

O'Hara, Lindsay & Associates, Inc.

Bill Summary

Friday, February 12, 2010

Bill/Sponsor/Committee

Synopsis/Background

Status

Critical Bills

[LB 583](#) **SALES TAX ON SERVICES:** Would impose a sales tax on all services except medical services. It would also impose a sales tax on food except food purchased with food coupons issued by the USDA. It would adopt a food sales tax credit for persons making less than \$14,000 a year. The bill would also eliminate the local option sales tax. Additional revenue generated would be utilized to eliminate the property tax authority of community colleges, transfer responsibility for compensation of all school district, ESU and learning community employees to the state and away from property taxes, and require the state to assume responsibility for all transportation provided by school districts, ESU's, and learning communities.

Dierks
Revenue
Hearing Date:
2/11/2009

Oppose

Held in Committee

[LB 721](#) **STATE BUILDING ADMINISTRATOR:** Would reduce education requirements to serve as state building administrator. Appointees could have 5 years property management experience in lieu of a bachelor's degree.

Avery
Govt Military & Vet. Affrs
Hearing Date:
1/20/2010

Oppose

Final Reading

[LB 1066](#) **SALES TAX ON SERVICES:** Would impose a sales tax on gross income derived from a variety of services, including machine repair of all kinds, machine operator services, office and business machine repair and many industry specific services. Included in the list of specific services subject to the tax would be excavating and grading and landscaping.

Dierks
Revenue
Hearing Date:
2/25/2010

Oppose

Bills of Significant Interest

[LB 14](#) **ENERGY CONSERVATION:** Would require the State Energy Office to develop standards for new capital construction by the state, University of Nebraska, community colleges and school districts. It would also require that state buildings, university buildings and community college buildings achieve energy reductions of 10% by 2014 and 15% by 2017.

White
Natural Resources
Hearing Date:

Support concept, but monitor

Held in Committee

1/22/2009

[LB 279](#)

NOTIFICATION OF MILITARY INSTALLATIONS: Would require a city to provide notification to a military installation located within the city or adjacent to the city's territorial zoning jurisdiction regarding any development of property which may affect the installation. The notification would include the name of the property owner, the name of the developer, the location of the development and a description of the type of development under consideration.

**Passed on
Final
Reading**

Avery, Cornett,
Price, Et_al

Govt Military
& Vet. Affrs

Support

Hearing Date:
2/12/2009

**Amendments
Offered**

4/2/2009

[AM 909](#)

Committee

Amendment Adopted

[LB 552](#)

NEBRASKA CONSTRUCTION PROMPT PAY ACT: Would require a contractor who has performed work in accordance with the contract to be paid by the owner within 30 days after request. It would require that a subcontractor be paid within 10 days after receipt of each periodic or final payment. The bill specifies conditions under which an owner may withhold payment. If payment is not made within the time period specified, interest would be allowed at the rate of 1% per month. The bill would not apply to residential construction if the residents consists of no more than four residential units.

**Passed on
Final
Reading**

White, Mello

Business &
Labor

Monitor

Hearing Date:
3/2/2009

**Amendments
Offered**

1/19/2010

[AM 1563](#)

White

Amendment Adopted

1/21/2010

[AM 1591](#)

White

Amendment Adopted

1/28/2010

[AM 1629](#)

White

Amendment Adopted

[LB 557](#)

"FAIR SHARE" PAYMENTS BY NONUNION GOVERNMENT EMPLOYEES: Would require that an employee who is not a member of a union, but was represented in collective bargaining by the union, pay a proportionate share for the services of the union in providing the collective bargaining services. The provision is applicable to employees of cities, school districts, utilities, and all public and quasi-public corporations.

Held in
Committee

Nantkes

Business &
Labor

Hearing
Date:
3/9/2009

[LB 563](#)

CONTRACTOR EMPLOYEE CLASSIFICATION ACT: Would provide that an individual performing services is an employee of a contractor, rather than an independent contractor, unless the individual is free from control or direction over the performance of the service; the individual is engaged in an independently established trade, occupation, profession or business; the individual makes performance of the service available to the general public; the individual furnishes the tools and equipment necessary to provide service; and the contractor does not represent the individual as an employee to customers. An individual who has registered as a contractor pursuant to the contractor registration and has been assigned a combined tax rate is presumed to be an independent contractor. The bill provides a number of remedies available to the Department of Labor and the Department of Revenue

Held in
Committee

Lathrop

Business &
Labor

Hearing
Date:

3/2/2009 for a violation of the act.

Support

[LB 564](#)

Lathrop
Business &
Labor

CONTRACTOR REGISTRATION ACT: Would require contractors to be licensed by the Department of Labor. It would require a qualifying person be designated by the contractor. That person would be required to satisfactorily complete a written examination testing appropriate knowledge of technical terms commonly used in the knowledge of reference materials and code books to be used for technical information and understanding of the general principles of business management and other pertinent state laws.

Held in
Committee

Hearing
Date:
3/23/2009

Support

[LB 573](#)

Nordquist
Business &
Labor

CONVEYANCE SAFETY ACT: Would include platform lifts and stair chairs within the devices covered by the Conveyance Safety Act. It would provide that the act applies to conveyances in private residences in any county. Current law limits application of the act to conveyances in private residences located in counties having a population of more than 100,000 people.

General
File

Hearing Date:
2/2/2009

Monitor

Amendments
Offered

5/28/2009

[AM 807](#)

Committee

[LB 709](#)

White,
Mello,
Conrad
Business &
Labor

SMALL BUSINESS REGULATORY FLEXIBILITY ACT: Would require that a state agency proposing a rule or regulation which may have an adverse economic impact on small businesses solicit public comment from small businesses. The agency would be required to consider such public comment and, with respect to small business, consider establishment of less stringent compliance or reporting requirements, less stringent schedules or deadlines for compliance, consolidation or simplification of compliance, or exemption of small businesses from the requirements of the rule or regulation. The bill would also require that each agency review all rules and regulations to determine whether they should be amended or repealed to minimize adverse economic impact on small businesses. It would establish a Small Business Regulatory Review Board to review a proposed rule or regulation for compliance with the act.

Held in
Committee

Hearing
Date:
1/25/2010

Monitor

[LB 779](#)

Lathrop,
Ashford,
Avery, Et_al
Revenue

CONVENTION CENTER FACILITY FINANCING ASSISTANCE ACT: Would make several changes to the act, including adding amusement parks and outdoor sports facilities to the list of eligible projects; with respect to retailers who have been collecting sales tax for more than 24 months prior to the completion of a sports facility, limiting the tax subject to turnback to the increase; including hotels within 1000 yards of a sports facility; requiring coordination between facilities located within Douglas County which are receiving assistance under the act. It would also amend the Local Civic, Cultural, and Convention Center Financing Act to include rehabilitation of historic buildings and to make improvements within the Nebraska State Capitol Environs District and would exclude Omaha from its operation.

Hearing Date:
2/17/2010

Support

[LB 799](#)

Krist, Mello
Urban Affairs

BUILDING CONSTRUCTION ACT: Would delete the Uniform Code for Building Conservation from the state building code and replace it with the International Existing Building Code, 2009 Edition. It would provide that the state building code be used in coordination with and subject to the Life Safety Code.

**General
File**

Support

Hearing Date:
2/2/2010

Amendments
Offered

2/11/2010

[AM 1556](#)

Committee

[LB 802](#)

Coash
Revenue

EXCLUDE SOD FROM SALES TAX: Would redefine the contractor or repairperson within the definition of gross receipts subject to sales tax and would exclude sod from sales tax.

Oppose

Hearing Date:
2/25/2010

[LB 845](#)

Howard,
Ashford,
Nordquist

REQUIRED ENERGY CONSERVATION PLANS: Would require each state agency to develop and implement a plan for conserving energy and setting percentage goals for reducing electricity usage. Plans would be filed in the State Energy Office by December 1 each year. The State Energy Office would provide a compilation of the energy plans to the Governor and the Legislature.

Held in
Committee

Support

Natural
Resources

Hearing Date:
1/29/2010

[LB 918](#)

Hadley,
Mello
Revenue

NEBRASKA ADVANTAGE ACT CHANGES: Would redefine the sale of software development services to include any sale delivered by providing the customer with software or access to software over the Internet or by other electronic data transfer means. It would also include research, development, and maintenance of a data center as a qualified business under the act. The bill would expand the definition of wages to include taxable or nontaxable compensation, deferred compensation including the value of health care benefits and retirement and savings plan contributions.

Held in
Committee

Support

Hearing
Date:
1/29/2010

[LB 925](#)

Conrad

MANDATED EMPLOYMENT OF NEBRASKA LABOR: Would require that, during periods of excessive unemployment, only Nebraska residents be used in constructing or building any public works project or improvement for the state or any political subdivision. Excessive unemployment would mean any month immediately following two consecutive calendar months during which unemployment

Held in
Committee

Business & Labor exceeded 5%. The act would not be applicable to regularly employed nonresident executive, supervisory or technical personnel. The act would also be inapplicable to work done directly by any public utility company and not let to contract. Public works would include all fixed works, such as schools, highways and bridges, constructed for public use or benefit or paid for out of public funds. It would also include any work done directly by any public utility company pursuant to an order of the Public Service Commission.

Hearing Date: 2/1/2010 **Oppose**

[LB 949](#) **BUILDING CONSTRUCTION ACT:** Would adopt the 2009 version of the International Residential Code, updated from the 2000 version.. The bill would prohibit any city building code from requiring that fire sprinklers be installed in a townhouse not more than three stories above grade and detached one family and two family dwellings. Such codes could require a builder of such dwellings to offer to a purchaser to install or equip fire sprinklers in the buildings. The bill would also remove authorization for a political subdivision to amend its local building code to adopt a supplement, new edition or appendix area

Gloor, Avery, Campbell, Et_al
Urban Affairs

Hearing Date: 2/2/2010 **Support**

Held in Committee

[LB 954](#) **NEBRASKA ADVANTAGE ACT-SALES TAX:** With respect to a project expanding an existing business, the bill would restrict the total amount of refunds of local option sales and use taxes that could be claimed by a taxpayer to the amount of such taxes that exceed the amount paid by the taxpayer in the year prior to application.

Giese, Schilz
Revenue

Hearing Date: 2/24/2010

[LB 977](#) **ENERGY EFFICIENCY IN NEW STATE BUILDINGS:** Would require that each new state building greater than 5000 sq. ft. achieve LEED Silver certification. The bill would apply to state agencies, state colleges and the University of Nebraska.

Mello, Haar, Krist, Et_al
Urban Affairs

Support conservation standards but not one rating system

Hearing Date: 2/2/2010

Held in Committee

[LB 978](#) **ENERGY EFFICIENCY IN STATE CONTRACTS:** Would require that any appliance purchased or leased by the state pursuant to a competitive bid process be energy star certified. The material administrator could exempt the purchase from the requirement if he or she determines that the cost of compliance would exceed the projected energy cost savings.

Mello, Haar
Govt
Military & Vet. Affrs

Support conservation standards but not one rating system

Hearing Date: 2/4/2010

Held in Committee

[LB 997](#)

Mello

Urban
Affairs

Hearing
Date:
2/9/2010

COMPREHENSIVE PLANS: Would require a new comprehensive plan or full update of an existing comprehensive plan adopted by a municipality to include an energy element which assesses energy infrastructure and energy use by sector, including residential, commercial, and industrial sectors; evaluates utilization of renewable energy sources; and promotes energy conservation measures that benefit the community.

**Held in
Committee**

Support

[LB 999](#)

Campbell

Health &
Human
Services

HOSPITAL MORATORIUM: Would adopt a moratorium on application or issuance of a license for a new hospital from September 1, 2010 through August 31, 2012, except for a license as a critical access hospital. The bill involves a dispute between the hospital in Kearney and a group of physicians planning to build a hospital in Kearney.

Oppose

[LB 1018](#)

Cornett,
Coash

Revenue

Hearing
Date:
2/11/2010

NEBRASKA ADVANTAGE TRANSFORMATIONAL TOURISM AND REDEVELOPMENT ACT: Would authorize a municipality, with a vote of the people, to turn back some of its local option sales tax to qualified businesses for tourism development projects or redevelopment projects. Tourism development projects would include cultural development, historical development, recreation facilities, entertainment destination centers, lodging, destination dining, tourism attraction or Nebraska crafts and products centers. Redevelopment projects would include cultural development, historical redevelopment, recreation facilities, entertainment destination centers, mixed-use projects, lodging, full-service restaurants or destination dining, residential development, structured parking, tourism attraction or Nebraska crafts and products centers. The bill sets forth the requirements that would be included in the agreement between the municipality and the qualified business, including levels of employment and investment, time periods in which requirement levels must be met, documentation needed when claiming an incentive, date the application was filed, and the requirement that the company updates the municipality annually on any changes in plans or circumstances. The bill sets forth different tiers with separate investment requirements. The bill also specifies recapture provisions. Approved costs, as defined in the bill, include the cost of architectural and engineering services.

**Held in
Committee**

Support

[LB 1063](#)

Nelson

Appropriations

Hearing Date:
2/2/2010

WORKS OF ART IN GOVERNMENT BUILDINGS: Would amend existing statutes to authorize the Nebraska Arts Council to set aside up to 10% of the amount appropriated for works of art in state buildings to be used for administration for an art maintenance fund which would be used to repair or restore all works of art acquired for the projects.

**Held in
Committee**

Support

[LB 1096](#)

Haar, Cook,
Mello

Education

HIGH PERFORMANCE SCHOOLS INITIATIVE ACT: Would authorize a school district to enter into an energy financing contract and would make school districts eligible for grants from the Nebraska Environmental Trust and grants or loans from the Nebraska Energy Office. In order to qualify, the school district would conduct an assessment of the buildings in the district which it intends to have participate in a high performance school contract. The assessment would include an audit of energy usage and methods for reducing consumption; an audit of air quality and methods for increasing fresh airflow; an audit of lighting in the facility and methods of improving the

Hearing Date: 2/16/2010
 lighting and educational spaces; an audit of water use and recommendations for reducing water use; an audit of the use of other resources and recommendations for more efficient use of those resources. Priority for financing would be given to projects intended to seek LEED certification.

Support conservation standards but not one rating system

[LB 1098](#) **SUSTAINABLE ENERGY FINANCING DISTRICTS:** Would authorize a municipality to create a sustainable energy financing district for the purpose of encouraging, accommodating and providing a source of revenue and means for financing capital improvements for energy efficiency improvements. The district would include only residential and commercial property for which the owner has executed an agreement consenting to inclusion of the property within the district. The owner could request financing to cover the cost of energy efficiency improvements or renewable energy improvements. Repayment of the financing would be assessed against the real property upon which the improvements are made. **Held in Committee**

Mello, Ashford, Cook, Et_al
 Urban Affairs

Hearing Date: 2/9/2010
Support

General Interest Bills

[LB 107](#) **STATED REASON FOR EMPLOYMENT TERMINATION:** Would require that any employer who terminates an employee from employment provide the employee with a specific reason for the termination and provide the employee a meaningful opportunity to present the employee's position in response to the stated reason for the termination . **General File**

Haar
 Business & Labor

Oppose

Hearing Date: 1/26/2009

Amendments Offered 3/12/2009 [AM 490](#) Committee

[LB 153](#) **TOURISM LIABILITY ACT:** Would convert the recreational liability statutes into the Tourism Liability Act. Purpose of the act is to encourage tourism activities by protecting any owner of land who allows persons, with or without a fee, to use their property for recreation or tourism activities. Owners would be liable only for intentional conduct, gross negligence, or willful or malicious failure to guard or warn against a dangerous condition. With respect to a small tourism business, defined as a business averaging less than \$5 million a year in income, liability for gross negligence is limited to \$500,000 per person or \$1 million per occurrence. **Held in Committee**

Lautenbaugh, Schilz, Flood, Et_al
 Judiciary

Hearing Date: 3/4/2009
Monitor

[LB 243](#) **WORKERS' COMPENSATION: COST-OF-LIVING ADJUSTMENTS:** Would provide that any total disability award be adjusted annually in the future by the percentage increase in the average weekly wage for that year. **Held in Committee**

Nantkes

Business & Labor **Monitor**

Hearing Date:
2/9/2009

[LB 335](#) **TAX INCENTIVE ACTS-EMPLOYMENT VERIFICATION:** Would require an entity claiming credits under the Nebraska Advantage Rural Development Act, Nebraska Advantage Act, or the Nebraska Advantage Research and Development Act to electronically verify the legal presence of all employees employed in Nebraska. Indefinitely Postponed

Friend

Revenue

Monitor Portions of LB 335 have been amended into LB 403 (Committee AM 413)

Hearing Date:
2/6/2009

[LB 401](#) **HIGH PRIORITY SURFACE TRANSPORTATION DEVELOPMENT ACT AND SURFACE TRANSPORTATION REVOLVING FUND ACT:** Would create a council to rate applications for high priority transportation projects that would be funded through the issuance of state highway bonds and local matches. It would also create a revolving fund from which cities and counties could receive low interest loans for transportation projects. Held in Committee

Friend, McCoy, Pankonin

Transportation

Hearing Date:
2/23/2009

[LB 556](#) **WORKERS COMPENSATION: THIRD PARTY CLAIMS:** Would provide that, in an employee's claim against a third person, the issue of the employer's negligence could not be asserted. The bill would not affect the employer's protection from lawsuits for claims covered by workers' compensation. Held in Committee

White

Business & Labor **Monitor**

Hearing Date:
2/23/2009

[LB 622](#) **WORKERS' COMPENSATION: LATE MEDICAL PAYMENT PENALTY:** Current law provides a 50% waiting penalty if disability payments are delinquent. LB 622 would provide a 50% waiting penalty if medical payments are delinquent. Select File

Priority:
Committee
3/12/2009

Monitor

Nordquist

Business & Labor

Hearing Date:
2/23/2009

Amendments

Offered	4/2/2009	AM 875	Committee	Amendment Adopted
	5/21/2009	AM 1198	Lathrop	Amendment Adopted

5/26/2009	AM 1463	Lautenbaugh	Amendment Withdrawn
5/26/2009	FA 50	Lathrop	Amendment Failed
5/26/2009	AM 1500	Lautenbaugh	Amendment Adopted

[LB 624](#) **ENERGY EFFICIENCY LOANS:** Would create the Public Building Energy Efficiency Fund to provide loans to political subdivisions for energy efficiency projects. The State Energy Office would be authorized to consider applications for loans and to approve or deny the application. Held in Committee

Haar

Natural Resources

Hearing Date:
2/4/2009

[LB 630](#) **WORKERS' COMPENSATION:** Would make various changes to the workers' compensation statute as proposed by the court, including not requiring the court to maintain its office at the State Capitol, changes to the informal dispute resolution process, eliminating the requirement that duplicate originals of an application for approval of lump-sum settlement be filed, and authorizing payment of compensation to be paid by direct deposit, debit card, prepaid card or similar electronic payment system. Signed by Governor 5/26/2009

Priority:
Committee
3/12/2009

Business & Labor

Monitor Portions of LB 194 have been amended into LB 630 (Committee AM 874) Portions of LB 453 have been amended into LB 630 (Committee AM 874)

Business & Labor

Hearing Date:
2/9/2009

Amendments Offered

4/2/2009	AM 874	Committee	Amendment Adopted
4/14/2009	FA 27	Schilz	Amendment Adopted
5/13/2009	AM 1398	Lathrop	Amendment Adopted

[LB 637](#) **CLAIMS HISTORY DISCLOSURE:** Would require a health carrier issuing coverages to a group of 51 or more covered employees to provide to the group policyholder, contract holder, or sponsor of the group health benefit plan, upon request, the total amount of actual claims identified as paid or incurred and paid by month, including claims experience for medical, dental, and pharmacy benefits. The information provided would also include the total number of covered employees on a monthly basis by coverage tier, the total number of covered employees that have reached deductible by tier, the major categories of expenses, and the total premium paid by month. Held in Committee

Mello

Banking
Commerce & Insurance

Hearing Date: **Monitor**
3/2/2009

[LB 644](#) **ELECTRONICS RECYCLING ACT:** Would require manufacturers of electronic devices to report to the state the number of electronic devices sold in the state for the purpose of determining the amount of registration fee to be paid by the manufacturer. The fee would be reduced in proportion to the number of electronic devices recycled by the manufacturer. It would require that the manufacturer provide, at no cost to the consumer, a method of returning an electronic device to the manufacturer and would prohibit

Mello, Haar

Natural

Resources	a manufacturer from imposing a fee or other charge for the collection, transportation, handling, recycling, or reuse of electronic devices.	
Hearing Date: 3/11/2009		
LB 656	HEALTH CARE ACCESSIBILITY AND AFFORDABILITY ACT: Would create the Health Care Plan Advisory Council to develop recommendations concerning a comprehensive plan for affordable health care. The bill specifies 14 areas to be considered by the Council, including a requirement that all Nebraskans not covered by Medicare have a basic health insurance plan and a requirement that insurers adopt community-rated premiums. The council would consist of 12 members appointed by the chairpersons of the Legislature's Health and Human Services Committee and Banking Commerce and Insurance Committee.	Indefinitely Postponed
Harms, Avery, Haar, Et_al		
Health & Human Services	Monitor	
Hearing Date: 2/11/2009		
LB 663	NET METERING ACT: Would adopt the Net Metering Act for the purpose of encouraging cogeneration and small power production consistent with protection of ratepayers and the public. It would require public power districts to annually file a cogeneration and small power production tariff with extensive information as set forth in the bill. It would require a utility to purchase energy and capacity from any qualifying facility which offers to sell energy to the utility and agrees to certain conditions. It would prohibit requiring the execution of an indemnity or hold harmless clause. The bill would require that a qualifying facility which negotiates a contract under the act be entitled to the full avoided energy costs of the utility, adjusted as appropriate to reflect line losses. It would require a utility to interconnect with a qualifying facility that offers to make energy or capacity available to the utility if the qualifying facility has submitted an interconnection plan. The bill also sets forth a number of filing requirements on utilities and on qualifying facilities. Finally, the bill sets forth a uniform statewide contract.	Held in Committee
Janssen		
Natural Resources		
Hearing Date: 2/11/2009		
	Monitor	
LR 297CA	MUNICIPAL ECONOMIC DEVELOPMENT PROJECTS: Would place on the November ballot a constitutional amendment authorizing a municipality to use funds derived from property taxes, local option sales tax, or any other general tax, or grants, donations or state and federal funds, as may be deemed necessary for economic or industrial development projects or programs. Use of such funds would continue to require a vote of the people.	
Karpisek		
Urban Affairs	Support putting on ballot	
Hearing Date: 2/16/2010		