up to one-third of the time allowed under the maximum sentence prescribed for an offense. By eliminating the cap, judges could impose as a minimum sentence a portion or all of the allowed maximum sentence prescribed for an offense.

Supporters of restoring the sentencing cap alleged that senators had not realized that the cap was eliminated in LB 529 because the issue was not debated during discussion of the bill. Opponents of restoring the cap argued that the policy decision had been made in 1993 and should stand.

The motion to return the bill to Select File for specific amendment failed as did a second motion to return the bill for an amendment which would have established a sentencing cap at half the length of the maximum sentence prescribed for an offense.

LB 1026 remained on Final Reading and died with the end of the session.

LB 1351—Nebraska Crime Control Act of 1994

*(Abboud, Coordsen, Landis,
and Withem, et al)*

LB 1351, the Nebraska Crime Control Act of 1994, was sponsored by 35 senators at the request of Governor Nelson. The bill proposed numerous changes to the Nebraska Criminal Code.

Among its many provisions, LB 1351 would have provided for:

- ◆ Creation of four new felony offense classifications;
- ◆ An increase in mandatory minimum sentences, with no eligibility for probation, for a variety of felony offenses;
- ◆ Establishment of a three-year mandatory minimum sentence for a felon found in possession of a deadly weapon;
- ◆ Stiffer mandatory minimum sentences for persons found guilty of dealing drugs;
- ◆ Creation of drug-free school zones, similar to zones created by federal law which require persons 18 years of age or older convicted of dealing drugs within 1,000 feet of a school, youth center, swimming pool, or video arcade facility to serve stiffer sentences;
- ◆ A requirement that anyone deemed a habitual criminal or sentenced for three or more felonies serve a mandatory minimum sentence of 10 years and a maximum of 60 years or if the offense for which the person is sentenced and at least one of his or her prior offenses involved the use of force or threat of force against any person, a mandatory minimum sentence of 25 years and a maximum of 60 years;
- ◆ A requirement that no offender deemed a habitual offender is eligible for probation;

- ◆ A requirement that the Supreme Court expedite consideration of death penalty appeals;
- ◆ A requirement that the Supreme Court set execution dates within seven to 30 days after consideration of any appeal in which the death sentence is upheld;
- ◆ A requirement that the Secretary of State, upon filing of a motion to set an execution date and the Supreme Court's failure to do so within the prescribed time period, notify the warden of the Department of Correctional Services adult correctional facility to carry the sentence to execution on the date specified in the notice;
- ◆ A limitation of one post-conviction appeal and the establishment of a 60-day deadline for filing an appeal;
- ◆ A requirement that persons 14 to 18 years of age be prosecuted as adults for the commission of serious violent felony offenses;
- ◆ Creation of a three-year mandatory minimum sentence for persons convicted of committing a drive-by shooting and a one-year mandatory minimum sentence for persons convicted of knowingly accompanying a person who commits a drive-by shooting;
- ◆ A requirement that sentences imposed for certain felony offenses may not be served concurrently to any other sentence;
- ◆ A requirement that the Nebraska State Patrol be advised of crimes committed by juveniles;
- ◆ Authorization for law enforcement agencies to maintain juvenile crime records to assist in future investigations and prosecutions;
- ◆ Creation by the Nebraska State Patrol of a six-member "strike force" to investigate violent crimes;
- ◆ Replacement of the current "good time" system with a "positive time" system, under which prison inmates would be required to earn reduced sentences or early release by completing educational programs, substance abuse treatment, or personal therapy programs;
- ◆ A prohibition on "good time" reduction of mandatory minimum sentences imposed on habitual criminals and persons convicted of certain felony offenses;

- ◆ **Mandatory, random drug and alcohol testing by the Department of Correctional Services of all inmates who may be eligible for parole within the next 12 months;**
- ◆ **A requirement that inmates who are disciplined for drug or alcohol abuse may not be eligible for parole within 12 months of the disciplinary action;**
- ◆ **Mandatory revocation of parole of any parolee who engages in criminal activity, abuses drugs or alcohol, or refuses to submit to a drug or alcohol test while on parole; and**
- ◆ **A prohibition against subsequent parole of any inmate who was previously paroled and whose earlier parole was revoked for commission of a felony while on parole.**

LB 1351 advanced to Select File but died with the end of the session.

NATURAL RESOURCES COMMITTEE

Senator Chris Beutler, Chairperson

ENACTED LEGISLATIVE BILLS

LB 72—Low-Level Radioactive Waste Disposal Act

(Baack, Dierks, and Preister)

LB 72 amends the Low-Level Radioactive Waste Disposal Act and eliminates provisions which provided that low-level radioactive waste accepted at a disposal facility becomes the property of the state of Nebraska. Debate has been ongoing regarding liability in case of accident and who actually owns the waste deposited at a disposal facility built for use by members of the Central Interstate Low-Level Radioactive Waste Compact. The passage of LB 72 makes clear Nebraska's position that Nebraska does not own or take title to waste disposed at any facility located in this state.

The bill passed 45-0 and was approved by the Governor on April 15, 1994.

LB 480—Natural Resources Districts

*(Natural Resources
Committee)*

As originally introduced, LB 480 authorized natural resources districts (NRDs) to make decisions regarding the number of directors, subdistrict boundaries, and the manner of electing directors by eliminating the requirement for review and approval of such changes by the Nebraska Natural Resources Commission. The bill also expanded the range of authorized NRD investments.

During the amendment process, provisions of LB 172, LB 571, and LB 1084 were added to the bill.

In addition to the bill's original provisions, LB 480 authorizes NRDs to adopt or amend flood control improvement corridor maps. The maps show the corridors of land on either side of the centerlines of watercourses which the NRDs determine should be reserved for future construction, operation, or maintenance of flood control improvements. One significant provision of the bill is that building permits may not be issued for construction within a corridor until the NRD has the option of negotiating the purchase of the property from the landowner.

Additionally, the bill changes provisions relating to erosion and sediment control and requires each NRD to submit an amended ground water management plan by January 1, 1996. Any NRD which fails to timely submit an amended plan is ineligible to receive state aid.

LB 480 passed 44-0 and was approved by the Governor on April 18, 1994.

**LB 570—
Environmental
Protection**
(Beutler)

LB 570 establishes additional penalties for anyone convicted of a second or third offense for littering.

In order to clarify and provide more uniformity in the treatment of environmental offenses, the bill also changes and provides penalties for violations of the Environmental Protection Act and the Integrated Solid Waste Management Act. The bill separates civil and criminal environmental penalty provisions and specifically classifies criminal penalties.

Finally, LB 570 provides additional powers and duties for the Department of Environmental Quality.

LB 570 passed 39-0 and was approved by the Governor on March 30, 1994.

**LB 981—
Abandoned Water
Wells**
(Beutler)

LB 981 creates the Water Well Decommissioning Fund in an effort to accelerate the decommissioning of illegal or abandoned water wells. The bill allows an individual natural resources district to qualify for a portion of \$99,000 in state funds expended annually for use in a district's cost-sharing program to assist landowners with the expense of decommissioning illegal water wells located within its jurisdiction. The Legislature also passed LB 981A which appropriates the necessary funds to carry out LB 981.

In addition, the bill defines and redefines terms and changes provisions relating to water well permits, fees, and rules and regulations. It also changes the registration procedures to allow the grouping of certain water wells for registration and fee payments.

LB 981 passed with the emergency clause 38-0 and was approved by the Governor on April 18, 1994.

**LB 1034—Scrap
Tire Reduction and
Recycling Incentive
Fund**
(Robinson et al.)

LB 1034 creates the Scrap Tire Reduction and Recycling Incentive Fund. The fund will be used to aid tire recycling projects for the next five years. Ten percent of the money from the fund is earmarked for research grants, 40 percent for grants for the establishment of tire collection sites and for the clean-up of existing sites, and 50 percent for loans for tire processing and the manufacture of products using scrap tire.

The fund will be funded from the one-dollar tax which is currently levied on the purchase of tires. (Currently, that tax raises about \$1.5 million annually.)

The bill also bans the placing of waste tires in landfills after September 1, 1998, and provides that existing waste tire sites must be abated by September 1, 2000.

LB 1034 passed 46-0 and was approved by the Governor on April 20, 1994.

**LB 1349—
Pollution Clean-Up**
*(Avery, Fisher, Schellpeper, and
Wehrbein)*

LB 1349 authorizes the Department of Environmental Quality to monitor remedial action plans for the clean-up of polluted sites. To pay for the cost of monitoring those plans, the Hazardous Waste Remedial Action Monitoring Fund is created. The bill allows the state to monitor the clean-up.

The Natural Resources Committee attached amendments to the bill which clarify that approval of remedial action projects by the state is not an acceptance of liability.

The bill passed with the emergency clause 42-0 and was approved by the Governor on April 20, 1994.

LEGISLATIVE BILLS NOT ENACTED

**LB 737—Change
Game and Parks
Commission
Districts**
(Beutler)

As originally introduced, LB 737 would have increased the number of Game and Parks Commissioners from seven to eight and would have redrawn the district lines to conform to the principle of "one person, one vote."

The bill was amended to increase commission membership from seven to nine, to eliminate the requirement that two commissioners be knowledgeable about the recreational use of parks, and to draw district lines in such a way that the city of Lincoln comprised one district while another district included Sarpy County and part of Douglas County.

The bill advanced to Select File but died with the end of the session.

**LB 1039—
Trail Fees**
(Beutler)

LB 1039 would have allowed state agencies and political subdivisions to collect user fees (which may or may not be voluntary) on trails that they own and operate. The fees would have been used for purposes of maintenance, development, and acquisition of additional trails in the state; however, the Natural Resources Committee adopted an amendment which limited the use of the fees to maintenance and development purposes only.

The bill advanced to General File but died with the end of the session.

**LB 1128, LB 1358,
and LB 1360—
Renewable Energy**

Three bills were introduced in 1994 relating to renewable energy. All three bills were held by the committee and died with the end of the session. However, the Natural Resources Committee charged the Nebraska Power Association to "complete a statewide wind energy

resource assessment in Nebraska." The assessment will include "research on potentially promising sites, identification of the sites to be monitored, installation of data collection equipment, data gathering, compilation of results in a report, and a prioritization of the sites most appropriate for development." The study is to be completed by December 31, 1998.

The bills introduced in 1994 are as follows.

LB 1128—LB 1128 was introduced by Senator Hartnett and would have directed the Nebraska Power Review Board to provide and coordinate renewable energy activities and to impose an annual assessment on retail users of electricity.

LB 1358—This bill, introduced by Senators Preister, Bohlke, Hartnett, Janssen, and Schmitt, declared as public policy that the use of renewable energy sources is in the public interest, that the state shall pursue research and development of renewable energy, and that energy planning shall be based on the total life-cycle costs of electrical generation. LB 1358 would have also repealed statutory language encouraging the use of nuclear energy.

LB 1360—Introduced by Senators Preister, Bromm, and Hartnett, LB 1360 would have established a nine-member Renewable Energy Commission which would have gathered wind energy data and information. Commission costs would have been borne by electrical utilities of Nebraska through annual assessments.

NEBRASKA RETIREMENT SYSTEMS COMMITTEE

Senator Robert Wickersham, Chairperson

ENACTED LEGISLATIVE BILLS

LB 460—Deferred Compensation

*(Horgan, Crosby, and
Wickersham)*

LB 460 provides state employees who participate in the deferred compensation program with expanded investment opportunities. Prior to the bill's passage, state employees were able to accumulate deferred income only in annuities and life insurance contracts. LB 460 authorizes the Public Employees Retirement Board to expand investment options to include mutual funds, bank savings accounts, savings and loan associations, and trust companies.

The bill passed 44-0 and was approved by the Governor on March 7, 1994.

LB 833—IRS Compliance

*(Nebraska Retirement Systems
Committee)*

Passage of LB 833 brings Nebraska's retirement statutes into conformity with section 415 of the Internal Revenue Code. (Section 415 limits benefits paid from a qualified defined benefit plan and annual additions made to a qualified defined contribution plan.) The bill also provides a reporting and monitoring mechanism for each retirement system to ensure compliance with federal law.

LB 833 passed with the emergency clause 44-0 and was approved by the Governor on April 19, 1994.

LB 1287— State Patrol Retirement System Contributions

*(Avery, Day, Engel, Lynch,
Robak, Schmitt, and Wehrbein)*

LB 1287 increases the retirement contribution rates for State Patrol officers and the state from eight percent to 10 percent beginning July 1, 1995. The increases result in a total retirement plan contribution rate of 20 percent.

The bill passed with the emergency clause 38-3 and was approved by the Governor on April 7, 1994.

LB 1306— Retirement "Clean-up Bill"

*(Nebraska Retirement Systems
Committee)*

LB 1306 makes technical changes to the various retirement systems. Highlights of those changes include:

- ◆ Amending the state and county employees retirement systems by codifying an Internal Revenue Service ruling which allows a death beneficiary to elect any retirement option to which the member would have been entitled. If an annuity is not selected within 60 days of the member's death, the benefit will be a lump-sum settlement;

- ◆ Providing that a Nebraska State Patrol officer can retire with 10 years of service at age 50 and clarifying that a mandatory retirement age of 60 applies only when not restricted by federal law; and
- ◆ Authorizing the use of \$75,000 by the Nebraska Retirement Systems Committee to complete the retirement study authorized by LR 328 in 1992. Completion of the study will include an analysis of the elements of the defined benefit and the defined contribution systems and whether Nebraska should adopt a "hybrid" retirement system which includes elements of both systems.

LB 1306 passed with the emergency clause 44-0 and was approved by the Governor on April 7, 1994.

LEGISLATIVE BILLS NOT ENACTED

**LB 1047—
Cost-of-Living
Adjustments**
(Wickersham and Moore)

LB 1047 would have provided a mechanism for allowing cost-of-living adjustments for members of the State Employees Retirement System. The adjustment would have restored the purchasing power of benefit payments to 75 percent of the purchasing power existing at the time of retirement.

LB 1047 was indefinitely postponed by the committee on March 8, 1994.

REVENUE COMMITTEE

Senator Jerome Warner, Chairperson

ENACTED LEGISLATIVE BILLS

LB 1160—Diesel and Alternative Fuel Taxes

(Warner)

LB 1160 repeals the special fuel tax, establishes diesel and alternative fuel taxes, helps identify the point of taxation, and clarifies the taxation of dyed and undyed diesel fuels. The bill is a byproduct of the Motor Fuel Tax Task Force and reflects changes in federal law governing motor fuel taxation.

Diesel Fuel Tax Act

The purpose of the Diesel Fuel Tax Act is to supplement other Nebraska motor vehicle fuel taxes by imposing additional taxes on all fuels used in diesel-powered motor vehicles registered for highway operation. Section 19 of LB 1160 levies a tax of 10.5 cents per gallon on all diesel fuel reported in monthly tax returns, except certain types of such fuel (e.g., indelibly dyed and chemically marked diesel fuel and diesel fuel for which tax has already been paid). Kerosene, blending agents, and fuel expanders are also exempt, but only until used to fuel motor vehicles or until actually blended with diesel fuel.

Sections 20 and 21 levy "additional" excise taxes for all diesel fuel subject to the section 19 tax and section 25 levies yet another "additional" excise tax on all diesel fuel used in Nebraska. (Note, however, that nonconfidential quarterly returns are used for purposes of the section 25 tax rather than monthly returns.)

However, other exemptions may also be available (e.g., diesel fuel imported by barge line or pipeline and stored at a related terminal in Nebraska). Diesel fuel used for agricultural and other non-highway purposes also is exempt, as is diesel fuel used for certain common carrier buses serving municipalities. Taxes paid on diesel fuel used for exempt purposes may be refunded. However, exemption certificates may be used for undyed diesel fuel delivered into storage facilities if the fuel is used exclusively for agricultural purposes or if the purchaser is a state or local governmental entity.

The act also contains a safe-harbor rule for suppliers, distributors, wholesalers, and importers who would prefer not to remit the tax to comply with the act. In consideration for receiving a commission, such persons may be held ultimately responsible for paying the taxes.

Except for certain types of dyed diesel fuel used in vehicles operated by state or local governmental entities, the act prohibits the use of

dyed diesel fuel in the refueling of Nebraska licensed motor vehicles which are being operated on the state's highways; that is, the act only permits the use of previously taxed undyed diesel fuel in refueling such vehicles. The act also permits the inspection of a motor vehicle's fuel supply tank by traffic law enforcement officers and carrier enforcement officers who have reasonable grounds to believe that this rule is being violated.

The Diesel Fuel Tax Act also levies a "floor-stocks tax," which applies only if (1) no tax was imposed under the Special Fuel Tax Act and (2) the fuel would have been subject to the new diesel fuel tax had it been in effect for periods before July 1, 1994. The floor-stocks tax is equal to the amount of tax that would have been imposed under the Special Fuel Tax Act as of June 30, 1994, had it applied.

Finally, full or partial refunds may be due for special fuel user permits issued under prior law.

Alternative Fuel Tax Act

The purpose of the Alternative Fuel Tax Act is to supplement other motor vehicle fuel taxes by requiring any person who operates an alternative-fuel-powered motor vehicle on the state's highways to annually purchase a nontransferable user's permit within 30 days of becoming an alternative fuel user for purposes of paying the "estimated fuel use tax liability." "Alternative fuel" includes compressed and liquified natural gas, liquified petroleum gas, electricity, "and any other source of energy used to power a motor vehicle" except diesel fuel or motor vehicle fuel as defined in section 66-482.

To obtain the alternative fuel tax permit, the user must file a completed application with, and pay a calculated fee to, the county treasurer, who will retain three percent of the fee for the cost of administration. The amount of the fee is determined by a formula which takes into account the type of motor vehicle, an average miles per gallon (MPG) rating for each motor vehicle type (i.e., 25 MPG for passenger vehicles, 18 MPG for pickup trucks, and 10 MPG for buses and other trucks), the average Nebraska motor fuel tax rate, and a standard annual mileage of 15,000 miles.

Depending on how many months are remaining in the registration period, permit fee refunds may be due when ownership of such a motor vehicle is transferred. Refunds are to be paid from the undistributed alternative fuel user permit fees, but refunds less than two dollars will not have to be paid.

Temporary permits must be obtained by owners and operators of alternative-fuel-powered vehicles that are not registered in Nebraska before purchasing alternative fuel in Nebraska. Temporary permits will be made available through licensed alternative fuel retailers and are valid for a period of 72 hours.

Finally, section 47 of LB 1160 provides that any special fuel user permit provided for under prior law and purchased before July 1, 1994, for an alternative-fuel-powered motor vehicle will be deemed to be an alternative fuel user permit for purposes of the act through the months remaining in the registration period of the motor vehicle.

LB 1160 passed with the emergency clause 45-0 and was approved by the Governor on April 18, 1994.

LB 977—Sales and Use Tax Changes; Estate and Trust Income Taxation; and Tax Procedure
(Warner, Coordsen, Hartnett, Landis, Schellpeper, Wickersham, and Will)

Sales and Use Taxes

LB 977 changes the definition of "gross receipts," for purposes of sales and use taxes, to specifically include transportation costs incurred in delivering property to a purchaser. LB 977 also makes technical changes pertaining to "common or contract carriers" and the definition of "property."

Estate and Trust Income Taxes

Prior to the 1994 legislative session, the Legislature had not established tax brackets to be used specifically for the purpose of taxing the income of estates and trusts (except trusts that are taxed as corporations). Table 1 shows the four tax brackets established by LB 977 and the corresponding tax rate for each such bracket.

Table 1: LB 977 Income Tax Brackets and Rates

Taxable Income		Estate & Trust Income Tax
<i>Over</i> \$0	<i>Not Over</i> \$500	2.62% of taxable income
\$500	\$4,700	\$13.10 + 3.65% of excess over \$500
\$4,700	\$15,150	\$166.40 + 5.24% of excess over \$4,700
Over	\$15,150	\$713.98 + 6.99% of excess over \$7,550

Laws 1994, LB 977, sec. 11 (effective July 14, 1994).

For tax years 1992 and 1993, the *Nebraska Fiduciary Income Tax Booklet* set forth four tax brackets keyed to the taxable income of estates and trusts (except trusts that are taxed as corporations). Table 2 shows the tax brackets and rates used for tax year 1993.

Table 2: 1993 Income Tax Brackets and Rates

Taxable Income		Estate & Trust Income Tax
<i>Over</i> \$0	<i>Not Over</i> \$500	2.62% of taxable income
\$500	\$4,700	\$ 13.10 + 3.65% of excess over \$500
\$4,700	\$7,550	\$166.40 + 5.24% of excess over \$4,700
Over	\$7,550	\$315.74 + 6.99% of excess over \$7,550

1993 Nebraska Fiduciary Income Tax Booklet, p. 5.

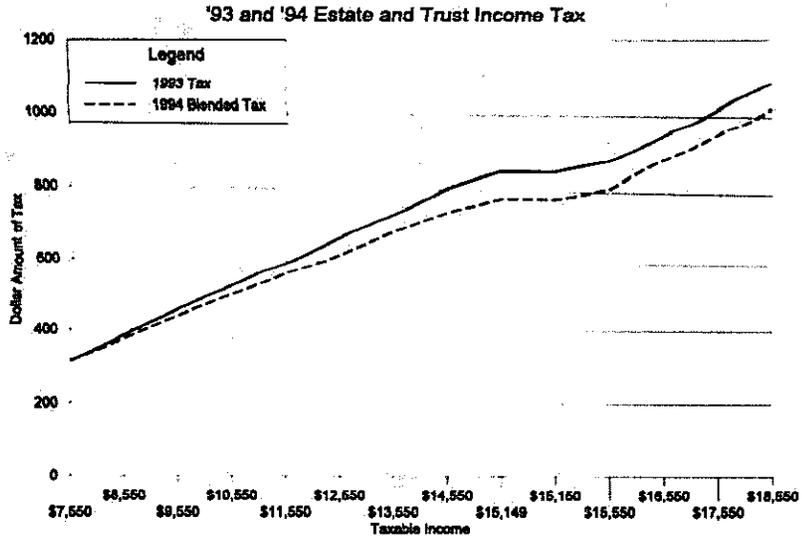
Compared to the tax brackets and rates contained in the 1993 *Nebraska Fiduciary Income Tax Booklet*, LB 977 decreases income taxes for all estates and trusts having taxable incomes over \$7,550 for tax year 1994. Estates and trusts having taxable incomes of approximately \$15,150 will experience the largest tax reduction, a percent-change of minus 7.85 for tax year 1994 compared to tax year 1993. Table 3 depicts the amount of the tax decrease for various income levels by comparing 1993 and 1994 tax burdens. The table illustrates the amount of the tax decrease for various income levels by using *blended* tax brackets and rates for tax year 1994, based upon the assumption that one-half of the taxable income was earned before July 14, 1994, and one-half earned after July 14, 1994 (e.g., interest paid for quarters ending March 31, June 30, September 30, and December 31).

Table 3: 1993 and 1994 Estate and Trust Income Taxes Compared

Taxable Income	1993 Tax	1994 Blended Tax	% Change
\$7,550	315.74	315.74	0.00
8,550	385.64	376.89	- 2.26
9,550	455.54	438.04	- 3.84
10,550	525.44	499.19	- 4.99
11,550	595.34	560.34	- 5.87
12,550	665.24	621.49	- 6.57
13,550	735.14	682.64	- 7.14
14,550	805.04	743.79	- 7.60
15,149	846.91	780.41	- 7.85
15,150	846.98	780.48	- 7.85
15,550	874.94	808.44	- 7.60
16,550	944.84	878.34	- 7.03
17,550	1014.74	948.24	- 6.55
18,550	1084.64	1018.14	- 6.13
19,550	1154.54	1088.04	- 5.76
20,550	1224.44	1157.94	- 5.43
21,550	1294.34	1227.84	- 5.13
22,550	1364.24	1297.74	- 4.87
23,550	1434.14	1367.64	- 4.63
24,550	1504.04	1437.54	- 4.42
.			
19,999,550	1,397,756.54	1,397,690.04	- 0.005

Note that in comparing tax year 1993 with tax year 1994 the loss of revenue (*i.e.*, the so-called "tax expenditure" associated with LB 977) reaches a pinnacle of \$66.50 per return filed for taxable incomes of \$15,149 and higher. (The per-return loss of revenue for taxable incomes ranging from \$7,550 to \$15,149 varies from less than \$1.00 to \$66.50.) The statistical information presented in Table 3 also is presented in the following graph, except that the data for taxable incomes over \$18,550 has been omitted.

Graph 1



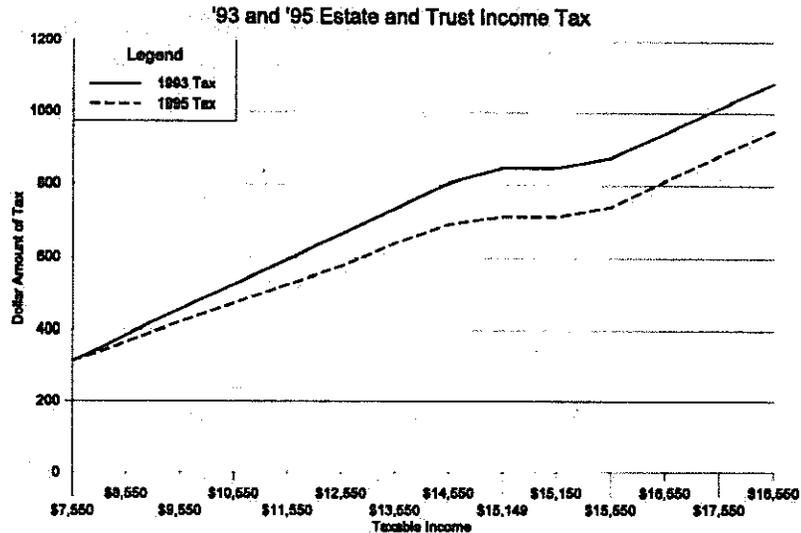
Compared to the tax brackets and rates used for tax year 1993, LB 977 will also decrease income taxes for all estates and trusts having taxable incomes over \$7,550 for tax years beyond 1994. Estates and trusts having taxable incomes of approximately \$15,150 will experience the largest tax reduction, a percent-change of minus 15.70 for tax year 1995 compared to tax year 1993. Because the use of blended tax brackets and rates for 1994 tends to distort the financial impact of tax increases and decreases in the year of the change, Table 4 depicts the amount of the LB 977 tax decrease for various income levels by comparing 1993 and 1995 tax burdens.

Table 4: 1993 and 1995 Estate and Trust Income Taxes Compared

Taxable Income	1993 Tax	1995 Tax	% Change
\$7,550	315.74	315.74	0.00
8,550	385.64	368.14	-4.54
9,550	455.54	420.54	-7.68
10,550	525.44	472.94	-9.99
11,550	595.34	525.34	-11.76
12,550	665.24	577.74	-13.15
13,550	735.14	630.14	-14.28
14,550	805.04	682.54	-15.22
15,149	846.91	713.92	-15.70
15,150	846.98	713.98	-15.70
15,550	874.94	741.94	-15.20
16,550	944.84	811.84	-14.08
17,550	1014.74	881.74	-13.11
18,550	1084.64	951.64	-12.26
19,550	1154.54	1021.54	-11.52
20,550	1224.44	1091.44	-10.86
21,550	1294.34	1161.34	-10.28
22,550	1364.24	1231.24	-9.75
23,550	1434.14	1301.14	-9.27
24,550	1504.04	1371.04	-8.84
19,999,550	1,397,756.54	1,397,623.54	-0.01

Note that in comparing tax year 1993 with post-1994 tax years the loss of revenue (*i.e.*, the so-called "tax expenditure" associated with LB 977) reaches a pinnacle of \$133.00 per return filed for taxable incomes of \$15,149 and higher. (The per-return loss of revenue for taxable incomes ranging from \$7,550 to \$15,149 varies from less than \$1.00 to \$132.99.) The statistical information presented in Table 4 also is presented in the following graph, except that the data for taxable incomes over \$18,550 has been omitted.

Graph 2



Tax Procedure

A number of changes were made by LB 977 in the area of tax procedure to rectify problems caused by the passage of Laws 1993, LB 345, which was the Department of Revenue's annual "clean-up" bill.

Both LB 345 and LB 977 establish a 30-day period of time within which a taxpayer is required to file a written protest against a proposed deficiency assessment relating to tax withholding requirements. The 30-day statute of limitations begins to run the day that the notice is mailed. That is, a notice of a proposed deficiency assessment relating to tax withholding requirements becomes a final assessment within 30 days of the mailing of the deficiency notice, unless a written protest has been timely filed by the taxpayer. Action by the Tax Commissioner on a taxpayer's written protest involving tax withholding requirements becomes final within 30 days of mailing the notice of final action, unless the taxpayer seeks timely judicial review of the Tax Commissioner's action.

The notice of a proposed deficiency assessment in other tax matters (*i.e.*, nontax-withholding matters) becomes a final assessment within 90 days (150 days if the taxpayer is outside the United States) of the mailing of the deficiency notice, unless a written protest has been timely filed by the taxpayer. Action by the Tax Commissioner on a taxpayer's written protest involving nontax-withholding matters becomes final within 90 days of mailing the notice of final action, unless the taxpayer seeks timely judicial review of the Tax Commissioner's action.

What distinguishes LB 977 from LB 345 is the effective date of the changes. The LB 977 changes are prospective—they took effect

July 14, 1994 (90 days after the end of the session). By contrast, the changes made by LB 345 were retroactive—they took effect January 1, 1993 (even though the Legislature did not pass LB 345 until June 8, 1993, and the Governor did not approve the legislation until June 10, 1993).

LB 977 passed 45-0 and was approved by the Governor on March 16, 1994.

LB 902—

Agricultural and Horticultural Land Valuation Boards; Homestead Exemption; Real Estate Conveyances

(Wickersham, Warner, Landis, Beutler, and Wesely)

Agricultural and Horticultural Land Valuation Boards

LB 902 establishes eight agricultural and horticultural land valuation boards and land manual areas. Each board will have the power, between May 15 and June 16 each year, to (1) raise or lower the value of classes of agricultural and horticultural land to equalize values between the various counties in its land manual area and (2) change classifications of such land if evidence discloses incorrect classification.

Land valuation board members will be appointed to four-year terms by the county board and may be removed for cause after notice and hearing by the State Board of Equalization and Assessment. LB 902 also permits aggrieved taxpayers and county boards of equalization to appeal land valuation board actions.

Changes affecting agricultural and horticultural land valuation methods also were enacted. Except for valuing income streams, previous law provided for determining the "actual value" of agricultural and horticultural land by dividing such land into four "major use categories" and subdividing the major categories based on soil classifications. Agricultural and horticultural land categories are now required to "reflect uses appropriate for the valuation of such land according to law. . . ." but the categories are still required to be subdivided based on soil classification standards. "Intensive agricultural uses" are now entitled to their own separate categories and wasteland is to be valued at its actual value rather than under the former five-percent valuation formula applicable to such land. Finally, the "income stream" formulas remain largely unchanged.

Homestead Exemption

LB 902 also revamps the property tax homestead exemption provisions. The amount of the exemption depends on whether the claimant is single or married; disabled, a disabled veteran, or an "unremarried" widow or widower of a disabled veteran; and the level of household income. LB 902 defines "household income" to mean total federal adjusted gross income (AGI) plus "Nebraska adjustments" which increase AGI, interest and dividends excluded from AGI which are attributable to obligations of the State of Nebraska or its political subdivisions, and social security or railroad retirement benefits excluded from AGI.

For 1994, single or married claimants with household income of \$10,400 or less—and who do not qualify under the special rules for disabled persons, disabled veterans, or unremarried widows or widowers of disabled veterans, and whose residence has been valued at “maximum value” or less—are entitled to a homestead exemption equal to 100 percent of the “exempt amount.” For such taxpayers, “exempt amount” means the lesser of: (1) the taxable value of the homestead; or (2) the greater of (a) 80 percent of the average assessed value of single-family residential property in the claimant's county of residence or (b) \$40,000.

Also for 1994, single or married claimants with household incomes of \$10,400 or less—and who do qualify under the special rules for disabled persons and disabled veterans, and whose residence has been valued at “maximum value” or less—also are entitled to a homestead exemption equal to 100 percent of the “exempt amount,” but qualifying “unremarried” widows or widowers of disabled veterans are entitled to a homestead exemption equal to 100 percent of the “exempt amount” only if their level of household income is \$15,000 or less. For such taxpayers, “exempt amount” means the lesser of: (1) the taxable value of the homestead; or (2) the greater of (a) 100 percent of the average assessed value of single-family residential property in the claimant's county of residence or (b) \$50,000.

The bill defines “maximum value” to mean the greater of (1) 150 percent of the average assessed value of single-family residential property in the claimant's county of residence or (2) \$100,000. County assessors are required to determine the average assessed value of single-family residential property in the county for the preceding year.

For 1995 and beyond, the amount of the exemption is a percentage of the “exempt amount” and the applicable percentage factor varies depending on whether the claimant is single or married; disabled, a disabled veteran, or an “unremarried” widow or widower of a disabled veteran; and the level of “household income.” For example, married claimants with household income of \$18,000 or less are entitled to 100 percent of the exempt amount and single claimants with household income of \$15,500 or less are entitled to 100 percent of the exempt amount. Married disabled persons or disabled veterans with household income of \$20,000 or less are entitled to 100 percent of the exempt amount and single disabled persons or disabled veterans with household income of \$17,500 or less are entitled to 100 percent of the exempt amount.

Also, section 35 of the bill indicates that qualifying “unremarried” widows and widowers of disabled veterans with household income of \$17,500 or less (for 1995 and beyond) are entitled to 100 percent of

the exempt amount if the surviving spouse uses a federal filing status other than "married" (e.g., single or head-of-household). However, the bill contemplates that a qualifying "unremarried" widow or widower of a disabled veteran may nevertheless qualify as "married," in which case 100 percent of the exempt amount is allowed if household income is \$20,000 or less (for 1995 and beyond). "Unremarried" widows and widowers of disabled veterans might be entitled to claim a "married" filing status in some cases, because section 28 of the bill defines "married" to mean "a person who would file a federal income tax return as married filing jointly or separately if required to file a return." Generally, federal tax law permits a widow or widower to file a joint income tax return with the deceased spouse for the year of death if the surviving spouse has not remarried before the end of the tax year. Therefore, qualifying "unremarried" widows or widowers may use the section 35 homestead exemption schedule for "married" persons if a joint federal income tax return may properly be filed for the year in question.

The bill also provides a formula for reducing the amount payable by the state to counties—whose aggregate property tax valuations are below 100 percent of actual value—for revenue lost due to homestead exemptions. This is to serve as an incentive for all counties to bring their residential real property tax valuations up to 100 percent of actual value. The formula provides for multiplying the amount of property tax revenue lost in a particular county due to homestead exemptions by the aggregate assessment sales ratio calculated by the Department of Revenue for all single-family residential real property in the county for the current year after adjustments made by the State Board of Equalization and Assessment except that any assessment sales ratio greater than 100 shall be deemed to be 100 for such purpose.

Real Estate Conveyances

As amended, LB 902 allows real estate appraisers to have access to recording statements filed on or after January 1, 1995. It also provides that the tax statement, which every grantee who has recorded a real estate deed is required to file, must be designed so that multiple copies are generated, and beginning January 1, 1995, a copy of such tax statements (without the grantee's social security number or federal employer identification number) must be provided to county assessors.

LB 902 passed with the emergency clause 43-0 and was approved by the Governor on April 19, 1994.

**LB 961—Personal
Property Tax
Exemption for
Livestock; Repeal
Commercial
Fertilizer Fee;
Cigarette Tax
Revenue
Distribution;
Nonrefundable
Ethanol Credit**

*(Coordsen, Byars, Cudaback,
Dierks, Elmer, Haberman,
Hudkins, Janssen, Jones,
McKenzie, Moore, Robinson,
Schellpeper, Schmitt, Vrtiska,
and Wickersham)*

LB 961 exempts livestock from personal property taxation and redefines exempt "business inventory" to include personal property owned for the purpose of leasing or renting it for pecuniary gain (but only if such property is ordinarily rented for periods of 30 days or less, may be returned at the option of the renter at any time, and would be household goods or personal effects if owned by an individual). "Business inventory" does not include other types of personal property used in rental operations.

Additionally, the bill changes the amount of the current four-dollar per ton commercial fertilizer fee. Beginning January 1, 1997, and through December 31, 2000, the commercial fertilizer fee will be one dollar per ton.

LB 961 earmarks two cents of the 34-cent-per-pack cigarette tax for the City of Omaha Public Events Facilities Fund, for a period of six fiscal years beginning with FY1995-96. However, the bill requires that appropriated funds be matched with funds derived from sources other than state funds in amounts equal to one dollar for every two dollars appropriated.

LB 961 makes the ethanol producer's tax credit a nonrefundable tax credit.

LB 961 passed 38-9 and was approved by the Governor on April 19, 1994.

**LB 1275—
Valuation and
Assessment
Practices; Real
Estate Closing Act;
Reconveyance
Deeds and
Mortgage Releases**

(Withem)

Valuation and Assessment Practices

LB 1275 states the Legislature's intent "that accurate and comprehensive information be made accessible to the taxpayer in order to ensure the quality and uniformity of assessment practices on both intercounty and intracounty valuations." State law already requires the Department of Revenue to construct and maintain a system for collecting and analyzing property tax facts that aid in making intracounty and intercounty comparisons based on property tax and assessment ratio data.

LB 1275 clarifies that school district comparisons are to be included and that land contracts and similar transfers are to be analyzed as well. The department must assist local officials who are required to report property tax data by providing, upon request, sample appraisals, statistical analyses, arm's-length sales transactions and any other information needed to complete the analyses. LB 1275 also requires county assessors to provide access to the public to property record cards and to publicize assessment ratios and other statistical measures, such as the assessment-to-sales ratio, the coefficient of dispersion, and the price-related differential.

Real Estate Closing Act

LB 1275 was amended to include the provisions of LB 738, the Banking, Commerce, and Insurance Committee's Real Estate Closing Act. To lawfully act as a real estate closing agent, a person must be licensed or regulated by at least one "regulating entity" or be employed by a person or entity which is regulated by a "regulating entity," unless employing such a person to act as a real estate closing agent is otherwise prohibited by law. In addition, such a person is required to have received "good funds" which are available for disbursement at the time of closing a real estate transaction.

The bill defines: (1) "good funds" to include, among other things, U.S. currency, certain wired funds, and certain types of negotiable instruments (*e.g.*, cashier's checks and bank money orders issued by a federally insured financial institution, federal home loan bank checks, State of Nebraska warrants); and (2) "regulating entity" to mean the Department of Insurance, Supreme Court, State Real Estate Commission, Department of Banking and Finance, Federal Deposit Insurance Corporation, Federal Office of Thrift Supervision, Federal Farm Credit Administration, or the National Credit Union Administration.

The bill also requires each state regulating entity to promulgate rules and regulations and to issue orders for purposes of carrying out the act and grants investigatory powers to each regulating entity. Finally, persons violating the act may be guilty of a Class V misdemeanor and the Attorney General or any county attorney may take action to enjoin the performance of real estate closings which violate the act.

Reconveyance Deeds and Mortgage Releases

LB 1275 requires mortgage brokers to execute and deliver— within 60 days after an obligation secured by a mortgage or trust deed is satisfied—mortgage releases and trust deed reconveyances that are in "recordable form." Likewise, the bill requires mortgagees to execute and deliver to mortgagors—after request and within 60 days after an obligation secured by a mortgage is satisfied—a mortgage release in "recordable form."

Mortgagees and beneficiaries of trust deeds who fail to comply with the bill's requirements may be liable for \$1,000 plus actual damages (including attorney's fees and costs of title work) and court costs. Courts may also order a mortgagee to execute a release and a beneficiary of a trust deed to execute a reconveyance.

Finally, the bill requires anyone who purchases real estate under a land contract or memorandum of contract after the effective date of LB 1275 to file with the register of deeds—at the time of recording the land contract or memorandum of contract—a statement, as

prescribed by the Tax Commissioner, which contains the social security number or federal employer identification number of grantee or purchaser and which may also have to contain other information, such as the total consideration paid and other factors which may have influenced the transaction. (Similar requirements previously existed for grantees who wished to record deeds to real estate.) Failure to comply with these requirements is a misdemeanor punishable by a fine of not less than \$10 nor more than \$500.

LB 1275 passed 43-0 and was approved by the Governor on April 19, 1994.

**LB 901—Sales
and Use Tax
Exemptions for
Broadcasters,
Veterinarians,
and Hearing Aid
Dispensers**

(Kristensen)

LB 901 exempts personal property containing copyrighted material from Nebraska sales and use taxes if (1) the purchaser, lessee, licensee, or renter has an FCC operating license and (2) possesses the property for rebroadcasting to the general public— regardless of the form of the property (e.g., films or tapes).

LB 901 also defines “retail sale” and “sale at retail” to include sales of veterinary medicines and chemicals to veterinarians, provided that the purchases are for treating animals. The purchasing veterinarian is liable for sales or use taxes on such purchases even though ownership of the medicine is transferred to someone else prior to use. However, “retail sale” and “sale at retail” do not include veterinary medicines and chemicals when sold by a licensed veterinarian who has paid the sales or use taxes due on such sales.

Finally, sales and rentals (or other in-state consumption) of prosthetic devices prescribed by licensed temporary hearing aid instrument dispensers and fitters are exempt from sales and use taxes under LB 901.

LB 901 passed with the emergency clause 45-0 and was approved by the Governor on April 19, 1994.

**LB 994—
Collection
Procedure for
Auto Leases**

(Lindsay)

Under LB 994, sales taxes due on the lease or rental of Nebraska-registered motor vehicles and trailers, for periods of one year or more, generally are to be collected by the lessor. The same is true for motor vehicles and trailers delivered in Nebraska by a lessor for lease or rental periods less than one year. However, a lessor may still elect to pay sales tax on the vehicle itself instead of having to collect sales tax based on gross rental receipts.

For purposes of the Local Option Revenue Act, LB 994 provides that retail sales, rentals, and leases of motor vehicles, trailers, and semi-trailers are consummated either: (1) at the place where title, possession, or segregation occurs for sales or rental periods of 12 months or less if the purchaser takes possession within a local option tax municipality, regardless of where the retailer's business is

located; or (2) at the place designated on the motor vehicle or trailer registration application for sales or leases or rentals for periods exceeding 12 months.

LB 994 passed 40-0 and was approved by the Governor on April 19, 1994.

**LB 1087—Tax
Exemption for
Installation Labor
Charges**

*(Coorsen, Ashford, Avery,
Bohlke, Byars, Crosby,
Cudaback, Day, Dierks, Elmer,
Engel, Fisher, Hartnett,
Hillman, Hudkins, Janssen,
Jones, Lindsay, Lynch, Matzke,
McKenzie, Monen, Pedersen,
Pirsch, Rasmussen, Robak,
Robinson, Schellpeper,
Schimek, Schmitt, Vrtiska,
Wehrbein, Wickersham, Witek,
and Withem)*

LB 1087 provides a sales tax exemption for installation labor charges incurred in connection with sales of property if such charges are separately stated and if the separate accounting is not used as a means of avoiding the state's sales tax on the actual sales price of the property transferred. However, existing law still provides that sales of installation labor services by public utilities and community cable television companies are excluded from the scope of the exemption.

LB 1087 passed 40-0 with the emergency clause and was approved by the Governor on April 19, 1994.

**LR 277CA—Tax
Review and
Equalization
Commission**
(Kristensen)

LR 277CA proposes a constitutional amendment to eliminate the State Board of Equalization and Assessment and to establish a state Tax Equalization and Review Commission. At the general election in November 1994, voters will be asked to approve the addition of a new section to Article IV of the Nebraska Constitution, which would provide as follows:

There shall be a Tax Equalization and Review Commission. The commission shall, as provided by law, equalize tax assessments between counties and between classes of property, hear appeals from local boards of equalization of individual tax assessments, and hear appeals of decisions of the Tax Commissioner regarding any tax program. The commission shall perform other duties prescribed by law. The Legislature shall provide for the membership of the commission.

LR 277CA was approved by the Legislature 40-0 and was presented to the Secretary of State on April 15, 1994.

**LB 938—Effect of
Certain Court
Decisions**
(Warner)

LB 938 simply provides that:

Any decision by a court of competent jurisdiction that a tax exemption or reduction or other special preference provided to an activity by the Nebraska Revenue Act of 1967 is unconstitutional for any reason shall result in the prospective or retroactive taxation of such activity and not the nontaxation of other activity.

The legislation, by virtue of its reference to the Nebraska Revenue Act of 1967, applies only to the state's income tax and sales and use tax laws. The intent of LB 938 is to tax the unconstitutionally exempted activity—not to enjoin the tax as applied to others or refund taxes paid by others.

LB 938 passed 40-0 and was approved by the Governor on March 15, 1994.

LEGISLATIVE BILLS NOT ENACTED

**LB 21—Income
and Sales Tax Rates**
(Warner)

LB 21 would have incorporated a "wait-and-see" approach to changing sales and income tax rates. As introduced, the bill struck the current five percent sales and use tax rates and the current individual and corporate income tax rate formulas, but left the determination of specific tax rates an open question until it could be determined how much additional revenue, if any, would be needed to balance the state's budget.

LB 21 advanced to General File and died at the end of the session.

**LB 871—Authorize
Increases in Local
Option Sales and
Use Tax Rates**
(Landis and Crosby)

LB 871 would have granted cities of the primary class (e.g., Lincoln) authority to increase the rate of their local sales tax by one-half of one percent for purposes of financing "street improvement." An important issue was whether the state could afford to give away any more of the sales tax base to local governments.

LB 871 was indefinitely postponed by the committee on February 22, 1994.

**LB 1072—
Authorize
Increases in Local
Option Sales and
Use Tax Rates**

*(Ashford, Hall, Hartnett,
Lynch, Pedersen, Rasmussen,
and Will)*

LB 1072 would have granted cities of the metropolitan class (e.g., Omaha) authority to increase the rate of their local sales tax by one-half of one percent for unspecified purposes. Once again, an important issue was whether the state could afford to give away any more of the sales tax base to local governments.

LB 1072 was indefinitely postponed by the committee on February 22, 1994.

**LB 976—Sales
Tax on Services**

(Warner)

LB 976 sought to tax a wide range of certain services. Among the services it sought to subject to sales taxation were the following:

- (1) Beginning October 1, 1994, real and personal property cleaning services; automotive and marine services; and repairs, packaging, and boxing of tangible personal property; and
- (2) Beginning October 1, 1995, barber and beauty services; massage, tanning and weight loss services; dating services; tattoo services; photography services; funeral services; debt counseling; tax return preparation; tailoring; gift wrapping; personal instruction; and charges made by financial institutions (but not interest charges).

Also, the bill would have repealed the sales tax exemption for hospitals, health clinics, and related organizations. Finally, the bill would have created the Municipal Infrastructure Grant Fund which would have been used to award need-based grants to Nebraska communities for particular projects.

LB 976 died in committee.

**LB 885—Tax
Review and
Equalization
Commission**

*(Kristensen, Moore, and
Warner)*

LB 885, the Tax Equalization and Review Commission Act would have served as the enabling legislation necessary pursuant to passage of LR 277CA. The Tax Equalization and Review Commission, created by the constitutional amendment, would have been responsible for (1) performing the equalization function for property tax purposes and (2) hearing first-round appeals of taxpayers aggrieved by actions of the state Tax Commissioner and the Department of Revenue. Under present law, the property tax equalization function is the responsibility of the State Board of Equalization and Assessment and first-round tax appeals go to either the Lancaster County District Court or the other 93 county district courts.

LB 885 advanced to Select File but was passed over near the end of the 1994 session. If LR 277CA passes in November, the issue will be revisited in 1995.

TRANSPORTATION COMMITTEE

Senator Doug Kristensen, Chairperson

ENACTED LEGISLATIVE BILLS

LB 28—Carrier Enforcement Officers

*(Bernard-Stevens, Hohenstein,
and Schmitt)*

LB 28 designates Nebraska's carrier enforcement officers as peace officers, allows them to carry weapons, and expands their authority to make arrests.

Specifically, the bill authorizes the officers to make arrests for the following additional offenses:

- (1) Upon view and without a warrant, violations of the Motor Vehicle Operator's License Act or any other law regulating the operation of vehicles or the use of the highways;
- (2) Upon view and without a warrant, felony or misdemeanor violations under the laws of Nebraska; and
- (3) On a warrant, any felony or misdemeanor violation under the laws of Nebraska.

Additionally, the bill provides that any funds used to arm carrier enforcement officers shall come solely from the Carrier Enforcement Cash Fund and shall be in an amount determined by the Superintendent of Law Enforcement and Public Safety.

LB 28 passed 30-11 and was approved by the Governor on March 3, 1994.

LB 211—Change Identification Requirements for Issuance of Drivers' Licenses and Create the Health Advisory Board

*(Hillman, Horgan, Wesely, and
Ashford)*

LB 211 amends section 60-484 to eliminate the requirement that an applicant for a driver's license who is under 18 years of age must have an affidavit signed by a parent or guardian affirming the applicant's age and identity. Proof of age by a certified copy of a birth certificate or other reliable proof of identity and age is now the requirement for those applicants.

The bill also creates the Health Advisory Board. The board is composed of six health care professionals who are appointed for terms of four years by the Director of Motor Vehicles. The board will advise the director regarding the mental or physical ability of any holder of or applicant for a license issued pursuant to the Motor Vehicle Operator's License Act and will also assist the Department of Motor Vehicles in the establishment of vision requirements.

LB 211 passed 36-6 and was approved by the Governor on March 25, 1994.

**LB 421—Adopt
the One-Call
Notification
System Act**

(Transportation Committee)

LB 421 enacts the One-Call Notification System Act. The act requires all utility companies or other firms that have transmission lines or pipelines buried underground to participate in the statewide one-call notification center and directs any person who engages in excavation activity to notify a one-call center prior to beginning excavation. The act also prescribes requirements and duties regarding the location and marking of underground facilities and imposes civil fines for violations of the act.

The act is intended to prevent mishaps when excavators and construction crews dig in areas where there are gas pipelines and to avoid the inconveniences and expense involved when other types of underground lines are damaged.

LB 421 passed with the emergency clause 44-0 and was approved by the Governor on February 15, 1994.

**LB 1044—
Surcharge for
911 Emergency
Telephone
Systems**

*(Vrtiska, Bromm, Engel,
Hartnett, Hillman, and
Withem)*

LB 1044 amends section 86-1006 which authorizes governing bodies of political subdivisions to establish a 911 emergency telephone system and to impose a surcharge of up to 50 cents per month on local exchange access lines to help finance the system.

The bill provides that, except in Douglas County, the governing body of a political subdivision may increase the surcharge by an additional amount of not to exceed 50 cents per month. Prior to imposing such increase, the governing body must hold a public hearing and must advertise the hearing for three consecutive weeks, setting forth the time, place, date, and purpose for the proposed surcharge increase.

The bill further provides that the funding generated by the service surcharge can be used only for the purchase, installation, maintenance, and operation of telecommunications equipment and telecommunications-related services required for the provision of 911 service.

LB 1044 passed 40-4 and was approved by the Governor on April 18, 1994.

LEGISLATIVE BILLS NOT ENACTED

LB 80—Change Provisions Relating to Driving and Boating While Intoxicated

*(Crosby, Hudkins, Schmitt,
Vrtiska, Witek, Preister,
Wehrbein, Hohenstein, Warner
Bromm, and Jones)*

LB 80 would have provided that any person who operates a motor vehicle or a boat with a concentration of alcohol of .08 would be guilty of driving or boating while intoxicated.

The bill was killed by the Transportation Committee on March 3, 1994. Senator Crosby's motion to place the bill on General File notwithstanding the committee's action failed on March 9, 1994.

URBAN AFFAIRS COMMITTEE

Senator D. Paul Hartnett, Chairperson

ENACTED LEGISLATIVE BILLS

**LB 511—
Manufactured
Homes**
(Will, Pedersen, and McKenzie)

LB 511 prohibits cities of all classes, villages, and counties from enacting or enforcing any zoning ordinances, resolutions, or regulations which would limit the location of a manufactured home within the jurisdiction of a city, village, or county solely for the reason that it is a manufactured home.

A manufactured home is defined as a factory-built structure which is used for human habitation, not constructed or equipped with a permanent hitch, and not permanently attached to wheels or axles; and which has appropriate labeling certifying construction in accordance with the regulations adopted by the U.S. Department of Housing and Urban Development. Modular housing units are also defined as manufactured housing.

While the bill prohibits the adoption of certain zoning ordinances or regulations, the governing body is authorized to require that the manufactured home be located and installed according to the same standards for a foundation system, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot, and nothing in the bill is deemed to supersede any valid restrictive covenants of record.

LB 511 passed 25-19 and was approved by the Governor on April 4, 1994.

**LB 630—Municipal
Annexation**
(Hartnett, Will, and Abboud)

LB 630 applies to cities of the first and second classes and villages and is designed to provide additional procedural protection for residents of an area subject to a proposed annexation by a city or village and to provide additional opportunities for public comment and discussion of the proposed annexation.

LB 630 provides statutory guidelines to aid affected cities and villages in complying with the constitutional "one person, one vote" requirement. Following annexation, election districts will be redrawn only if necessary to maintain substantial population equality between districts. The redistricting must be based on the most recent federal decennial census, and the bill allows the city or village 180 days to redistrict following annexation.

Current law allows a governing body of a city or village to suspend the requirement that an ordinance be considered and voted upon on three different dates when supported by a super-majority of the

governing body. LB 630 provides that this "three-date" requirement cannot be suspended when the proposed ordinance deals with annexation, and therefore, an annexation ordinance can only be adopted and annexation accomplished following consideration at three different meetings. Additionally, the bill provides that a governing body must submit a proposed annexation ordinance to the planning commission and cannot act on the ordinance until it has received a recommendation from the planning commission.

Current law also requires that every city and village which exercises zoning authority must adopt a comprehensive plan which deals with local planning for long-range growth and land-use needs. LB 630 provides that any comprehensive plan adopted or amended after January 1, 1994, must include an element which addresses annexation.

Via amendment, the provisions of LB 1221 were added to LB 630. LB 1221 provides for the equitable and proportionate division of the assets, liabilities, maintenance, or other obligations of a road improvement district, a sanitary and improvement district, or a fire protection district when only a portion of such district is annexed by a municipality. Additionally, the bill gives legal standing to bondholders, creditors, and employees under contract to the district to permit them to appear in court or intervene in an existing action to protect their interests following annexation.

LB 630 passed 43-0 and was approved by the Governor on April 18, 1994.

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