



UNICAMERAL UPDATE

April 13, 2015

Bob Hoppe, Legislative Committee Chairman

Carol McClelland, CEO * **Jim Cavanaugh**, Legislative Representative

From: James P. Cavanaugh

RE: Nebraska 2015 Legislative Session, Week ending April 10, 2015

WEEK IN REVIEW

Friday, April 10 was the 61st day of the current 90-day session. Last week, Nebraska lawmakers continued full-day floor debate on priority legislation. On Tuesday, April 28, 2015 (the 70th day of the session), the Appropriations Committee must present its recommended budget to the Legislature. By Thursday, May 14, 2015 (the 80th day of the session), the Legislature must advance the Biennial Budget to the Governor. Adjournment (the 90th day of the session) is scheduled for Friday, June 5, 2015.

LB 276 Advances – Independent Contractors & Workers Compensation

At IIAN's request, LB 276 was introduced by Business & Labor Committee Chairman Burke Harr of Omaha, to address the growing problem of independent contractors who do not insure themselves for workers compensation. **After weeks of negotiation on a final committee amendment, and grassroots support from IIAN members, on April 9 the Business & Labor Committee advanced LB 276 to General File on a unanimous 6-0 vote.** In a compromise, the bill was amended to apply only to construction work; since it is not a "Priority", LB 276 will most likely be carried over to the 2016 session for consideration by the full legislature. In the interim, IIAN will work with senators and stakeholders on possible improvements.

On The Move:

The following bills on our watch list have been designated "Priority":

458 (travel insurance producer licenses) – **advanced to Select File** (second round of voting by full legislature) on April 2. Authorizes the Director of Insurance to issue a limited lines travel insurance producer license.

480 (WC-changes to computing compensation);

623 (permit driver's licenses - persons with lawful status) ; and

629 (Mello-Transportation Network Company – like Uber - regulation and insurance requirements) - **advanced to General File** on April 8, with amendment.

The following bills have been placed on General File, for first round of debate (but are not "Priority" bills):

223 (change Insured Homeowners Protection Act, with amendment); and

632 IIAN Supports - health benefit plans - allow producer compensation outside of policy premium, with amendment). IIAN will meet with Sen. Scheer, along with NAIFA and NAHU representatives on March 30 to discuss another amendment to LB 632.

Note: To see filed amendments use the Bill Search function at www.nebraskalegislature.gov.

The following bill has been killed: **213 IIAN Opposed** - withhold insurance proceeds for demolition.

See below for list and more information on 2015 bills of interest, including IIAN positions.

Workers Compensation Bills: The Business and Labor Committee may advance a “package” Workers Compensation bill, to include the following on IIAN’s “watch” list:

LB133 (Ebke - Change interest rate provisions on certain Nebraska Workers' Compensation Court awards),

LB134 (Johnson – Change provisions relating to first injury reports under the Nebraska Workers' Compensation Act;

LB158 (McCollister – Deny compensation under the Nebraska Workers' Compensation Act in situations of false representation;

LB363 (Nordquist – Provide time limits and penalties for late medical payments under the Nebraska Workers' Compensation Act;

LB429 (Smith – Provide for medical utilization and treatment guidelines under the Nebraska Workers' Compensation Act; and

LB600 (Ebke – Change provisions relating to the investment of trust funds for self-insurers under the Nebraska Workers' Compensation Act.

Not included in the package is **LB556** (Kolowski - Waive workers' compensation as the exclusive remedy if an employer is willfully negligent - [IIAN is watching closely](#))

IIAN Hearing Testimony This Session

On Monday, February 23, 2015, IIAN members Tom Farrell, Andy Bassett, Gale Squier, and I testified in the Business and Labor Committee in **support of LB276** (Harr – Exempt certified independent contractors from the Nebraska Workers' Compensation Act). Also testifying in support were the PIA, the Nebraska Home Builders Association and the Nebraska Chamber of Commerce. Several letters of support from insurance companies were also submitted. Testifying opposed were the AFL-CIO, NATA, and the Nebraska Trucking Association

On Tuesday, February 24, 2015, Tom Farrell testified in the Banking, Commerce, and Insurance Committee in **support of LB51** (Scheer – Require disclosures prior to joining a risk management pool under the Intergovernmental Risk Management Act), on behalf of IIAN and PIA.

On Tuesday, February 17, I testified in the Banking, Commerce, and Insurance Committee hearing in **support of LB628** (Schilz – Provide for electronic posting of property and casualty insurance policies and notices related to such policies), with a proposed amendment to protect consumers and insurance producers. Also testifying in support were the Property Casualty Insurers of America, The Nebraska Insurance Information Service, and the American Insurance Association. The Nebraska Association of Trial Attorneys testified opposed.

Also on February 17, I testified **opposed to LB213** (Schumacher – Provide for withholding of insurance proceeds for demolition purposes. Also testifying in opposition were the American Insurance Association, the Statewide Property Owners, Seldin Company, Nebraska Association of Property Owners, and the Nebraska Association of Trial Attorneys. Testifying in favor were the City of Columbus, the City of Lincoln, and Omaha City Councilman Ben Gray. **NOTE:** Killed by Banking, Commerce & Insurance Committee on March 9.

The latest issue of the Unicameral Update can be found at: <http://update.legislature.ne.gov/>.

To review the full text of bills, please look on the Unicameral website at:

<http://www.nebraskalegislature.gov>.

Please call or e-mail me at any time if you have any questions. My contact information is:

James P. Cavanaugh - Cavanaughlawfirm@aol.com - O: (402) 341-2020 C: (402) 301-9675

2015 BILLS OF SPECIAL INTEREST

LB276 Harr Exempt certified independent contractors from the Nebraska **Workers' Compensation Act**
IIAN Position: Pro-Active Support

1/14/2015 Introduced
 1/15/2015 Referred to Business and Labor Committee
 2/2/2015 **Hearing Scheduled for February 23, 2015**
 2/18/2015 Kolterman name added
 4/9/2015 Business and Labor Committee voted to advance to **General File**

On Monday, February 23, 2015, IIAN members Tom Farrell, Andy Bassett, Gale Squier, and I testified in the Business and Labor Committee in **support of LB276** (Harr – Exempt certified independent contractors from the Nebraska Workers' Compensation Act). Also testifying in support were the PIA, the Nebraska Home Builders Association and the Nebraska Chamber of Commerce. Several letters of support from insurance companies were also submitted. Testifying opposed were the AFL-CIO, NATA, and the Nebraska Trucking Association. **After weeks of negotiation on a final committee amendment, and grassroots support from IIAN members, on April 9 the Business & Labor Committee advanced LB 276 to General File on a unanimous 6-0 vote.** In a compromise, the bill was amended to apply only to construction work.

LB48 Scheer Change unfair insurance trade practices relating to casualty losses

1/8/2015 Introduced **IIAN Position: Monitor**
 1/12/2015 Referred to Banking, Commerce, and Insurance Committee
 2/3/2015 **Hearing Scheduled for February 17, 2015**

LB51 Scheer Require disclosures prior to joining a risk management pool under the **IIAN Position: Support** Intergovernmental Risk Management Act

1/8/2015 Introduced
 1/12/2015 Referred to Banking, Commerce, and Insurance Committee
 2/3/2015 **Hearing Scheduled for February 24, 2015**

LB78 Gloor Change provisions relating to the public agencies authorized to enter into **IIAN Position: Monitor** agreements under the Intergovernmental Risk Management Act

1/8/2015 Introduced
 1/12/2015 Referred to Banking, Commerce, and Insurance Committee
 1/30/2015 **Hearing Scheduled for February 10, 2015**

LB120 Schumacher Provide for seizure of license plates of certain uninsured motor vehicles **IIAN Position: Monitor** or trailers as prescribed

1/9/2015 Introduced
 1/12/2015 Referred to Judiciary Committee
 1/20/2015 **Hearing Scheduled for January 28, 2015**

LB133 Ebke Change interest rate provisions on certain Nebraska **Workers' Compensation** Court awards
IIAN Position: Monitor

1/9/2015 Introduced
 1/12/2015 Referred to Business and Labor Committee
 2/2/2015 **Hearing Scheduled for February 23, 2015**

Would revise the interest rate applicable to an award of workers' compensation benefits in cases in which an attorney's fee is allowed. Under the bill, the rate would be reduced from 14% to the judgment interest rate, which is currently around 2%. The judgment interest rate is two

percentage points above the bond investment yield of the 26 week U.S. Treasury bill in effect at the time of the judgment. As of midJanuary, the judgment interest rate was 2.132%. In her testimony, Senator Ebke said the current 14% interest rate was set in statute in the 1980s, when interest rates were high, noting that the current rate has become punitive – particularly for employers who are legitimately appealing cases. The State Chamber testified in support of LB133.

LB134 Johnson Change provisions relating to first injury reports under the Nebraska
IIAN Position: Monitor **Workers' Compensation Act**
 1/9/2015 Introduced
 1/12/2015 Referred to Business and Labor Committee
 2/2/2015 **Hearing Scheduled for February 23, 2015**

Would make first injury reports relating to workplace injuries confidential, unless the employee waives confidentiality (opts out) to allow the report to be made available for public inspection, except as necessary for the Compensation Court to administer and enforce other provisions of the Nebraska Workers' Compensation Act. Similar versions of this bill have been offered in the Legislature recent years due to concerns that personal injury attorneys are using the injury reports to flood injured workers with mailed advertisements and phone calls. The bill contains several exceptions, including if the release of the report is ordered by a court of the competent jurisdiction. During the hearing, it was noted that the Workers' Compensation Court already informs injured workers how they can get legal help. The State Chamber testified in support of LB134.

LB158 McCollister Deny compensation under the Nebraska **Workers' Compensation Act** in
IIAN Position: Monitor situations of false representation
 1/12/2015 Introduced
 1/14/2015 Referred to Business and Labor Committee
Hearing Scheduled for March 2, 2015

LB213 Schumacher Provide for withholding of insurance proceeds for demolition purposes
IIAN Position: Oppose
 1/13/2015 Introduced
 1/15/2015 Referred to Banking, Commerce, and Insurance Committee
 2/2/2015 **Hearing Scheduled for March 2, 2015**
3/9/2015 Indefinitely Postponed

LB223 Harr Change provisions of the Insured Homeowners Protection Act relating to
 contractor duties and prohibited acts and provide for a required notice
 1/13/2015 Introduced **IIAN Position: Monitor/Research**
 1/15/2015 Referred to Banking, Commerce, and Insurance Committee
 2/3/2015 **Hearing Scheduled for March 3, 2015**
 3/10/2015 Placed on **General File with AM681**

LB363 Nordquist Provide time limits and penalties for late medical payments under the
IIAN Position: Monitor Nebraska **Workers' Compensation Act**
 1/16/2015 Referred to Business and Labor Committee
 2/2/2015 **Hearing Scheduled for March 2, 2015**

Would require that medical payments payable under the Nebraska Workers' Compensation Act are paid within 30 days after notice has been given or within 30 days after the entry of a final

order, award, or judgment of the compensation court. It would add 50% to the payable amount if the medical payment is delinquent 30 days or more. State Chamber testified in opposition.

LB388 Hansen Provide annual adjustments for total disability income benefits under the
IIAN Position: Monitor Nebraska **Workers' Compensation Act**
 1/16/2015 Introduced
 2/2/2015 **Hearing Scheduled for March 2, 2015**

LB429 Smith Provide for medical utilization and treatment guidelines under the
IIAN Position: Monitor Nebraska **Workers' Compensation Act**
 1/16/2015 Introduced
 1/20/2015 Referred to Business and Labor Committee
 2/2/2015 **Hearing Scheduled for March 9, 2015**

Would provide medical utilization and treatment guidelines under the Workers' Compensation Act. Under LB429, medical, surgical and hospital services provided under the workers' compensation law – in accordance with the official disability guidelines published by the Work Loss Data Institute – would be presumed to be reasonable and necessary. No workers' compensation insurer, risk management pool, or self-insured employer would be responsible for services that fall outside the guidelines, unless prior authorization is obtained. LB429 would allow any party to request a finding by an independent medical examiner if a payment was denied for services on the basis that such services were outside the guidelines, or if prior authorization is denied. It would be a rebuttable presumption that the findings of the independent medical examiner were correct. The intent of the bill is to better ensure that an injured employee receives the appropriate and cost effective treatment for workplace injuries. State Chamber supports.

LB451 Hansen Change and eliminate provisions relating to stacking of insurance
IIAN Position: Monitor Coverage
 1/20/2015 Introduced
 1/22/2015 Referred to Banking, Commerce, and Insurance Committee
 2/2/2015 **Hearing Scheduled for March 9, 2015**

LB458 Kolterman Authorize limited lines travel insurance producer licenses
 1/20/2015 Introduced
 1/22/2015 Referred to Banking, Commerce, and Insurance Committee
 1/23/2015 **Hearing Scheduled for February 3, 2015**
 2/12/2015 **Placed on General File with AM245**
 3/16/2015 **Speaker priority bill**
 4/7/2015 Placed on **Select File**

LB480 Harr Change provisions relating to computing compensation under the
IIAN Position: Monitor Nebraska **Workers' Compensation Act**
 1/20/2015 Introduced
 1/22/2015 Referred to Business and Labor Committee
 2/2/2015 **Hearing Scheduled for March 9, 2015**
 3/11/2015 **Business and Labor priority bill**

LB488 Scheer Adopt the Transportation Network Insurance Act (also see **LB629**)
 1/8/2015 Introduced **IIAN Position: Monitor/Research**

1/22/2015 Referred to Banking, Commerce, and Insurance Committee
 2/3/2015 **Hearing Scheduled for March 9, 2015**

LB531 Kolterman Provide requirements for publication of insurance information

IIAN Position: Support

1/21/2015 Introduced
 1/23/2015 Referred to Banking, Commerce, and Insurance Committee
 1/30/2015 **Hearing Scheduled for February 9, 2015**

LB556 Kolowski Waive **workers' compensation** as the exclusive remedy if an employer is willfully negligent

IIAN Position: Monitor/Watch Closely

1/21/2015 Introduced
 1/23/2015 Referred to Business and Labor Committee
 2/2/2015 **Hearing Scheduled for February 23, 2015**

Would, at the option of the employee, make the exclusive remedy protection for the employer inapplicable in cases where the Nebraska Workers' Compensation Court has made a determination that the injury is due to the willful negligence of the employer. Under the comprise of workers' compensation – agreed upon decades ago by both labor and employers – exclusive remedy provisions protect employers from common law suits by employees for work-related injuries. Employers trade liability, regardless of fault, for protection from large tort awards, and employees surrender a cause of action in return for swift financial benefits. All states have incorporated an exclusive remedy provision into their workers' compensation statute, but in recent years, exclusive remedy provisions have been challenged in several states as plaintiffs' attorneys see an opportunity to carve new exceptions into existing law. Challenges to exclusive remedy provisions are of concern for employers, who are subject to the whims of the court system, and labor law experts note that proposals such as LB556 could result in higher comp premiums for employers. The State Chamber testified in opposition to LB556.

LB600 Ebke Change provisions relating to the investment of trust funds for self-insurers under the Nebraska **Workers' Compensation Act**

IIAN Position: Monitor

1/21/2015 Introduced
 1/23/2015 Referred to Business and Labor Committee
 2/2/2015 **Hearing Scheduled for March 2, 2015**

LB628 Schilz Provide for electronic posting of property and casualty insurance policies and notices related to such policies

IIAN Position: Support With Amendments

1/21/2015 Introduced
 1/23/2015 Referred to Banking, Commerce, and Insurance Committee
 2/3/2015 **Hearing Scheduled for February 17, 2015**

IIAN testified in support, with amendment protecting consumers and producers.

LB629 Mello Provide for regulation of transportation network companies

IIAN Position: Monitor (see also LB488)

1/21/2015 Introduced
 1/23/2015 Referred to Transportation and Telecommunications Committee
 1/29/2015 **Hearing Scheduled for March 2, 2015**
 3/12/2015 **Transportation and Telecommunications priority bill**
 4/8/2015 Placed on **General File** with AM1075

Seeks to establish regulation of common carriers like Uber under the Public Service Commission. These regulations could include background checks and primary liability insurance requirements similar to those required for taxi cabs. Testifying in support was Uber, the Omaha and Lincoln Chamber of Commerce, the Platte Institute and the City of Omaha. Testifying opposed were various taxi cab companies, NACO, PCI, and the AIA. The PSC testified neutral.

LB632 Scheer Prohibit employers and associations from precluding certain contracts
IIAN Position: Support relating to health benefit plans
 1/23/2015 Referred to Banking, Commerce, and Insurance Committee
 1/30/2015 **Hearing Scheduled for February 9, 2015**
 3/10/2015 **Placed on General File with AM695**

POSSIBLE 2015 BILLS OF INTEREST

LB79 Gloor Require insurance coverage for renewals of prescription eye drops
 1/8/2015 Introduced
 1/12/2015 Referred to Banking, Commerce, and Insurance Committee
 2/3/2015 **Hearing Scheduled for March 2, 2015**

LB124 Nordquist Provide requirements relating to copayments, coinsurance, and
 Deductibles
 1/9/2015 Introduced
 1/12/2015 Referred to Banking, Commerce, and Insurance Committee
 2/3/2015 **Hearing Scheduled for March 2, 2015**

LB234 Krist Change provisions relating to filing requirements of insurance companies
 1/13/2015 Introduced
 1/15/2015 Referred to Banking, Commerce, and Insurance Committee
 2/3/2015 **Hearing Scheduled for February 24, 2015**
 3/9/2015 Placed on **General File**

LB257 Nordquist Require insurers to provide descriptions relating to telehealth and
 Telemonitoring
 1/14/2015 Introduced
 1/15/2015 Referred to Banking, Commerce, and Insurance Committee
 1/30/2015 **Hearing Scheduled for February 10, 2015**
 2/12/2015 **Placed on General File**

LB298 Schumacher Change provisions relating to credit for reinsurance
 1/15/2015 Introduced
 1/16/2015 Referred to Banking, Commerce, and Insurance Committee
 1/23/2015 **Hearing Scheduled for February 3, 2015**
 2/5/2015 **Placed on General File**
 2/12/2015 **Placed on Select File with ER35**
 2/23/2015 **Placed on Final Reading with ST10**
 3/6/2015 **Passed on Final Reading 47-0-2**
 3/16/2015 **Approved by Governor on March 12, 2015**

LB342	Howard	Permit insurers to contract for pharmacist professional services
	1/15/2015	Introduced
	1/16/2015	Referred to Banking, Commerce, and Insurance Committee
	1/30/2015	Hearing Scheduled for February 9, 2015
	2/12/2015	Placed on General File
LB396	Riepe	Allow an income tax credit for certain long-term care insurance policy
		Premiums
	1/16/2015	Introduced
	1/27/2015	Hearing Scheduled for February 25, 2015
	2/26/2015	Kolterman name added
	2/26/2015	Coash name added
LB433	Baker	Create the offense of false presentation of proof of liability insurance and
		provide penalties
	1/20/2015	Introduced
	1/22/2015	Referred to Judiciary Committee
	2/6/2015	Hearing Scheduled for February 27, 2015
LB553	Gloor	Change insurance provisions relating to dental services
	1/21/2015	Introduced
	1/23/2015	Referred to Banking, Commerce, and Insurance Committee
	1/30/2015	Hearing Scheduled for February 10, 2015
LB611	Kintner	Require private employers to use the E-Verify Program
	1/21/2015	Introduced
	1/23/2015	Referred to Business and Labor Committee
	1/26/2015	Hearing Scheduled for February 2, 2015
<u>REFERRED TO TRANSPORTATION & TELECOMMUNICATIONS COMMITTEE</u>		
LB122	Schumacher	Change provisions relating to operation of utility-type vehicles
	1/9/2015	Introduced
	1/12/2015	Referred to Transportation and Telecommunications Committee
	1/20/2015	Hearing Scheduled for January 27, 2015
	1/29/2015	Placed on General File
	2/9/2015	Placed on Select File
	2/19/2015	Bloomfield AM407 adopted
	2/23/2015	Placed on Final Reading
	3/6/2015	Passed on Final Reading 46-0-3
	3/16/2015	Approved by Governor on March 12, 2015
LB275	Frierson	Change penalties for operating a motor vehicle during a revocation period
	1/14/2015	Introduced
	1/15/2015	Referred to Transportation and Telecommunications Committee
	1/20/2015	Hearing Scheduled for January 27, 2015
	2/23/2015	Placed on General File
LB311	Transportation and Telecommunications Committee	Change provisions relating to CLP-learner's permit issuance and
		applications for commercial drivers' licenses
	1/15/2015	Introduced

1/16/2015	Referred to Transportation and Telecommunications Committee
1/29/2013	Hearing Scheduled for February 17, 2015
LB313 Transportation and Telecommunications Committee	
	Update certain references to federal regulations regarding motor vehicles and motor carriers
1/15/2015	Introduced
1/16/2015	Referred to Transportation and Telecommunications Committee
1/26/2015	Hearing Scheduled for February 2, 2015
2/5/2015	Placed on General File
2/12/2015	Placed on Select File with ER31
2/23/2015	Placed on Final Reading
3/6/2015	Passed on Final Reading 47-0-2
3/16/2015	Approved by Governor on March 12, 2015
LB568 Brasch	
	Change certain administrative license revocation provisions relating to commercial drivers' licenses
1/21/2015	Introduced
1/23/2015	Referred to Transportation and Telecommunications Committee
1/29/2015	Hearing Scheduled for February 17, 2015
LB570 Brasch	
	Change operation restrictions on golf car vehicle
1/21/2015	Introduced
1/23/2015	Referred to Transportation and Telecommunications Committee
1/29/2015	Hearing Scheduled for February 10, 2015
2/24/2015	Placed on General File with AM398
LB579 Murante	
	Change traffic accident reporting requirements as prescribed and authorize a fee for a copy of a peace officer report
1/21/2015	Introduced
1/23/2015	Referred to Transportation and Telecommunications Committee
1/29/2015	Hearing Scheduled for February 17, 2015
LB623 Nordquist	
	Provide for issuance of motor vehicle operators' licenses and state ID cards to persons with lawful status
1/21/2015	Introduced
1/23/2015	Referred to Transportation and Telecommunications Committee
1/23/2015	Pansing Brooks name added
1/29/2015	Hearing Scheduled for March 3, 2015
3/12/2015	McCollister priority bill
3/18-4/2/15	18 Senators' names added
LB642 Garrett	
	Change provisions relating to motorboat, motor vehicle, and trailer registration and titling
1/21/2015	Introduced
1/23/2015	Referred to Transportation and Telecommunications Committee
1/26/2015	Hearing Scheduled for February 3, 2015
2/23/2015	Placed on General File with AM402
3/16/2015	Speaker priority bill
4/9/2015	Smith AM931 filed