

Nebraska Legislative Bills Introduced 2014 (105th Legislature) Christopher R. Hedican, J.D., SHRM Legislative Director April 1, 2014 Update

General Application Employment Bills

Bill No. (Sponsor)	Bill Description	Status
LB 25	Change provisions relating to the cigarette tax and the tobacco products. Changes the timeframe of when the tax is due.	Introduced January 10, 2014
	Employer Impact: Minimal.	
LB 26	Change the commission allowed to stamping agents for the cigarette tax.	Introduced January 10, 2014
	Changes the stamp commission from one and eight-five hundredths of a percent of face value to three percent of face value.	
	Employer Impact: Minimal.	
LB 47	Change provisions relating to career academies. Outlines what a "consortium" is and how they are to be operated.	Introduced January 10, 2014
	Employer Impact: Minimal.	
LB 95	Adopt the Employee Credit Privacy Act Forbids an employer from using an individual's credit history or credit report against them.	Introduced January 10, 2014
	Employer Impact : This applies to both current and prospective employees. An employer may not even inquire about their credit history or order/obtain an applicant's or employee's credit report.	
LB 177	Provide enforcement and penalty provisions to the Nebraska Wage Payment and Collection Act	Introduced January 14, 2014
	Employer Impact: An employer who willfully violates the act by not paying wages owed is liable for waiting time damages to the employee affected, in the amount of fifty percent of the wages owed. Any employer that continues to violate the act by refusing to pay wages owed or waiting time damages shall be reported to the county attorney for prosecution and may be found guilty of a Class IV misdemeanor and shall be changed with the	

	costs of such an action.	
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LB 191	Adoption of the Nebraska Job Creation and Mainstreet Revitalization Act, provide tax credits, and change certain valuation provisions as prescribed Provides a credit against personal, corporate, or fiduciary income tax and state bank franchise, to rehabilitate historically significant incomeproducing properties. Provides a 20% credit for qualified expenses up to and including \$10 million dollars and a 10% credit on qualifying expenses above \$5 million dollars.	Introduced January 14, 2014 Enrollment and Review filed February 24, 2014 Placed on Final Reading March 26, 2014.
	Employer Impact: To be eligible for these credits, properties must be: a) federally listed, b) state listed, or c) locally designated as historic, and the rehabilitation project must meet either federal rehabilitation standards or locally-adopted standards that have been approved by the State Historic Preservation Office. The credits are freely transferable to create the utility as a project financing tool that is necessary to have a robust and attractive credit program. A recipient of such credits would make a contribution equal to one quarter of one percent of the credit amount, up to \$25,000, to the Community and Civic Center Financing Fund, to ensure that these credits lead to the revitalization of entire communities and not just individual buildings.	
LB 228	Provide Requirements relating to copayments, coinsurance, and deductibles relating to certain services. An insurer shall not charge an insured a copayment, coinsurance, or deductible for services under a health benefit plan rendered for each date of service by a physical therapist, occupational therapist, audiologist, or speech-language pathologist licensed under the Uniform Credentialing Act that is greater than the copayment, coinsurance, or deductible charged to the insured for the services of a primary care physician or an osteopath licensed under the act for such services. An insurer shall state clearly the availability of physical therapy, occupational therapy, audiology, and speech-language pathology coverage under the health benefit plan and all related limitations, conditions, and exclusions.	Introduced January 15, 2014

	Employer Impact: Needs to be aware of these limitations for any health benefit plan.	
LB 248	Provide for seasonal employers under the Employment Security Law. Employer Impact: Allows for an employer who operates all or a portion of its business for a recurring period or periods of twenty-six weeks or less to apply for a seasonal employer determination. If an individual employed by an employer with a seasonal employer determination files a claim for unemployment benefits, and files the claim outside of his or her seasonal employment period, unemployment benefits paid out to that individual will be based on that individual's non-seasonal employment wages only.	Introduced January 16, 2014.
LB 293	Adopt the Medicaid Insurance for Workers with Disabilities Act. The bill requires the payment of medical assistance on behalf of a person with a disability who is employed, including an employed individual with a medically improved condition, as defined in the bill, whose family income is less than 250% of federal poverty level. Allowable assets for participation in the program are a) \$10,000 for a family of one, b) \$15,000 for a family of two, and c) \$15,000 for a family of three plus an additional \$25 per additional individual. For individuals and families with income at 100% of federal poverty guidelines the bill allows a premium to be established by rule and regulation using a sliding fee or tiered approach, but not more than 7% of the recipient family's countable unearned income plus 3% of earned income. Recipients who lose employment, if the loss is involuntary or they are unfit to work due to medical necessary, will have continued eligibility for up to six months if they are looking for employer and pay any applicable premiums. Employer Impact: Minimal. The majority of changes are for governmental entities. Regarding Firearms. Any information obtained	Introduced January 16, 2014.
	by any agency regarding firearm registration, sale, or use, whether obtained for purposes of application or issued as a permit or license, is confidential and shall not be considered a public record.	16, 2014
LB 335	Authorize possession of firearm as prescribed. Provides clear guidelines for the transportation and	Introduced January 17, 2014

LB 485	storage of firearms in vehicles in publicly accessible parking lots throughout Nebraska. Employer Impact: Minimal. Prohibit discrimination based on sexual orientation as prescribed. Prohibits discrimination based on sexual orientation. Employer Impact: The act applies to employers having fifteen or more employees; employers with state contracts regardless of the number of	Introduced January 22, 2014
LB 498	employees; the State of Nebraska; governmental agencies and political subdivisions. Provide for declaratory judgment and injunctive relief against foreign defamation judgments.	Introduced January 23, 2014
	Employer Impact: Minimal.	
LB 560	Change Provisions of the Nebraska Wage Payment and Collection Act Under this bill, on each regular payday, the employer shall deliver or make available to each employee, by mail or electronically, or shall provide at the employee's normal place of employment during employment hours for all shifts a wage statement showing, at a minimum, the identity of the employer, the hours for which the employee was paid, the wages earned by the employee, and deductions made for the employee. However, the employer need not provide	Passed on Final Reading and presented to Governor on March 27, 2014
	information on hours worked for employees who are exempt from overtime under the federal Fair Labor Standards Act of 1938, under 29 C.F.R. part 541, unless the employer has established a policy or practice of paying to or on behalf of exempt employees overtime, or a bonus or a payment based on hours worked, whereupon the employer shall send or otherwise provide a statement to the exempt employees showing the hours the employee worked or the payments made to the employee by the employer, as applicable.	
LB 570	Adopt the Employers Certainty in Records Act. Defines electronic monitoring. The bill will provide training and educational opportunities for employers for their employees. It creates an opportunity to educate employees on the employers implementation practices. Employer Impact: Allows employers to purge	Introduced January 23, 2014

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their records after 180 days.	
Veterans Preference Act. Under this bill, veterans would be given preference for initial employment in positions with the state or its governmental subdivisions if the veteran is competent to perform the services.	Introduced January 9, 2014 Passed on Final Reading February 5,
	2014
Spouses of veterans with a 100% service connected disability as determined by the United States Department of Veteran Affairs are allowed to participate in the Act.	Approved by Governor on February 18, 2014
The bill requires that notifications be sent to veterans that apply but are not hired within 30 days of filling the position.	
A veterans preference is not available for key employees, positions held by a patient, inmate or student or positions that are temporary or casual.	
Employer Impact: When an examination is required for employment, veterans will have 5% added to their score.	
When no examination is required, the preference will be given to a qualifying veteran if two or more equally qualified candidates are being considered for the position.	
The bill only affects state and/or governmental offices. Further, the language is sufficiently vague that it will be difficult to show a violation. The 30 day notice requirement is the largest hurdle.	
Redefine place of employment for Nebraska Clean Indoor Air Act. Now includes the language: A motor vehicle is a place of employment at all times if it is used to transport children for a licensed child care provider.	Introduced January 23, 2014.
Employer Impact: Minimal	
Change the Nebraska Wage Payment and Collection Act. When an employer elects to pay wages with a payroll debit card, the employer shall comply with the Electronic Fund Transfer Act.	Introduced January 9, 2014 Hearing: February 3, 2014 at 1:30 p.m. in
Additionally, the employer shall allow an employee at least one means of fund access withdrawal per	2014 at 1:30 p.m. in Room 2102
pay period at no cost to the employee for an amount up to and including the total amount of the employee's net wages, as stated on the employee's earnings statement. An employer shall	Placed on General File on February 21, 2014
	veterans would be given preference for initial employment in positions with the state or its governmental subdivisions if the veteran is competent to perform the services. Spouses of veterans with a 100% service connected disability as determined by the United States Department of Veteran Affairs are allowed to participate in the Act. The bill requires that notifications be sent to veterans that apply but are not hired within 30 days of filling the position. A veterans preference is not available for key employees, positions held by a patient, inmate or student or positions that are temporary or casual. Employer Impact: When an examination is required for employment, veterans will have 5% added to their score. When no examination is required, the preference will be given to a qualifying veteran if two or more equally qualified candidates are being considered for the position. The bill only affects state and/or governmental offices. Further, the language is sufficiently vague that it will be difficult to show a violation. The 30 day notice requirement is the largest hurdle. Redefine place of employment for Nebraska Clean Indoor Air Act. Now includes the language: A motor vehicle is a place of employment at all times if it is used to transport children for a licensed child care provider. Employer Impact: Minimal Change the Nebraska Wage Payment and Collection Act. When an employer elects to pay wages with a payroll debit card, the employer shall comply with the Electronic Fund Transfer Act. Additionally, the employer shall allow an employee at least one means of fund access withdrawal per pay period at no cost to the employee for an amount up to and including the total amount of the employee's net wages, as stated on the

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	incurred by the employer in connection with paying wages with a payroll debit card.	
	Employer Impact: Minimal. The only change is having to allow the employee to withdraw from their payroll debit card at least once per pay period.	
LB 825	Require Open Meeting Act compliance by boards and subcommittees subject to the Nebraska Workforce Investment Act.	Introduced January 13, 2014
	Employer Impact: Minimal. Now the state board and its subcommittee are subject to the Open Meetings Act.	Placed on General File on February 25, 2014
LB 858	Provide requirements relating to pharmacists and health care services in health insurance. The bill states that pharmacists are to now be recognized as health care providers who have the authority to provide health care services that include, but are not limited to, medication therapy management services, chronic disease management services, comprehensive medication review, and other such professional services provided to patients by pharmacists.	Introduced January 13, 2014
	Insurers may contract with pharmacists for the provision of these services. Payment for such services shall be separate and distinct from dispensing and counseling services provided by pharmacists or as a part of the pharmacy's ordinary course of business.	
	Employer Impact: Employers must now treat a pharmacist as a health care provider for the purposes of any health care plan.	
LB 860	ACA Adoption Has the exact same wording and impact at the ACA. However, this means if the ACA is overturned or changed by the Federal government, the state version would still be in place.	Introduced January 13, 2014
	Employer Impact : No additional impact from what the ACA already required.	
LB 879	Provide for a permit to carry a concealed handgun in a school. Creates the process for obtaining a "Level II" gun permit which allows the holder to carry a concealed weapon in a school.	Introduced January 14, 2014 Notice of hearing for February 28, 2014
	Employer Impact: Anyone seeking such a permit must have a notarized letter(s) of approval from the governing body of the school(s) in which the applicant seeks to carry a concealed handgun and proof of employment at the school(s) in which the	, .

	applicant seeks to carry a concealed handgun.	
LB 903	Require a wage statement for employees under the Nebraska Wage Payment and Collection Act. On each regular payday, the employer shall deliver to each employee, by mail or electronically, or shall provide at the employee's normal place of employment during normal employment hours a wage statement showing, at a minimum, the identity of the employer, the hours the employee worked, the wages earned by the employee, and deductions made for the employee.	Introduced January 15, 2014 Hearing: February 3, 2014 at 1:30 p.m. in Room 2102
	However, the employer need not provide information on hours worked for employees who are exempt from overtime unless the employer has established a policy or practice of paying to or on behalf of exempt employees overtime, a bonus, or a payment based on hours worked, whereupon the employer shall send or otherwise provide a statement to the exempt employees showing the hours the employee worked or the payments made to the employee by the employer, as applicable.	
	Employer Impact : Previously, the rule was that the employer had to provide this information within ten working days after a written request was made by the employee.	
LB 932	Change in criminal history check Employers may no longer check job applicant's criminal history until they have verified that the applicant meets the minimum employment qualifications. Employer Impact: This will be a net positive for employers in that they will have to run less criminal	Introduced January 15, 2014. Hearing: January, 27, 2014 at 1:30 p.m. in Room 2102 Placed on General
	background checks on applicants.	File on February 21, 2014
LB 943	Change the minimum wage rate.	Introduced January 16, 2014
	Employer Impact: Changes the minimum wages to seven dollars and twenty-five cents per hour through December 31, 2014; Seven dollars and sixty-five cents per hour on and after January 1, 2015, through December 31, 2015; Eight dollars and thirty-five cents per hour on and after January 1, 2016, through December 31, 2016; Nine dollars per hour on and after January 1, 2017.	Hearing: February 3, 2014 at 1:30 p.m. in Room 2102 Placed on General File February 21, 2014
LB 947	Change the minimum wage for persons compensated by way of gratuities.	Introduced January 16, 2014
	Employer Impact: For the one-year period on the effective date of this act, the minimum wage per	Hearing: February 3, 2014 at 1:30 p.m. in

Room 2102 hour shall be three dollars. For each succeeding one-year period until the minimum case wage under this subsection equals seventy percent of the regular minimum wage shall be equal to the amount for the preceding year increased by the lesser of ninety-five cents or the amount necessary for the wage to equal seventy percent of the regular minimum wage rounded to the nearest multiple of five cents. For each succeeding one-year period after the year in which the minimum cash wage under this subsection first equals seventy percent of the regular minimum wage, the minimum cash wage shall be equal to the amount for the preceding year increased by the amount necessary to ensure that the minimum cash wage in effect under this subjection remains equal to seventy percent of the regular minimum wage, rounded to the nearest multiple of five cents. LB 955 Adopt the Paid Family Medical Leave Act. Introduced January The Act provides paid leave to employees who 16, 2014 have to leave work to a) participate in providing care for a family member made necessary by a serious health condition of the family member or b) be with a child during the first twelve months after the child's birth, if the employee is a biological parent of the child or the first twelve months after a placement for adoption. An employee may take up to six consecutive work weeks or up to forty-two days on an intermittent basis of paid family medical leave per year if eligible under the Act. Wages paid during such leave shall be the average wage of the employee over the last calendar quarter, or portion thereof, while employed by his or her current employer. When paid family medical leave is taken by an employee, the covered employer shall issue to the

employee and to the Commissioner of Labor

prescribed by the commissioner containing; The name, address, and social security number of the employee; such wage information as is necessary to determine employee's eligibility for paid family medical leave including any other fully paid leave provided by the covered employer during the period of paid family medical leave; and the name, address, and identity number of the covered employer. Such notices shall be issued not later

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than the ninth day of such leave including any time in which the covered employer provides other fully paid leave. Not later than thirty days after the commencement of the paid family medical leave for which the notices are furnished by the covered employer, the employee shall furnish to the commissioner a notice and claim for paid family medical leave benefits.

Upon the submission of the notices by the covered employer and the employee, the commissioner may issue paid family medical leave wages. For paid family medical leave taken to care for a family member with a serious health condition, wages shall be paid for periods not exceeding three weeks. Failure to furnish notice and certification shall not invalidate or reduce any claim if it is shown to satisfaction of the commissioner that it was not reasonably possible to furnish the notice and certification within the time prescribed and that the notice and certification was furnished as soon as reasonably possible.

Employer Impact: These changes are very significant and will potentially result in more paid leave being taken by employees. Employers need to be very aware of the highlighted deadlines above. The changes only affect employers large enough to be subject to the Employment Security Law.

Further, employers must conspicuously post notification by a form prescribed by the commissioner in a place or places accessible to all employees in each of the covered employer's workplaces of employee's rights regarding paid family medical leave.

Employee Eligibility:

- 1) An employee with a family member with a serious health condition may take this leave intermittently for a time not to exceed 12 months.
- 2) An employee with a family member who has a serious health condition may take this leave on a continuous basis for up to 6 weeks.
- 3) An employee with a newborn or adopted child may take this leave on a continuous basis for up to 6 weeks. The leave may be taken any time within 1 year after the date of the birth or placement for adoption.

LB 1073

E-verify changes

Requires E-verify for all employers, not just contractors.

Introduced January 22, 2014

	Employer Impact : Puts a larger burden on employers to confirm immigration status of employees.	
LB 1085	Employee wage publication Nebraska employers of fifty or more employees shall on an annual basis make available to all of their employees and the Equal Opportunity	Introduced January 22, 2014 Hearing: February 3,
	Commission a listing of individual salaries, including job title, gender, age, and years of service. The listing shall be made without any name or other information that would make an employee readily identifiable.	2014 at 1:30 p.m. in Room 2102
	Employer Impact : Will potentially cause internal problems because using job title, gender, age and years of service will make it easy to identify each person and how much they make for employers of fifty or more.	
LB 1090	The Healthy Families and Workplace Act Gives one hour of sick leave for every thirty hours worked by an employee.	Introduced January 22, 2014
	Employer Impact : Will force employers to structure their sick leave policy uniformly.	

Workers Compensation Statutes

Bill No.	Bill Description	Status
(Sponsor)		
LB 291	Change medical payment provisions of the Nebraska Workers' Compensation. All medical payments shall be paid within thirty days after the entry of a final order, award, or judgment of the compensation courts, or be subject to a fifty percent penalty.	Introduced January 16, 2014.
LB 297	Change mental injuries and mental illness compensation under the Nebraska Workers' Compensation Act. Adds coroners to the existing law of who may claim a mental injury under Nebraska Workers' Compensation	Introduced January 16, 2014
LB 302	Change total disability income benefits under the Nebraska Workers' Compensation Act. Any weekly income benefit for total disability awarded after the effective date of this act shall be adjusted each year in a proportion equal to annual increases resulting from the determination of the average weekly wage under section 48-121.02. Employer Impact: This will greatly increase costs	Introduced January 17, 2014.

	to employers over the lifetime of a totally disabled former employee.	
LB 307	Change provisions of the Nebraska Workers' Compensation Act. The act provides that in a case in which the parties cannot agree on the ground of increase or decrease in disability, that a modification of the workers compensation award is effective as of the date that the increase or decrease actually occurred.	Introduced January 17, 2014.
	The act would also eliminate the requirement that an application for modification, in cases in which the parties cannot agree, may only be filed after six months from the date of the original agreement or award of benefits.	
	The act would also grant authority for the Workers' Compensation Court to terminate compensation otherwise payable under the Workers' Compensation Act when a) an injured employee unreasonable fails to comply with medical or surgical treatment provided by the employer or b) when an injured employee, without reasonable cause, refuses to undertake or cooperate with a physical, medical, or vocational rehabilitation program determined by the compensation court to be suitable for the employee, or refuses to be evaluated or cooperate in the evaluation required by the act. In both instances, the new act would establish a rebuttable presumption that the employee's disability would have been reduced, or his or her condition would have been improved, if the employee had complied with the medical or surgical treatment furnished by the employer or undertaken or cooperated with the physical, medical, or vocational rehabilitation program or evaluation.	
	The act further provides that a) an injured employee's refusal to perform work which meets temporary restrictions imposed by the treating physician creates a rebuttable presumption that the employee is ineligible to receive temporary disability benefits; and b) in cases where the injured employee is incarcerated following conviction for a misdemeanor or felony, the employer or insurance carrier may terminate the employee's temporary disability payments during the period of incarceration, and the maximum period of which benefits would otherwise be payable is not extended due to termination of temporary disability payments during the period of incarceration.	

LB 310	Employer Impact: The act would aid employers by giving them an easier avenue to terminate benefits for employees who are not complying with work restrictions or are refusing to work under current restrictions. Clarify compensation for shoulder injuries under the Nebraska Workers' Compensation Act. Adds the following language: Loss of an arm does not include injuries to the shoulder regardless of the location of residual impairment, and	Introduced January 17, 2014
	therefore injuries to the shoulder shall be compensated subdivisions 1) and 2) of this section.	
	Employer Impact : This would help cut down on costs for employers. Currently shoulder injuries can easily become back injuries which are, in turn, body as a whole injuries.	
LB 324	Change provisions of the Nebraska Workers' Compensation Act. Allows employees to "opt- out" of having their first report of injury be public.	Introduced January 17, 2014.
	Would also reinstate the defense of employee misrepresentation for employers to avoid having to pay benefits resulting from an injury or condition resulting from misrepresentations made by the employee when applying for a position with the employer.	
	Employer Impact: This would help employers defend claims tremendously. Employers would simply need to find prior medical evidence that shows the employee was not up front with the employer about what specific health risks they have.	
LB 396	Change Nebraska Workers' Compensation Court powers. Would authorize the Nebraska Workers' Compensation Court to issue contempt orders and to sanction or to otherwise enforce conformity with a contempt order. Employer Impact: Minimal.	Introduced January 18, 2014
LB 584	Change Nebraska Workers' Compensation Act medical guidelines and independent medical examiner provisions. Would require the scope and duration of medical, surgical, and hospital services to be provided in accordance with the official disability guidelines published by the Work Loss Data Institute. Medical, surgical and hospital services provided in accordance with the official disability guidelines.	Introduced January 23, 2014

	No insurer, risk-management pool, or self-insured employer would be responsible for charges for medical, surgical, or hospital services not provided in accordance with the official disability guidelines unless such services were a) provided in a medical emergency; b) preauthorized by the insurer, risk-management pool, or self-insured employer; or c) approved by an independent medical examiner. If the parties to a dispute disagree on what is	
	reasonable care, an independent medical examiner will be chosen and their decision will be binding.	
	Employer Impact : This gives the independent medical examiner more power over proceedings.	
LB 731	Change provisions relating to workers' compensation first injury reports.	Introduced January 9, 2014
	Employer Impact: The act would make first reports of injury confidential to all but employee, employer, workers' compensation insurer, risk management pool, or third-party administrator that is a part to the report or an attorney or authorized agent of such party. The confidentiality can be waived by the employee in writing. Previously, anyone could request these reports.	
LB 793	Change workers' compensation death benefit provisions.	Introduced January 10, 2014
	Employer Impact: No impact.	
LB 824	Change workers' compensation temporary disability provisions. Employees would not be entitled to temporary disability if the employee's employment is terminated for cause following the occurrence of an accident or occupational disease for reasons unrelated to the occurrence of the accident or occupational disease, and the employer would have accommodated the employee's temporary restrictions but for the employee's separation from employment.	Introduced January 13, 2014 Hearing: January 27, 2014 at 1:30 p.m. in Room 2102
	Employer Impact: This had been the law in Nebraska prior to 2013, but the Nebraska Supreme Court reversed their decision. This bill will save employer's a large amount of money in benefits and protect them from additional exposure in many workers' compensation claims.	
LB 895	Change compensation rate for certain volunteers under the Nebraska Workers' Compensation Act.	Introduced January 14, 2014 Hearing: January 27,

	Employer Impact: If a volunteer fire fighter is injured, for the purposes of disability their wage shall be in an amount one and one-half times the maximum compensation rate for total disability. No volunteers will lose their volunteer status under the Nebraska Workers' Compensation Act by receiving these payments.	2014 at 1:30 p.m. in Room 2102
LB 951	Change lump-sum settlement provisions under the Nebraska Workers' Compensation Act. Specifies what is required for a settlement release with the Nebraska Workers' Compensation Court. Employer Impact: Now any and all future expenses related to the employee's injury are released unless specifically excluded. This will be a benefit to employers.	Introduced January 16, 2014
LB 961	Change exclusive remedy provisions of the Nebraska Workers' Compensation Act. Allows employee to bring an action for willful negligence against employer. Previously, employers were exempt from this because workers' compensation was the exclusive remedy. Employer Impact: This would be very bad for employers and would open them to an enormous amount of potential liability and litigation.	Introduced January 16, 2014 Business and Labor priority bill on February 20, 2014

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